

# JOURNAL OF LAWS OF THE REPUBLIC OF POLAND

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## ACT

of 5 August 2015  
on maritime labour<sup>1 2</sup>

### Chapter 1

#### General provisions

**Article 1.** 1. This Act regulates:

- 1) rights and duties of the parties to an employment relationship on board seagoing ships of Polish nationality;
- 2) job agency for people looking for jobs on seagoing ships;
- 3) requirements as to documents related to work on seagoing ships;
- 4) conditions of life and work of seafarers on seagoing ships of Polish nationality;
- 5) protection of health and social security protection of seafarers.

2. The provisions of the Act shall apply to seagoing ships, hereinafter referred to as “ships”, intended or used for commercial activities.

3. The provisions of the Act shall apply to non-convention ships to the extent defined in the Act.

4. The provisions of the Act shall not apply to vessels of the Navy, Border Guard and Police.

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<sup>1</sup> This Act amends the following acts: Act of 26 July 1991 on personal income tax, Act of 20 December 1996 on sea ports and harbours, Act of 27 August 2004 on health care services financed from public funds, and Act of 18 August 2011 on maritime safety.

<sup>2</sup> To the extent of its regulation, this Act implements the following Directives:

- 1) Council Directive 92/29/EEC of 31 March 1992 on the minimum safety and health requirements for improved medical treatment on board vessels (OJ L 113, 30.04.1992, p. 19, as amended; OJ Polish Special Edition, Ch. 5, Vol. 2, p. 21);
- 2) Council Directive 1999/63/EC of 21 June 1999 concerning the Agreement on the organisation of working time of seafarers concluded by the European Community Shipowners' Association (ECSA) and the Federation of Transport Workers' Unions in the European Union (FST) – Annex: European Agreement on the organisation of working time of seafarers (OJ L 167, 2.7.1999, p. 33, as amended; OJ Polish Special Edition, Ch. 5, Vol. 3, p. 363);
- 3) Directive 1999/95/EC of the European Parliament and of the Council of 13 December 1999 concerning the enforcement of provisions in respect of seafarers' hours of work on board ships calling at Community ports (OJ L 14, 20.1.2000, p. 29, as amended; OJ Polish Special Edition, Ch. 5, Vol. 3, p. 407);
- 4) Directive 2008/106/EC of the European Parliament and of the Council of 19 November 2008 on the minimum level of training of seafarers (OJ L 323 of 3.12.2008, p. 33, as amended);
- 5) Council Directive 2009/13/EC of 16 February 2009 implementing the Agreement concluded by the European Community Shipowners' Associations (ECSA) and the European Transport Workers' Federation (ETF) on the Maritime Labour Convention, 2006, and amending Directive 1999/63/EC (OJ L 124, 20.5.2009, p. 30);
- 6) Directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009 on port State control (OJ L 131, 28.5.2009, p. 57, as amended);
- 7) Directive 2013/54/EU of the European Parliament and of the Council of 20 November 2013 concerning certain flag State responsibilities for compliance with and enforcement of the Maritime Labour Convention, 2006 (OJ L 329, 10.12.2013, p. 1, as amended).

5. The provisions of the Act of 26 June 1974 – Labour Code (Journal of Laws of 2014, item 1502, as amended<sup>3</sup>), hereinafter referred to as the “Labour Code”, shall apply to employment relationships on ships to the extent not regulated herein.

**Article 2.** Whenever the Act refers to:

- 1) shipowner – it shall be understood as a shipowner within the meaning of the Act of 18 September 2001 – Maritime Code (Journal of Laws of 2013, item 758, as amended<sup>4</sup>) and an owner of the ship or ship manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on shipowners in accordance with this Act, regardless of whether any other organization or persons fulfil certain of the duties or responsibilities on behalf of the shipowner;
- 2) seafarers’ employment agreement – shall be understood as a contract of employment on a ship between the shipowner and a seafarer on the basis of which a seafarer is employed in accordance with the requirements for the conditions of life and work on a ship provided for in the Maritime Labour Convention, adopted by the General Conference of the International Labour Organization in Geneva on 23 February 2006 (Journal of Laws of 2013, item 845);
- 3) seafarer – shall be understood as any person who holds the vocational qualifications referred to in Chapter 4 of the Act of 18 August 2011 on maritime safety (Journal of Laws of 2015, items 611, 1320 and 1336) and any other person employed on a ship, with the exception of a person who occasionally performs work not related to sea navigation;
- 4) inspection authority – shall be understood as the director of a maritime office;
- 5) sea voyage – shall be understood as a seafarer’s voyage on board a ship from a specified port of origin to a specified port of destination, regardless whether the ship calls at other ports during the voyage;
- 6) trainee – shall be understood as a student of the upper secondary school or student of the university referred to in Article 74(2)(1) and (2) of the Act of 18 August 2011 on maritime safety, who performs sea practice on a school ship of which the school or university is the shipowner, or on a ship of another shipowner, on the basis of an agreement between the school or university and the shipowner;
- 7) non-convention ship – shall be understood as a ship to which the Maritime Labour Convention, adopted by the General Conference of the International Labour Organization in Geneva on 23 February 2006, does not apply, including a ship used solely for research or sport purposes, a ship in special state service only, a fishing vessel, a ship employed in inland navigation, a ship engaged solely in navigation in maritime areas of the Republic of Poland with the exception of an exclusive economic zone, a seagoing yacht, and a drilling or mining platform.

## Chapter 2

### Minimum requirements for seafarers to work on a ship

**Article 3.** 1. Only persons above 18 can be employed on a ship.

2. Seafarers can be employed on a ship if they hold:

- 1) documents confirming professional qualifications;
- 2) a valid medical certificate;
- 3) a valid seaman’s book.

3. Young persons above 16 can be employed on a ship solely for the purpose of vocational training.

4. Trainees can perform vocational training on a ship in accordance with the curriculum of the school or the university referred to in Article 74(2)(1) and (2) of the Act of 18 August 2011 on maritime safety, hereinafter referred to as “university”.

**Article 4.** 1. Only seafarers deemed capable to work on a ship following a medical examination can work on a ship.

2. The medical fitness of a seafarer shall be confirmed by a medical certificate in the form of a medical certificate signed by a duly qualified medical practitioner.

3. Medical examinations for medical certificates shall be performed by duly qualified medical practitioners who specialise in maritime and tropical medicine, occupational medicine, transport medicine or who meet additional qualification criteria defined in provisions issued on the basis of Article 229(8) of the Labour Code.

4. As part of a medical examination a duly qualified medical practitioner can refer a seafarer for consultations with a specialist or psychologist or order auxiliary diagnostic tests.

5. A medical certificate shall be valid for 2 years and if the person who desires to work on a ship is under 18, it shall be valid for one year.

6. A seafarer over 50 and a seafarer whose health condition, according to a duly qualified medical practitioner, prevents issuing a medical certificate valid for 2 years may be issued a medical certificate valid for less than 2 years.

7. A medical examination of the ability to identify colours shall be valid for up to 6 years.

<sup>3</sup> Amendments to the consolidated text of the said Act were published in Journal of Laws of 2014, item 1662 and of 2015, items 1066, 1220, 1224, 1240 and 1268.

<sup>4</sup> Amendments to the consolidated text of the said Act were published in Journal of Laws of 2013, item 1014, of 2014, item 1554, and of 2015, item 1320.

8. The medical certificate shall state if the seafarer is fit or unfit for work on a ship in a given capacity and if there are any restrictions on the seafarer's fitness for work, in particular as to working time and tasks.

9. The medical certificate shall be drawn up in Polish and in English.

10. The costs of a medical examination for a medical certificate shall be borne by the shipowner.

11. A medical certificate issued in another country shall be considered equivalent of a medical certificate issued on the basis of the Act if it meets the fundamental requirements laid set out in the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, done in London on 7 July 1978 (Journal of Laws of 1984, No 39, item 201, of 1999, No 30, item 286 and of 2013, item 1092), hereinafter referred to as the "STCW Convention".

**Article 5.** 1. A seafarer and a shipowner who referred a seafarer to a medical examination may appeal against the medical certificate.

2. The seafarer or shipowner may lodge an appeal within seven days from the date of the medical certificate, via the medical practitioner who issued it, to:

- 1) the voivodeship occupational medicine centre competent for the seat of the shipowner;
- 2) an occupational medicine research institute or the University Centre of Maritime and Tropical Medicine in Gdynia if the appeal concerns a medical certificate issued by a medical practitioner who works at a voivodeship occupational medicine centre.

3. The medical practitioner via whom an appeal has been lodged shall pass on the appeal together with documentation that constitutes the basis for issuing the challenged medical certificate to the entity competent to examine it within 7 days from appeal receipt.

4. Medical re-examination in the framework of the appeal procedure shall be carried out within 14 days from the date of appeal.

5. The cost of medical re-examination shall be borne by the entity that lodged the appeal.

6. The medical certificate issued after medical re-examination may not be appealed against.

7. The minister responsible for health, in consultation with the minister responsible for maritime economy, shall specify, by way of a regulation:

- 1) a list of diseases and conditions that may result in seafarer's incapacity to work on a ship; any reasons against, restrictions to or conditions of performing work on a ship;
- 2) the extent of medical examinations for a medical certificate and the conditions of performing the examinations;
- 3) model format for medical certificate

– in view of the need to ensure adequate and comprehensive medical examinations and the requirement that seafarers must be fit for work on a ship and hold evidence thereof, taking into account the International Labour Organization and International Maritime Organization *Guidelines on the medical examinations of seafarers* and the requirements of the STCW Convention.

**Article 6.** 1. In the case of doubts as to the health condition of a seafarer, the shipowner may, at his own expense, refer a seafarer to ad hoc medical examinations or a psychological evaluation.

2. If a medical certificate expires during a sea voyage, a seafarer may continue work on a ship until the ship calls at the next port where the seafarer can obtain a medical certificate, but the period of work on a ship without a valid medical certificate may not exceed 3 months.

3. In emergencies the director of the maritime office competent for the ship's home port may permit a seafarer to work without a valid medical certificate until the ship calls at a port where the seafarer can obtain a medical certificate from a duly qualified medical practitioner, on the condition that the permission is valid for up to 3 months and the seafarer's medical certificate expired recently.

**Article 7.** 1. A seaman's book is a personal document of a seafarer that proves his/her identity, documents his/her employment on ships and permits crossing the border of the Republic of Poland.

2. A seafarer who is a Polish citizen can return to Poland on the basis of a seaman's book within 12 months from its expiry.

3. The provisions of Paragraphs 1 and 2 shall apply to trainees accordingly.

**Article 8.** 1. A seafarer shall present his/her seaman's book to competent authorities.

2. The ship's master shall make entries in the seaman's book to evidence employment of a seafarer on a ship, stating the shipowner, the ship's master and the seafarer's position.

3. The provisions of Paragraphs 1 and 2 shall apply to trainees accordingly.

**Article 9.** A seaman's book shall be issued at the request of:

- 1) a person who underwent a basic training referred to in Chapter VI of the STCW Convention and holds documents to prove it;
- 2) a student of an upper secondary school – confirmed by the shipowner or school principal;
- 3) a student – confirmed by the rector of the university;
- 4) a young person with the consent of his/her parents or legal guardians for the purpose of vocational training – confirmed by the shipowner;
- 5) another person in an employment relationship with the shipowner – confirmed by the shipowner.

**Article 10.** 1. The seaman's book shall be issued by the director of a maritime office.

2. Outside the Republic of Poland a seaman's book that is lost, destroyed or expired can be issued by the Polish consul only for the duration of a specific sea voyage. Prior to issuing a seaman's book the consul may request information about the holder of the seaman's book from the competent director of the maritime office.

**Article 11.** 1. A seaman's book shall be valid for ten years.

2. The seaman's books of the persons referred to in Article 9(2)-(4) are valid for five years.

3. The seaman's books of foreigners who are not nationals of European Union Member States, Member States of the European Free Trade Agreement (EFTA) – parties to the Agreement on the European Economic Area, and of the Swiss Confederation, or members of their families within the meaning of Article 2(4) of the Act of 14 July 2006 on entry into the territory of the Republic of Poland, stay and departure from the territory of nationals of European Union Member States of their family members (Journal of Laws of 2014, item 1525, and of 2015, item 1274) shall be valid for five years.

4. The fee for issue of a seaman's book is the equivalent of EUR 50.

5. The fee for issue of a seaman's book to upper secondary school students and university students is the equivalent of EUR 25.

6. The amounts in euros shall be converted to Polish zlotys at the average exchange rate published by the National Bank of Poland for this currency on the working day preceding the day of submission of the application for the seaman's book.

7. The fees referred to in Paragraphs 4 and 5 shall constitute state budget revenue.

**Article 12.** The director of the maritime office shall refuse, by way of a decision, to issue a seaman's book if the applicant:

- 1) is not entitled to obtain it;
- 2) is incapable to work on a ship due to his/her health condition;
- 3) has been banned from work on a ship by a valid sentence;
- 4) may be refused a passport.

**Article 13.** 1. A seaman's book can be replaced in the case of:

- 1) a change to the data contained therein;
- 2) damage or other circumstances preventing identification of the holder or his/her employment;
- 3) lack of space to make notes or entries;
- 4) its expiry.

2. A seaman's book shall be replaced at the expense of the applicant.

3. The fee for seaman's book replacement shall be the same as the fee for its issuance.

4. The fees referred to in Paragraph 3 shall constitute state budget revenue.

**Article 14.** 1. A seaman's book shall become invalid:

- 1) upon expiry, yet not earlier than on the date of termination of a seafarers' employment agreement concluded for a specified period of time or for the duration of a sea voyage;
- 2) when invalidated by the director of a maritime office.

2. The seaman's book shall be invalidated by the director of a maritime office by way of a decision:

- 1) for reasons set out in Article 12(3) and (4);
- 2) if an upper secondary school student has been expelled from school;
- 3) if a student is expelled from university.

3. If the situations referred to in Paragraph 2(2) or (3) occur, the director of the upper secondary school or the rector of the university, respectively, shall immediately notify the director of the maritime office.

4. The seaman's book to be invalidated shall be submitted to the director of the maritime office immediately, but not later than within 14 days from the date on which the decision on seaman's book invalidation becomes final. The seaman's book is invalidated by the director of a maritime office and returned to the holder.

**Article 15.** The minister responsible for maritime economy, in consultation with the minister responsible for internal affairs and the minister responsible for foreign affairs, shall specify, by way of a regulation:

- 1) the documents to be attached to an application for a seaman's book or replacement seaman's book,
  - 2) the procedure of issuing, replacement and invalidation of a seaman's book,
  - 3) a seaman's book specimen,
- having regard to the provisions of the Convention No 108 of the International Labour Organization concerning Seafarers' National Identity Documents, adopted in Geneva on 13 May 1958 (Journal of Laws of 1994, No 103, item 501), bearing in mind the need to ensure identification of the seaman's book holder, efficiency of proceedings and to ensure protection of the data being processed.

### Chapter 3

#### Job agency

**Article 16.** 1. Job agency for persons looking for a job on a ship, hereinafter referred to as "job agency", shall cover assistance to the person interested in working on a ship and to shipowners in search for suitable candidates to work on a ship.

2. No fees shall be collected from the persons interested in working on a ship for activities related to job agency, whether directly or indirectly.

3. Job agency services are rendered by employment agencies referred to in the Act of 20 April 2004 on employment promotion and labour market institutions (Journal of Laws of 2015, item 149, as amended<sup>5</sup>), hereinafter referred to as the "Act on employment promotion", and by poviats labour offices.

**Article 17.** 1. The poviats labour office shall provide assistance to the person interested in working on a ship, registered as an unemployed or a jobseeker, by informing that person about the employment agencies holding a document authorising them to place seafarers into work on ships, issued by the competent director of the maritime office, and about the possibility to use the services of those agencies.

2. The poviats labour office to which a shipowner submitted an offer of a job on a ship shall inform the shipowner about the employment agencies holding a document authorising them to place seafarers into work on ships, issued by the director of the maritime office, and shall return the submitted job offer to the shipowner or forward it to the employment agency selected by the shipowner.

3. The poviats labour office, upon request of an employment agency, may – with consent of the person interested in working on a ship, registered as an unemployed or a jobseeker – provide the employment agency with information allowing to establish direct cooperation with that person.

**Article 18.** 1. Job agency services of employment agencies shall be optional for persons interested in working on a ship and for shipowners.

2. An employment agency shall provide job agency services after obtaining from the director of the maritime office competent for its seat a document authorising it to place seafarers into work on ships.

3. The director of the maritime office shall issue, upon request of an employment agency, the document referred to in paragraph 2, based on the positive results of a preliminary audit conducted by appointed auditors having the knowledge on issues covered by the Maritime Labour Convention, adopted by the General Conference of the International Labour Organisation in Geneva on 23 February 2006 (hereinafter referred to as the "MLC Convention"), as well as qualifications and experience in performing audits. The document shall specify the date of its validity.

4. The preliminary audit shall be performed to verify whether the agency fulfils the requirements for placing seafarers into work on ships following the requirements of the MLC Convention.

5. The director of the maritime office shall perform a renewal audit when the validity period of the document referred to in paragraph 2 expires, and may perform an additional audit, if there is a justified suspicion that the actions of the employment agency are not compliant with the Act or the requirements laid down in the MLC Convention.

6. If the result of the additional audit is negative, the director of the maritime office shall invalidate, by way of a decision, the document referred to in paragraph 2.

7. The minister responsible for maritime economy shall specify, by way of a regulation, the scope and procedure for performing audits referred to in paragraph 4 and 5 and the specimen of the document referred to in paragraph 2, bearing in mind the need to ensure objectivity and appropriate performance of audits and the data which must be included in the document referred to in paragraph 2.

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<sup>5</sup> Amendments to the consolidated text of this Act were published in the Journal of Laws of 2015, item 357, 1066, 1217, 1240 and 1268.

8. Fees shall be charged for performing preliminary and renewal audits and for issuing the document referred to in paragraph 2. The fees shall constitute the state budget revenue.

9. The fees for performing a preliminary or renewal audit shall amount to:

- 1) PLN 200 – for an agency with up to 2 employees;
- 2) PLN 500 – for an agency with 2 to 5 employees;
- 3) PLN 1000 – for an agency with more than 5 employees.

10. The fee for issuing the document authorising an employment agency to place seafarer into work on ships shall amount to PLN 200.

11. The auditors shall receive the following remuneration for performing an audit:

- 1) PLN 300 – for an auditor;
- 2) PLN 400 – for the leading auditor.

12. The competent director of the maritime office shall publish on the website of the office a current list of employment agencies to which the director issued a document authorising them to place seafarers into work on ships.

**Article 19.** 1. The employment agency shall provide assistance in finding employment on a ship to the interested person who meets the requirements referred to in Article 3(1) and (2)(1) and (3).

2. The employment agency shall inform the person interested in work on a ship about the job offers it has, and if there are no such offers, the agency may inform such person about other employment agencies offering job agency services.

3. The employment agency may, upon request of other employment agency offering job agency services and with consent of the person interested in working on a ship, provide the said person with information allowing that person to establish direct cooperation with that agency.

4. The employment agency shall accept an offer of a job on a ship from a shipowner, if the offer does not include the requirements referred to in Article 36(5e) of the Act on employment promotion, shall verify whether among the persons interested in working on a ship, there are candidates who fulfil the requirements of the shipowner laid down in the offer, and shall inform the shipowner whether it may refer to it appropriate candidates for work on a ship, and if there are no such candidates, the agency may provide information about other employment agencies offering job agency services.

5. If there are no appropriate candidates for work on a ship, the employment agency shall inform the shipowner about this fact and the shipowner may withdraw the offer.

**Article 20.** 1. An offer of job on a ship shall include in particular:

- 1) name and address of the shipowner;
- 2) name and surname, telephone number and e-mail address of the contact person;
- 3) name of the ship and the position to be manned on board the ship;
- 4) amount and terms of remuneration;
- 5) expectations towards the job applicants;
- 6) date of starting the work and the period for which the seafarer employment agreement will be concluded;
- 7) terms of social insurance and insurance against accident, illness or death.

2. The shipowner shall attach the following documents to the submitted offer of a job on a ship:

- 1) a copy of a valid maritime labour certificate or an interim maritime labour certificate and a valid declaration of maritime labour compliance issued for the ship concerned, or a written declaration that the provisions of the MLC Convention on the conditions of work and life of seafarers at sea are observed;
- 2) a draft of a seafarer employment agreement;
- 3) a written declaration in which the shipowner undertakes to:
  - a) comply with the provisions arising from the collective bargaining agreement applicable to the seafarer, if there is such an agreement on the ship;
  - b) cover the costs of repatriation and other financial liabilities towards the person interested in working on a ship;
  - c) enter into an agreement with the employment agency, if the job offer refers to work on a ship of foreign nationality.

3. The declaration referred to in paragraph 2(3) shall also include the shipowner's name and address, the date of declaration and the signature of an authorised representative of the shipowner, including his/her name, surname and function.

4. In the case of job agency services for persons seeking work on a ship of foreign nationality, the offer of a job on a ship and the documents referred to in paragraph 2 may be submitted in English.

5. If the conditions referred to in paragraphs 1-4 are not fulfilled, the employment agency shall not proceed the offer of a job on a ship and shall notify this to the shipowner.

**Article 21.** The employment agency shall provide the person interested in working on a ship with the offer of a job on a ship, a draft of a seafarer employment agreement and the information referred to in Article 19(3), if the said person meets the requirements for candidates as laid down in the offer.

**Article 22.** 1. In the case of job agency services for persons seeking work on a ship of foreign nationality, the employment agency shall:

- 1) enter into a written agreement, fulfilling the requirements specified in Article 85(2)(1)-(6) and (9) of the Act on employment promotion, with the person interested in working on a ship;
- 2) enter into a written agreement, fulfilling the requirements specified in Article 85(3)(3) and (4) of the Act on employment promotion, with the shipowner to whom it intends to place persons for a job.

2. Before entering into the agreement referred to in paragraph 1(1), the employment agency shall request the shipowner for information about retirement and disability insurance and health insurance of the seafarer, and if the agency learns that the seafarer is not covered by such insurance, it shall include information about voluntary retirement and disability insurance and health insurance of the seafarer, provided pursuant to separate regulations.

3. The agreement referred to in paragraph 1(1) shall also include:

- 1) name and nationality of the ship on which the work will be performed;
- 2) commitment of the agency to reimburse the monetary loss incurred by the person interested in working on a ship due to non-performance or improper performance of the agreement by fault of the agency.

4. The employment agency which entered into an agreement referred to in paragraph 1(1) with the person interested in working on a ship shall ensure that the person has not incurred costs directly related to placement for work abroad, including the cost of travel to the ship and return to the place of repatriation specified in the seafarers' employment agreement, issue of a visa, medical examination and translation of documents.

**Article 23.** 1. The employment agency shall have insurance or other financial safeguards with respect to liability for damages incurred by seafarers as a result of inefficiency of job agency services or the shipowner's failure to meet the obligations arising from the seafarers' employment agreement.

2. The employment agency shall be liable for the damages referred to in paragraph 1 to the person with whom it entered into the agreement referred to in Article 22(1)(1), to the amount of compensation referred to in Article 33(1).

**Article 24.** 1. The employment agency shall notify the director of the maritime office without delay, if it obtains information that:

- 1) the ship which the job offer concerned does not meet the requirements confirmed by the declaration of maritime labour compliance and maritime labour certificate or interim maritime labour certificate issued for the ship;
- 2) when submitting the job offer, the shipowner provided inaccurate information in the declaration referred to in Article 20(2)(3);
- 3) the shipowner breached the obligations arising from the seafarer employment agreement with the person interested in working on a ship or the agreement with the employment agency.

2. If the employment agency obtains the information referred to in paragraph 1, the agency shall not proceed the offer of a job on a ship and shall notify this to the person interested in working on a ship and the shipowner.

**Article 25.** 1. The employment agency shall keep the list of persons employed on a ship through its agency, including:

- 1) name and surname;
- 2) the period for which the seafarer employment agreement was concluded;
- 3) name of the shipowner, for whom the work is performed;
- 4) name and nationality of the ship on which the work is performed.

2. The employment agency shall provide the list of persons referred to in paragraph 1 to the maritime administration authorities upon their request.

## Chapter 4

### Conditions of employment and organisation of work on a ship

**Article 26.** 1. The employment on a ship shall be based on a seafarer employment agreement. The employment agency may enter into the seafarer employment agreement on behalf of the shipowner.

2. The seafarer employment agreement shall be made for an indefinite period, for a definite period or for a sea voyage.

3. The employment period under the seafarer employment agreement for a definite period, and the total employment period under seafarers' employment agreements for a definite period concluded between the same parties of the employment relationship,

shall not exceed 36 months, if the time between the termination of the previous and the signing of the following seafarer employment agreement have not exceeded 90 days.

4. If the employment period under the seafarer employment agreement for a definite period is longer than the period referred to in paragraph 2, the seafarer shall be considered to be employed under the seafarer employment agreement for an indefinite period starting from the date following the expiry of the period referred to in paragraph 3.

5. The seafarers' employment agreement with a young person who is not a trainee shall be concluded for the purpose of vocational training.

**Article 27.** 1. The seafarer employment agreement shall be concluded in writing, before entering the seafarer into the ship's crew list.

2. Before signing the seafarer employment agreement, the shipowner shall provide the seafarer with the possibility to read it, shall provide information about the terms of the agreement and clarifications, if necessary.

3. The seafarers' employment agreement shall specify in particular:

- 1) the seafarer's name and surname, date of birth and birthplace;
- 2) the shipowner's name and address;
- 3) the type of the agreement and the place where and the date when it is entered into;
- 4) the name and type of the ship where the work will be performed – in the case of agreements other than an agreement for an indefinite period;
- 5) the conditions of work and pay, including:
  - a) the position on which the seafarer will be employed;
  - b) remuneration corresponding to the type of work, specifying the basic wages and other components of the remuneration and other benefits related to work, as well as the currency in which the remuneration will be paid;
  - c) the method and date for remuneration payment;
  - d) the amount of paid annual leave or the formula for calculating it;
  - e) the place and time of starting employment on a ship and the date of its completion, as well as if:
    - the agreement has been made for an indefinite period - the conditions entitling either party to terminate it, and the notice period;
    - the agreement has been made for a definite period - the date fixed for its expiry;
    - the agreement has been made for a sea voyage - the place of destination and the time from the ship's arrival in port to the seafarer's leaving of the ship;
  - f) reference to the collective bargaining agreement covering the seafarer, if applicable.

4. The seafarer employment agreement shall also specify:

- 1) the health care benefits for the seafarer from the shipowner;
- 2) the social security protection benefits for the seafarer from the shipowner;
- 3) the time of employment on the ship after which the seafarer becomes entitled to repatriation;
- 4) detailed conditions of compensation for the loss of employment in the case referred to in Article 33(1);
- 5) the conditions and place of repatriation and the place to which the body will be transported in the case of the seafarer's death.

5. The shipowner may, if necessary, change the ship in which the seafarer is to perform the work, preserving all other conditions of the seafarer employment agreement. In such a case, the shipowner shall confirm the change to the seafarer in writing.

6. The seafarer employment agreement shall be drawn up in two identical copies, one for each party.

7. When the shipowner uses the job agency services, the shipowner shall send a copy of the seafarer employment agreement to the employment agency.

8. A copy of the seafarer employment agreement shall be kept on the ship for the period during which the seafarer is on the ship's crew list.

**Article 28.** 1. The shipowner shall attach to the seafarer employment agreement the information about the on-board complaint procedures, including the contact data of the relevant authority of the ship's flag state and the contact data of the competent authority in the seafarer's country of residence, if other than the flag state, as well as the name(s) and surname(s) of a person or persons on board the ship who can, observing the confidentiality, provide the seafarer with information about filing a complaint.

2. The specimen of the seafarer employment agreement, the collective bargaining agreement or the remuneration regulations shall be kept on the ship. A copy of the specimen of the seafarer employment agreement and the collective bargaining agreement in line with the requirements of the MLC Convention shall also be provided in English.



3. The detailed conditions of compensation for the loss of employment shall be regulated by collective bargaining agreements or remuneration regulations, and in the case of shipowners not subject to such agreements or regulations – by seafarers' employment agreements.

**Article 29.** 1. The seafarer employment agreement shall be terminated:

- 1) in the cases laid down in the Labour Code;
- 2) as a result of the ship's foundering or loss in any other way – except for the agreement for an indefinite period of time;
- 3) on the day of refusal to work on a ship going on a sea voyage to the area of armed conflict, or, if the decision to go to such area was made after the sea voyage had started, on the day on which the seafarer left the ship before arriving in such area;
- 4) in the case referred to in Article 39(1).

2. The seafarer employment agreement entered into for a sea voyage shall expire on the date of the ship's arrival to the place of destination.

3. A seafarer may terminate the seafarer employment agreement without notice, if the shipowner grossly breached its basic obligations towards the seafarer, in particular if the shipowner failed to provide safe and hygienic working and living conditions on the ship, food and health care.

**Article 30.** 1. The notice period of the seafarer employment agreement made for a definite period shall amount to:

- 1) 2 weeks – if the seafarer employment agreement has been entered into for a period shorter than 6 months;
- 2) 1 month – if the seafarer employment agreement has been entered into for a period of at least 6 months but no longer than 3 years;
- 3) 2 months – if the seafarer employment agreement has been entered into for a period longer than 3 years.

2. A seafarer may terminate the seafarer employment agreement without observing the dates referred to in paragraph 1, due to important family reasons or other urgent reason for terminating the seafarer employment agreement.

**Article 31.** 1. The seafarer employment agreement which is to expire during a sea voyage shall be extended until the ship's arrival in the nearest port.

2. If in the case referred to in paragraph 1 the seafarer returns to the country in other way than on the ship on which he is entered into the ship's crew list, the seafarer employment agreement shall be extended until the day of the seafarer's arrival to the place of repatriation defined in the seafarer employment agreement.

3. The time of waiting for repatriation and the time of repatriation shall be included in the seafarer's employment period.

**Article 32.** In the case referred to in Article 29(1)(3), the seafarer shall be entitled to a benefit equivalent to the one-month wages calculated according to the rules applicable to determining the remuneration for the annual leave.

**Article 33.** 1. If the seafarer employment agreement is terminated due to the ship's foundering or loss in any other way, the shipowner shall pay the seafarer compensation equivalent to the wages due until the expiry of the seafarer employment agreement, not higher than three-month wages specified in the seafarer employment agreement.

2. In the case referred to in Paragraph 1, the provisions of the Act of 13 March 2003 on specific rules regarding the termination of employment relationships with employees for reasons not concerning the employees shall not apply (Journal of Laws of 2015, item 192, 1220 and 1268).

**Article 34.** 1. A seafarer employed based on a seafarer employment agreement, who is not a member of a ship's crew, shall remain in reserve until the seafarer employment agreement is terminated if such an agreement or collective agreement provide for such a possibility.

2. A shipowner may delegate to a seafarer, upon his consent and at the time of his remaining in reserve, a different job than the one covered by a seafarer employment agreement if the job corresponds to the professional qualification of the seafarer.

3. A shipowner may not transfer a seafarer to the reserve:

- 1) before the seafarer takes his annual leave or compensatory leave;
- 2) during seafarer's excused absence from work.

4. The remuneration for work in the case referred to in Paragraph 2 shall be regulated by collective bargaining agreement or remuneration regulation, and in the case of shipowners not subject to such agreements or regulations – by seafarer employment agreement.

5. The job referred to in Paragraph 2 shall be subject to remuneration provided for a given job, not lower than remuneration defined in a seafarer employment agreement.

6. The seafarer remaining in reserve shall wait in the place agreed with the shipowner for his call to undertake a job in reserve or on board a ship. For the time of waiting, the seafarer in reserve shall be remunerated at least with a basic salary referred to in Article 35(3).

**Article 35.** 1. The conditions of remunerating and granting other benefits related to work, as well as the method and date of payment of remuneration are established by collective agreements or remuneration regulations, and in the case of shipowners beyond the scope of these agreements or regulations – seafarer employment agreements.

2. The shipowner is obliged to pay remuneration to a seafarer in arrears, not later than within first 15 days of the following calendar month, in cash, in the currency defined in the seafarer employment agreement, subject to statutory deductions or deductions declared by the seafarer.

3. Remuneration for work shall cover basic salary, calculated based on hourly or monthly rate of pay, and sea allowance, calculated based on the type of trading area and ship operation, as well as particular arduousness and hazards connected with work at the ship. The basic salary may not be lower than the minimum wage calculated based on the provisions on the minimum remuneration for work.

4. Remuneration shall be paid into a bank account if the collective agreement so provides or the seafarer agrees to it in writing.

5. The shipowner may pay, if requested by the seafarer, the whole or part of the remuneration for work into a bank account of a person or persons indicated by the seafarer.

6. When the remuneration for work is paid in a foreign currency, the exchange rate shall be that corresponding to an average currency exchange rate published by the National Bank of Poland for a given currency on the business day preceding the day on which the payment of remuneration for work shall take place.

7. The shipowner shall present the seafarer with a monthly rollup covering amounts due, deducted and paid to the seafarer for remuneration for work, and other work-related benefits, and for the amounts denominated in a foreign currency – the currency exchange rate.

**Article 36.** 1. The ship's crew shall consist of seafarers employed by the shipowner, entered into a crew list of a given ship.

2. The number of persons on the ship's crew list shall be defined by the shipowner or by a ship's master on shipowner's behalf.

3. The ship's crew list shall include entries concerning the type of seafarer employment agreement concluded, the position taken on the ship, along with the place and date of the beginning of the work at the ship. A seafarer is crossed off the ship's crew list by noting the place and date of the termination of employment at the ship along with its reasons.

4. A seafarer is entered into the ship's crew list upon the ship's departure at the latest, and crossed off the list – upon the ship's arrival at the port in which the seafarer's employment at the ship is terminated at the earliest.

5. The provisions of Paragraphs 1–4 shall apply to trainees accordingly.

6. The minister responsible for maritime economy shall determine, by way of a regulation, a specimen of a ship's crew list and a manner in which such a list is drawn up as well as in which entries are made in such a list, bearing in mind the need to ensure that records of ship's crew members are kept properly and the requirements of FAL Convention drawn up in London on April, 9 1965. (Journal of Laws of 1969 No. 30, item 236, as amended<sup>6</sup>).

**Article 37.** 1. The ship shall have a crew, the composition, professional qualification and health condition of which ensure safe and healthy working and living conditions, a proper handling of ship and cargo, provision of adequate services to ship's crew and passengers, and allow compliance with the provisions on hours of work and hours of rest on the ship.

2. A seafarer employed as a cook and responsible for preparing meals shall have the qualification and training defined in provisions adopted on the basis of Article 68 of the Act of 18 August 2011 on maritime safety, hereinafter referred to as the "Act on maritime safety".

3. In special cases, the director of the maritime office competent for the ship's home port may allow the meals on the ship to be prepared by the crew member other than the cook until the ship's arrival to the next port, not longer than for a month, on condition that such a person has been trained in respect of personal hygiene, food and nutrition hygiene, as well as rules regarding the storage of food on the ship.

4. If there is no need to employ a cook on the ship, on which there are less than 10 seafarers employed, due to the nature of shipping of a given ship and the crew composition, the seafarer responsible for preparing the meals must be trained in respect of personal hygiene, food and nutrition hygiene, as well as rules regarding the storage of food on the ship.

**Article 38.** 1. The ship's master shall supervise the work on the ship and represent the shipowner before the ship's crew.

2. The ship's master shall be obliged to make an entry into the deck log-book informing of every important event concerning the ship's crew.

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<sup>6</sup> The amendments to the said Convention were published in the Journal of Laws of 1972 No. 27, item 199, of 2003, No. 131, item 1200 and of 2005, No. 118, item 988, 990, 992, 994, 996, 998, 1000, 1002 and 1004.

3. The ship's master shall examine complaints made with respect to working and living conditions of the seafarers on the ship, and inform his decisions to a ship's crew representative, when designated.

4. The ship's master shall be obliged to make an entry into the deck log-book informing of a complaint made with respect to working and living conditions on the ship, as well as the way and period of its examination.

5. The ship's master or a person authorised by the ship's master shall carry out inspections covering:

- 1) the condition of accommodations, particularly with respect to keeping them clean and in order;
- 2) food and potable water supplies;
- 3) storage facilities for food and potable water;
- 4) the ship's galley along with the appliances used for preparation and distribution of meals.

6. The inspections referred to in Paragraph 5(1) shall take place not less often than once a month. The controls referred to in Paragraph 5(2)–(4) shall take place once a week. The results of the inspections shall be recorded by the ship's master in the deck log-book.

**Article 39.** 1. The ship's master may order a seafarer to disembark from the ship at the port if it is required by the safety of the ship, its crew or passengers, as well as when a seafarer, due to a lack of a required medical fitness or actual professional qualification, is not able to fulfil his duties properly on the position defined in the seafarer employment agreement.

2. The ship's master shall order a seafarer to disembark from the ship, justifying it, in writing and make an entry on this fact in the log-book.

**Article 40.** 1. The ship's crew representative shall represent the ship's crew before the ship's master.

2. The ship's crew representative shall be entitled to report to the ship's master any interventions made in reference to the ship's crew.

3. The ship's master shall examine the intervention immediately and inform his decisions to a ship's crew representative. When the intervention is reported in writing, the ship's master shall make an entry in the deck log-book specifying the fact of reporting it, as well as how and when it was handled.

**Article 41.** 1. The ship's crew representative shall be nominated by the ship's crew.

2. The ship's crew representative shall act as such until the day on which the seafarer employment agreement is terminated. At any time, the ship's crew representative may either resign from the function he/she performs or be dismissed by the ship's crew.

3. The ship's master shall enable holding a meeting of the ship's crew not later than 10 days from the day ship's crew meeting was requested or from the day on which the seafarer employment agreement with the current ship's crew representative was terminated.

**Article 42.** 1. For the period justified by the ship's needs, the ship's master may order a seafarer to undertake other job than the one specified in the seafarer employment agreement, corresponding to his professional qualification, for a remuneration provided for a given job, yet not lower than the remuneration specified in the seafarer employment agreement.

2. The job referred to in Paragraph 1 may be undertaken during a given voyage until arriving at a first port suitable for the shipowner, however not longer than for 6 weeks. If such a job is undertaken independently of the job specified in the seafarer employment agreement, the seafarer shall be entitled to a suitable additional remuneration. Specific rules awarding additional remuneration shall be governed by the collective bargaining agreement, the remuneration rules or the seafarer employment agreement, respectively.

3. In the case that after the commencement of the sea voyage, a seafarer demonstrates a lack of required medical fitness or required professional qualification, the ship's master may order a seafarer to undertake other job than the one specified in the seafarer employment agreement, corresponding to his professional qualification, for a remuneration provided for a given job, that may be lower than the remuneration specified in the seafarer employment agreement.

4. The ship's master shall make an entry in the deck logbook concerning the order referred to in Paragraph 1 or 3.

**Article 43.** 1. The hours of work shall cover the time during which a seafarer is obliged to fulfil his duties on board according to the seafarer employment agreement.

2. The hours of work shall also cover the time during which the ship's crew musters, undergoes abandon ship training, fire-fighting drills etc., according to the international agreements and rules and national law provisions.

3. The work undertaken on Sundays and holidays indicated in the provisions on non-working days shall be allowed.

**Article 44.** 1. The hours of work on the ship may not exceed 8 hours per day and on average 40 hours per working week consisting on average of 5 working days in a determined settlement period not longer than 6 months.

2. The hours of work on the ship remaining at sea may not exceed 56 hours per working week consisting of 7 working days, and for employees not standing watch – 46 hours per working week consisting of 6 working days.

3. The maximum hours of work may not exceed 14 hours per day and 72 hours per week.

**Article 45.** 1. Daily period of rest may divide into two parts, the first of which may not be shorter than 6 hours, and the break between the two following periods of rest may not be longer than 14 hours.

2. In the event that the rules referred to in Paragraph 1 are violated, a seafarer is entitled to an immediate equivalent rest consisting in shortening the hours of work appropriately, with the remuneration for work due for the seafarer guaranteed.

3. The ship's master shall order that ship's crew musters, drills and training referred to in Article 43(2) take place in such a way that they interfere as least as possible with the period of rest and do not make a seafarer exhausted, independently of providing him/her with an equivalent rest.

**Article 46.** 1. The working hours on the ship serviced by ship's crews exchanging one after the other or by part of the ship's crew may be extended to 14 hours per day and 72 hours per week if after each unceasing period of such work, not longer than 6 hours, a seafarer is provided with at least equally long period off work to stay ashore. Upon seafarer's consent, the period of such work may be extended up to 3 months.

2. The work under standards specified in Paragraph 1 shall not be treated as overtime work if the number of hours worked during the settlement period of up to 8 months does not extend the sum of weekly standard hours of work calculated based on Article 44(2).

**Article 47.** 1. The work undertaken beyond seafarer's binding standard hours of work, as well as the work undertaken beyond the extended daily working time resulting from the seafarer's binding schedule of work, shall be deemed overtime work.

2. Overtime work shall be allowed in the case of:

- 1) operational needs of the ship;
- 2) necessity to ensure the safety of the ship, its passengers or cargo, or in relation to assistance rendered for other ships or persons in distress at sea.

3. The number of overtime hours of work resulting from the reasons referred to in Paragraph 2(1) may not extend 140 hours per a seafarer in each period consisting of 30 days, counting from the day on which the seafarer was entered into the ship's crew list.

4. The overtime work shall be subject, apart from a remuneration for work specified in the collective bargaining agreement or the remuneration rules, and in the case of a shipowner not covered by these agreements or rules – in the seafarer employment agreement, to an additional remuneration in the amount of 50% of the remuneration for work.

5. For the overtime work, a seafarer may be given, upon his request, a time off equivalent to the time of overtime work undertaken.

6. The ship's master and heads of departments on the ship are subject to provisions specified in Article 151<sup>4</sup> of the Labour Code.

**Article 48.** 1. The shipowner may oblige the seafarers to stand by for work if:

- 1) the ship is waiting for manoeuvres;
- 2) there is a need to protect the ship, its passengers, crew or cargo;
- 3) it is required for handling of systems and automatic devices on board the ship.

2. The remuneration for standing by for work shall be regulated by collective bargaining agreement or remuneration regulation, and in the case of shipowners not subject to such agreements or regulations – by seafarer employment agreement.

**Article 49.** When the ship is at berth at the port, the ship's master shall enable a seafarer to use the time off work ashore, unless the seafarer has been obliged by the ship's master to undertake other work than the one resulting from the seafarer employment agreement.

**Article 50.** 1. The period of work and rest shall be recorded for each seafarer on board. The records concerning the time of work and rest shall be drawn up in Polish and in English. The records concerning the time of work and rest shall be supervised by the ship's master.

2. The records concerning the period of work and rest shall be open to the public.

3. A seafarer shall be presented with a form of records concerning the period of work and rest referring to him/her, signed by the ship's master.

4. The minister responsible for maritime economy shall determine, by way of a regulation, the way in which the records concerning the period of work and rest are to be kept along with a modal format for the table of shipboard working arrangements, concerning the seafarer's hours of work and rest, bearing in mind the requirements resulting from international agreements binding for the Republic of Poland in that matter and the need to settle the hours of seafarers' work and rest properly.

**Article 51.** 1. The ship's master is obliged to put the information on the work schedule for each position/rank on board in an available place on the ship, covering:

- 1) the time of work on the ship at sea;
- 2) the time of work on the ship at berth at the port;
- 3) maximum number of hours of work.

2. The information referred to in Paragraph 1 shall be drawn up in Polish and in English.

**Article 52.** 1. The hours of work of a young person may not exceed 8 hours per day and 40 hours per working week.

2. A young person may not work at night for 9 consecutive hours including the period between 24<sup>00</sup> and 5<sup>00</sup>.

3. A young person may work overtime only in the event of the ship's safety being in danger.

4. A young person must be provided with enough time for meals, at least one hour of break for the main meal of the day and, after each period of working at a stretch for two hours, a 15-minute-break.

5. The provisions provided for in Paragraph 1 and 2 shall not be applicable if it were to affect the effectiveness of the young persons training conducted in accordance with the training curriculum specified in the provisions issued based on Article 74(4) of the Act on maritime safety.

6. The work undertaken by a young person may not pose danger to his/her life, health and psychological and physical development.

7. The provisions of Paragraphs (1)–(6) shall apply to trainees accordingly.

**Article 53.** 1. The annual leave shall amount to 2.5 day for each month of employment on the ship.

2. A collective bargaining agreement or remuneration rules, and in the case of shipowners not subject to such agreements or regulations – a seafarer employment agreement may provide for a leave longer than that stipulated in Paragraph 1.

3. In the event that the seafarer employment agreement concluded for an indefinite period, for a definite period or for a sea voyage is terminated, the seafarer is entitled to a cash equivalent for an unused leave.

4. The amount of leave for a period shorter than a month is determined proportionally, based on the amount of leave determined in Paragraph 1, with an incomplete day of leave rounded up to a whole day.

5. The annual leave granted shall not cover in particular Sundays and holidays indicated in the provisions on non-working days, the period of a compensatory leave and periods of leaves defined by the provisions of the Labour Code.

**Article 54.** The shipowner shall grant a seafarer a leave according to a schedule of leaves, in the agreement with the seafarer. In the event that there is no such agreement, the period of seafarer's leave is determined by the shipowner.

**Article 55.** 1. The date of seafarer's leave may be postponed or the seafarer's leave may be cancelled, upon the seafarer's approval, only in the event that the shipowner, due to unpredictable reasons, is unable at the moment of the beginning of the leave or at the time of setting the date of the leave to complete otherwise the ship's crew, taking into account its composition and professional qualification.

2. The shipowner shall cover the costs incurred by the seafarer as a direct result of changing the dates of his/her annual leave or recalling him/her from annual leave.

**Article 56.** 1. For the period of work on a ship on a sea voyage a seafarer shall acquire the right to paid time off ashore, hereinafter referred to as "compensatory leave".

2. Compensatory leave constitutes the equivalent for extension of time of work at sea and for the need to spend daily and weekly time off from work on sea voyage.

3. Compensatory leave amounts to 5 days for each month spent by a seafarer on a ship. Compensatory leave for an incomplete month shall be determined on a pro rata basis.

4. A collective bargaining agreement or remuneration rules, and in the case of shipowners not subject to such agreements or regulations – a seafarer employment agreement may provide for compensatory leave longer than that stipulated in Paragraph 3.

5. Compensatory leave shall be granted on the terms defined in Article 54.

6. In the event of termination of a seafarer employment agreement, a seafarer shall be entitled to a cash equivalent for the unused compensatory leave, calculated according to the rules applicable to determining remuneration for annual leave.

**Article 57.** 1. A seafarer shall acquire the right to free repatriation after the period of work on a ship specified in the collective bargaining agreement or the remuneration rules, and in the case of shipowners not covered by these agreements or rules – in the seafarer employment agreement.

2. The period of work on a ship after which a seafarer becomes entitled to repatriation may not be longer than eight months.

**Article 58.** 1. A seafarer shall be entitled to free repatriation when:

- 1) the seafarer's employment agreement has expired;
- 2) there has been a sale, foundering or loss of ship in any other way or the ship was withdrawn from service for a period of at least one month;
- 3) disembarked from a ship due to incapacity to work as a result of an illness or injuries from an accident at work;
- 4) after the beginning of a sea voyage the ship was directed to an armed conflict zone and the seafarer did not consent to work on this ship in writing;
- 5) the seafarer employment agreement has been terminated by the shipowner;
- 6) the seafarer employment agreement has been terminated by a seafarer for other legitimate reasons, in particular for important family reason or other urgent need to terminate the agreement.

2. A seafarer shall be entitled to repatriation by a means of transport set out in the seafarer employment agreement to:

- 1) his/her place of residence, or
- 2) the place where the seafarer employment agreement has been signed, or
- 3) another place indicated in the seafarer employment agreement.

**Article 59.** 1. If a seafarer remained abroad for reasons not attributable to the seafarer, the cost of repatriation and waiting for repatriation shall be borne by the shipowner.

2. The shipowner shall bear the cost of seafarer repatriation, including the cost of:

- 1) transport of seafarer's personal baggage weighing no more than 30 kg;
- 2) necessary health care of a seafarer during repatriation.

3. If the collective bargaining agreement, the remuneration rules or seafarer employment agreement does not stipulate otherwise, a seafarer shall bear the cost of repatriation:

- 1) organised on his/her request in the case other than that specified in Article 58(1)(6);
- 2) carried out in the absence of the required psychological and physical fitness or occupational qualifications of the seafarer – for reasons attributable to the seafarer;
- 3) in the case of a serious violation of employee duties.

**Article 60.** 1. The rights of a seafarer in relation to repatriation, concerning in particular the means and cost of transport, shall be defined in the collective bargaining agreement or remuneration rules, and in the case of shipowners not subject to such agreements or regulations – by seafarer employment agreement.

2. A copy of the provisions governing the rights and duties of a seafarer and shipowner related to repatriation shall be kept on board a ship.

**Article 61.** The shipowner may not:

- 1) require the seafarer to make an advance payment towards repatriation costs;
- 2) deduct repatriation costs from seafarer's remuneration for work or from other benefits resulting from a seafarer employment agreement, with the exception of the situations referred to in Article 59(3);
- 3) charge a seafarer with repatriation costs in the case of the circumstances referred to in Article 30(2).

**Article 62.** 1. The director of a maritime office, in cooperation with the consul of the Republic of Poland, shall organise repatriation at the expense of the State Treasury if a shipowner of a ship of Polish nationality has not taken action aimed at repatriation of a seafarer or when the shipowner has not covered the cost of repatriation.

2. The State Treasury shall bear the cost of transport of seafarer's personal baggage weighing no more than 30 kg and the cost of necessary health care at the time of seafarer's repatriation.

3. The State Treasury shall claim repatriation cost from the shipowner referred to in Paragraph 1.

4. The minister responsible for maritime economy, in consultation with the minister responsible for public finance, shall define, by way of a regulation, the manner and procedure of claiming reimbursement of the repatriation costs referred to in Paragraph 1, taking into account the rules and manner of spending public funds and the need to ensure fast reimbursement of repatriation costs.

## Chapter 5

### Conditions of life and work on a ship

**Article 63.** 1. The shipowner shall ensure that the work, living, and recreational spaces, showers, toilets and messes on board a ship comply with the requirements set out in the MLC Convention in terms of surface area, lighting, air cleanliness, noise and vibration level.

2. The shipowner shall provide seafarers with free accommodation and conditions for recreation and, if possible, other facilities to fulfil the needs of seafarers on board a ship.

3. Taking into account the cultural and religious differences and the duration and nature of the sea voyage, the shipowner shall provide seafarers with free food of adequate quality and drinking water.

**Article 64.** 1. The shipowner shall ensure that the workstations, machinery, installations and equipment on board a ship provide safe and hygienic working and living conditions for seafarers and other persons on board a ship, and in particular that they do not pose a risk of accidents or threats to health as a result of exposure to dangerous or harmful factors or nuisance in the work environment.

2. The shipowner shall assess and document occupational risk associated with work at individual workstations on the ship, using general statistics on accidents at work and occupational diseases of seafarers on ships, with particular focus on ships operated by the shipowner.

3. The shipowner shall inform seafarers of the results of the occupational risk assessment, apply the necessary preventive measures and train seafarers in protection against threats.

4. The shipowner shall perform tests and measurements of factors harmful to health in the working environment on a ship at his own expense, keep the results of these measurements and make them available to seafarers.

**Article 65.** In the case of carriage of dangerous goods by ships, the shipowner shall inform crew members of the threats the goods pose, preventive measures, procedures for handling the goods in emergency, and first-aid rules in the event of undesirable effects of these threats.

**Article 66.** 1. The shipowner shall provide crew members with free personal protective equipment and work clothing and footwear as protection against hazardous and factors harmful to the health present in the working environment at sea and inform the crew how to use this equipment.

2. Personal protective equipment must comply with the requirements set out in the regulations concerning compliance assessment.

3. The shipowner, in consultation with the ship's master, shall determine the types of personal protective equipment and work clothing and footwear, the use of which is necessary for work in specific positions on a ship.

4. Personal protective equipment and work clothing and footwear, referred to in Paragraph 1, are the property of the shipowner.

**Article 67.** 1. The ship's master shall be responsible for compliance with regulations and the principles of occupational health and safety on a ship.

2. On a ship whose crew consists of at least 5 seafarers the crew shall establish a ship occupational health and safety committee, hereinafter referred to as "Committee". A representative of ship's crew shall participate in the Committee's work, if one is delegated.

3. The Committee shall advise the ship's master on actions regarding in particular:

- 1) changes in work organisation and equipment of work stations on a ship if they may constitute a threat to the health or life of seafarers;
- 2) assessment of occupational risk inherent in specific work and informing seafarers about this risk;
- 3) provision of seafarers with personal protective equipment and work clothing and footwear;
- 4) assessment of occupational health and safety on a ship.

4. The Committee may request the ship's master to eliminate or mitigate threats to health or life of seafarers on a ship.

5. Seafarers who are Committee members may not face any negative consequences of Committee membership.

**Article 68.** 1. A seafarer shall not be allowed to perform work for which he/she does not have the required professional qualifications or sufficient knowledge of regulations on and principles of occupational health and safety on a ship.

2. The ship's master shall provide seafarer's training in occupational health and safety on a ship before allowing him/her to work at a particular workstation.

3. Seafarers shall have on board ongoing access to valid instructions on occupational health and safety on a ship, concerning especially:

- 1) work that involves a risk of an accident or threats to life and health of seafarers;
- 2) handling machines and equipment;
- 3) work with materials harmful to health and hazardous;
- 4) prevention of the effects of long-term exposure to noise, vibrations and other factors harmful to health in the work environment on a ship;
- 5) the rules of using personal equipment protecting from noise, vibrations and other factors harmful to health in the work environment on a ship;
- 6) first aid.

**Article 69.** 1. If a seafarer has an accident at work, the ship's master shall determine the circumstances and causes of the accident.

2. A representative of ship's crew shall participate in the activities referred to in Paragraph 1, if one is delegated.

3. The ship's master shall immediately notify the shipowner of any accident at work and suspicion of an occupational disease on a ship.

## Chapter 6

### Health protection and social security protection

**Article 70.** 1. The shipowner shall ensure seafarers' access to medical care, in particular to:

- 1) preventive health care;
- 2) medicines and medical facilities;
- 3) outpatient treatment, including dental;
- 4) hospital treatment.

2. When a ship is in a port, the shipowner shall immediately allow seafarers to visit a doctor or dentist.

3. The cost of health care services shall be borne by the shipowner, except for the cost of services provided pursuant to the Act of 27 August 2004 on health care services financed from public funds (Journal of Laws of 2015, item 581, as amended<sup>7</sup>) or Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (OJ L 166, 30.4.2004, p. 1, as amended; OJ Polish Special Edition, ch. 5, vol. 5, p. 72).

4. The shipowner has the right to acquire medicine and medical facilities as ship supplies on the basis of an order referred to in Article 96 of the Act of 6 September 2001 – Pharmaceutical Law (Journal of Laws of 2008, No 45, item 271, as amended<sup>8</sup>).

5. The provisions of Paragraphs 1 and 2 shall apply to trainees accordingly.

**Article 71.** 1. Appropriate base and equipment for medical aid shall be provided on board, in particular a ship's medical chest and a medical guide compliant with the requirements of the International Health Organization.

2. On a ship on international voyages longer than 3 days with at least 100 people on board the shipowner shall employ a qualified medical practitioner.

3. If, due to the nature of voyages in which the ship is engaged, including the duration of sea voyages and the number of people on board, the presence of a qualified medical practitioner on board is not required, at least one crew member shall have been trained in medical care in line with the requirements of the STCW Convention.

4. A ship with a crew of at least 15 people engaged in sea voyage lasting at least 3 days should have a hospital room for adequate medical care.

5. Keeping the ship's medical chest and medical care on board a ship is the task of the person trained in the manner referred to in Paragraph 3. These activities are the responsibility of the ship's master.

6. The ship's master or a person authorised by him/her shall keep medical records of seafarers' health condition, which are confidential and may be used solely to facilitate the treatment of seafarers.

<sup>7</sup> Amendments to the consolidated text of this Act were published in the Journal of Laws of 2015, items 1240, 1269 and 1365.

<sup>8</sup> Amendments to the consolidated text of the said Act were published in the Journal of Laws of 2008, No 227, item 1505 and No 234, item 1570, of 2009, No 18, item 97, No 31, item 206, No 92, item 753, No 95, item 788 and No 98, item 817, of 2010, No 78, item 513 and No 107, item 679, of 2011, No 63, item 322, No 82, item 451, No 106, item 622, No 112, item 654, No 113, item 657 and No 122, item 696, of 2012, item 1342 and 1544, of 2013, item 1245, of 2014, item 822 and 1491 and of 2015, item 28, 277, 788 and 875.



**Article 72.** The minister responsible for health, in consultation with the minister responsible for maritime economy, shall specify, by way of an regulation:

- 1) requirements concerning the contents of ship's medical chest: the adequate types and quantities of medicines, medical equipment, and antidotes, their storage, control, replacement, and recording,
- 2) requirements concerning the provision of life-saving appliances with first aid kits: the adequate types and quantities of medicines and medical equipment, their storage, control, replacement, and recording,
- 3) a list of substances and materials on board a ship that constitute a threat to health or life,
- 4) model format for seafarer's medical records,

- with regard to the requirements resulting from international agreements binding the Republic of Poland in this respect, having regard to the nature of voyages and the need to provide seafarers with adequate medical assistance on board a ship.

**Article 73.** 1. The shipowner shall bear the following costs:

- 1) related to illness or injury of a seafarer during or resulting from employment,
- 2) medical care in the case of illness or injury of a seafarer, referred to in Paragraph 1, including the cost of treatment and supply of necessary medicines and medical equipment, and in the case of seafarer's stay outside Poland also the cost of accommodation and board,

- until the seafarer recovers or acquires entitlement to benefits according to the rules defined in Article 70(3), but for not longer than 16 weeks from the date of injury or the onset of illness.

2. In the case of incapacity for work lasting more than 3 months and resulting from injury or illness due to work, the seafarer, and in the case of the death of a seafarer – his/her family, shall be entitled to compensation from the shipowner. The provisions of Article 93(2) and (3) of the Labour Code shall apply accordingly to the compensation.

3. The shipowner shall cover the cost of repatriation of seafarer's body to Poland and funeral expenses in the event of the death of a seafarer occurring on board or ashore during the performance of work, as well as during seafarer's repatriation.

4. In the case referred to in Paragraph 3, the body shall be repatriated to the place defined in the seafarers' employment agreement or to another place indicated in the collective bargaining agreement.

**Article 74.** The shipowner shall have insurance or other financial security of liability referred to in Article 73.

**Article 75.** If seafarer's incapacity to work is due to illness or injury, the shipowner shall pay him/her remuneration for work referred to in Article 35(3):

- 1) when the sick or injured seafarer stays on a ship or until the seafarer's repatriation;
- 2) from the date of seafarer's repatriation or disembarkation until his/her recovery or acquisition of entitlement to benefits according to the principles laid down in the Act of 25 June 1999 on social security cash benefits in case of sickness and maternity (Journal of Laws of 2014, item 159, as amended<sup>9</sup>) or in the Act of 30 October 2002 on social insurance for accidents at work and occupational diseases (Journal of Laws of 2015, items 1242 and 1442) but for not longer than 16 weeks from the date of injury or the onset of disease.

**Article 76.** The shipowner shall be exempted from the obligation referred to in Article 75 if:

- 1) the seafarer got injured in a situation unrelated to the performance of work on a ship;
- 2) injury or illness resulting from deliberately incorrect conduct of the sick or injured seafarer;
- 3) illness or disability had been intentionally hidden by a seafarer.

**Article 77.** 1. The shipowner shall secure personal effects of the sick, injured or deceased seafarer left on a ship.

2. The shipowner shall return personal effects of a deceased seafarer to his/her family members who are authorised within the meaning of Article 93(4) of the Labour Code.

**Article 78.** 1. If a seafarer goes missing at sea, the shipowner shall pay the authorised members of the seafarer's family:

- 1) for 6 months - a monthly allowance calculated according to the rules applicable to determining the amount of equivalent for annual leave;

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<sup>9</sup> Amendments to the consolidated text of this Act were published in the Journal of Laws of 2015, items 1066, 1217, 1220, and 1268.

2) after 6 months and before the seafarer is considered deceased - a monthly cash allowance.

2. The allowance referred to in Paragraph 1(2) shall be determined in the amount defined in Article 80 of the Act of 17 December 1998 on pensions from the Social Insurance Fund (Journal of Laws of 2015, item 748, as amended<sup>10</sup>).

## Chapter 7

### Specific rights and duties of seafarers and shipowners

**Article 79.** A seafarer shall in particular:

- 1) comply with regulations and the principles of occupational health and shipping safety;
- 2) comply with regulations in force at ports and at sea;
- 3) comply with the rules of work and of stay on board – if introduced;
- 4) take care of the passengers safety;
- 5) take care of the premises at his disposal, the premises common for the ship's crew and their equipment;
- 6) protect the ship, her devices and cargo;
- 7) protect the environment against pollution.

**Article 80.** 1. A seafarer may not bring nor carry on board any objects posing a threat to the safety of the ship, the persons on board or her cargo.

2. When there is a justified suspicion that a seafarer possesses on board the objects referred to in Paragraph 1, the ship's master may order to search the premises at the seafarer's own disposal and his belongings, and if such objects are revealed, the ship's master may remove them from the ship or hand them over to competent authorities.

3. The premises at the seafarer's own disposal and his belongings shall be searched at his presence and with the presence of the ship's crew representative. The search may be attended by a person indicated by the seafarer.

4. A record shall be taken of the search activities. The seafarer shall be provided with a copy of the record.

5. The ship's master shall make an entry into the deck log-book on the search of the premises at the seafarer's own disposal and his belongings, as well as on the result of the search.

6. The provisions of Paragraphs (1)–(3) shall apply to trainees accordingly.

**Article 81.** 1. In case of an emergency on board the ship especially of sinking, crashing or fire, or when there is a need to render assistance to the other ship or people in distress at sea, a seafarer is obliged, until the rescue operation is over, to undertake work ordered by the ship's master, however without exposing him/herself to an immediate risk of losing health or life.

2. If the time of a rescue operation coincides with rest time, a seafarer shall be entitled to a compensatory rest time immediately after the rescue operation.

**Article 82.** 1. Without a seafarer's written consent, the shipowner may not commission him to work on the ship going on the sea voyage to an armed conflict zone. If the decision to direct a ship to an armed conflict zone is taken after the beginning of the sea voyage, the shipowner shall enable the seafarer who has not consented to go there to disembark the ship before reaching that zone.

2. Non-compliance with the requirements referred to in Paragraph 1 shall constitute a serious violation by the shipowner of his duties towards a seafarer.

**Article 83.** The shipowner shall transfer, when possible, a seafarer who has performed night work and has come down with an illness which, based on the medical examination, may be deemed a consequence of nightwork duties, to work done in the daytime to which he possesses professional qualification.

**Article 84.** 1. The rules of work and stay on board shall be introduced on the ship the crew of which consists of at least 15 people.

2. The rules of work and stay on board shall determine in particular the principles of keeping the ship tidy, peaceful and clean.

3. The rules of work and stay on board, in so far as not regulated by the Act, shall be governed by the provisions of Chapter IV section four of the Labour Code accordingly.

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<sup>10</sup> Amendments to the consolidated text of this Act were published in the Journal of Laws of 2015, items 1240, 1302 and 1311.

**Article 85.** 1. The shipowner who is a shipping company and uses the ship to transport cargo or passengers under international shipping, within the meaning of the Tonnage Tax Act of 24 August 2006 (Journal of Laws of 2014, item 511 and of 2015, item 211), shall be obliged to issue, after the end of the year, however not later than by the end of February, a certificate to a seafarer employed on that ship including:

- 1) name and surname of the seafarer, his address of residence and PESEL number or when there is none – a number of other document confirming the identity;
- 2) the number of days in the year, that the certificate refers to, in which the seafarer was employed on the ship that complies with the requirements provided for in Article 21(1)(23c) of the Act of 26 July 1991 on personal income tax (Journal of Laws of 2012, item 361, as amended<sup>11</sup>21), along with the periods of employment and the name of the ship;
- 3) the amount of income and personal income tax prepayments of a seafarer for the working days referred to in Subparagraph 2;
- 4) information on the shipowner to be provided in the event of seeking assistance other than *de minimis* aid or *de minimis* aid in agriculture and fishery pursuant to provisions issued based on Article 37(6) of the Act of 30 April 2004 on the procedural issues concerning State aid (Polish Journal of Laws of 2007 No 59, item 404, as amended<sup>12</sup>), *including*:
  - a) name and surname or full name,
  - b) address of residence or of registered office,
  - c) identifier of the borough where the shipowner resides or has registered office,
  - d) Tax ID Number (NIP),
  - e) legal form,
  - f) size,
  - g) class of activity with respect to which the shipowner is seeking State aid, according to the Polish Classification of Business Activities (PKD), pursuant to provisions issued based on Article 40(2) of the Act of 29 June 1995 on the public statistics (Polish Journal of Laws of 2012, item 591, as amended<sup>13</sup>).

The certificate referred to in Paragraph 1 shall be issued in order to apply the exemption referred to in Article 21(1)(23c) of the Act of 26 July 1991 on personal income tax.

The exemption referred to in provisions provided in Paragraph 2 shall constitute State aid for the shipowner for the improvement of competitiveness.

**Article 86.** 1. A seafarer shall be entitled to an access to facilities, equipment and social amenities ashore, irrespective of the nationality, race, gender, age, religion, political views, membership in trade unions, ethnicity or social background.

2. A seafarer shall be entitled to an access to facilities, equipment and social amenities ashore, irrespective of the ship nationality, on which he/she is employed, in the free time, based on a valid seaman's book.

3. No person shall impede a seafarer's access to facilities, equipment and social amenities ashore.

**Article 87.** 1. Shipowner and seafarer organisations, as well as authorities and local organisations in Gdańsk, Gdynia, Szczecin and Świnoujście seaports may establish social councils for seafarers, hereinafter "social committees", which provide social, cultural and entertainment services for seafarers and review open to public facilities and social equipment provided in these ports.

2. The reviews referred to in Paragraph 1 shall aim at monitoring the facilities and social equipment adaptation to the changing needs of seafarers, in particular in respect of technological progress and shipping development.

3. The review results and proposals in this respect shall be presented by a social committee to entities responsible for the maintenance of the facilities and social equipment.

4. In particular, the representatives of churches and religious associations, the consuls of flag States of the ships arriving at ports and local representatives of foreign social committees may participate in works of the social committees.

5. The activity of the social committees connected with providing social, cultural and entertainment services and reviewing the facilities and social equipment may be financed from the part of port fees referred to in Article 8(2) of the Act of 20 December 1996 on sea ports and harbours (Journal of Laws of 2010 No 33, item 179), charged on shipowners of the ships arriving at ports referred to in Paragraph 1.

6. The social committees shall prepare annual action programmes based on the information obtained from shipowners, seafarer's unions and social organisations on the needs in respect of social, cultural and entertainment services and related to the maintenance of open to the public facilities and social equipment. In the event of receiving means referred to in Paragraph 5, the

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<sup>11</sup> The amendments to the consolidated text of the said Act were published in the Journal of Laws of 2012, item 362, 596, 769, 1278, 1342, 1448, 1529 and 1540, of 2013, item 21, 888, 1027, 1036, 1287, 1304, 1387 and 1717, of 2014, item 223, 312, 567, 598, 773, 915, 1052, 1215, 1328, 1563, 1644, 1662 and 1863 and of 2015, item 73, 211, 251, 478, 693, 699, 860, 933, 978, 1197, 1217, 1259, 1296, 1321, 1322, 1333 and 1569.

<sup>12</sup> The amendments to the consolidated text of the said Act were published in the Polish Journal of Laws of 2008 No 93, item 585, of 2010 No 18, item 99 and of 2011 No 233, item 1381.

<sup>13</sup> The amendments to the consolidated text of the said Act were published in the Journal of Laws of 2013 item 2, of 2014 item 1161 and 1662, and of 2015 item 855 and 1240.

social committees shall inform the minister responsible for maritime economy on the division of these means and the way in which they are going to be spent, not later than by 30 April of the following year.

## Chapter 8

### MLC documents and inspections and controls on the ship

**Article 88.** 1. A copy of MLC Convention, a copy of the Agreement concluded by the European Community Shipowners' Associations (ECSA) and the European Transport Workers' Federation (ETF) on the Maritime Labour Convention of 2006, a copy of the Act and implementing acts issued based on Article 5(7), Article 50(4), Article 94(2), Article 95(10), as well as implementing acts issued based on Article 204 of the Labour Code shall be kept on the ship.

2. The copies of the legal acts referred to in Paragraph 1 may be kept in electronic form.

**Article 89.** 1. The ship's compliance with the requirements of the Act and MLC Convention in respect of working and living conditions of seafarers is certified by a maritime labour certificate, hereinafter "the certificate".

2. The certificate shall be issued, upon the shipowner request, by the director of the maritime office competent for the ship's home port, for the period not longer than 5 years.

3. The certificate shall be issued based on positive inspection results of working and living conditions of seafarers on the ship, undertaken by the inspection authority.

4. The issue of the certificate shall be refused based on a decision.

5. The certificate validity shall be confirmed by the director of the maritime office competent for the ship's home port, upon the inspection referred to in Article 94.

6. The certificate shall be declared invalid when:

- 1) the inspections of working and living conditions of seafarers, referred to in Article 94, did not take place on time;
- 2) the validity of the certificate has not been confirmed;
- 3) the ship changed its nationality;
- 4) the shipowner ceased to be responsible for the ship operation;
- 5) the ship's construction or equipment have been significantly changed, affecting the working and living conditions of seafarers.

7. The competent director of the maritime office may invalidate the certificate if the ship does not comply with the requirements of the Act or MLC Convention provisions, and the shipowner did not undertake the required corrective measures. When taking a decision on invalidating the certificate, one shall take into consideration the type and nature of irregularities detected and the frequency of their occurrence.

**Article 90.** 1. Interim Maritime Labour Certificate, hereinafter the "interim certificate" is issued for the ship:

- 1) which is newly built, after placing for operation;
- 2) which changed its nationality;
- 3) on which the shipowner took over the responsibility for her operation.

2. The director of the maritime office competent for the ship's home port shall issue, upon the shipowner request, a temporary certificate, for the period required to obtain a certificate, for no longer than 6 months. This period may not be exceeded.

3. The interim certificate may be issued when:

- 1) the inspection of working and living conditions of seafarers on the ship, undertaken by the director of the maritime office, gave positive results;
- 2) the shipowner demonstrated that the procedures applied on the ship are appropriate and in accordance with the requirements of the Act and MLC Convention;
- 3) the ship's master is aware of the MLC Convention requirements referring to the working and living conditions of seafarers on the ship and obligations connected with their implementation;
- 4) the director of the maritime office competent for the ship's home port received necessary information which enable the preparation of declaration of maritime labour compliance.

4. The issue of the interim certificate shall be refused based on a decision.

5. The interim certificate shall become invalid under the circumstances referred to in Article 89(6)(1) and Article 89(6)(3)–(5).

**Article 91.** 1. A declaration of maritime labour compliance, hereinafter a “declaration”, shall confirm that the provisions on the minimum age for being employed on the ship, medical certificates, professional qualification of seafarers, seafarer employment agreement, job agency, time of work and rest, composition of the ship’s crew, accommodation, food and meals preparation conditions, on-board recreational facilities, health and safety at work, medical care, payment of remunerations and other benefits, as well as complaining procedures, are complied with on the ship.

2. The declaration shall consist of the following elements:

- 1) part I – prepared by the director of the maritime office competent for the ship’s home port, covering the confirmation that the ship complies with the requirements of MLC Convention and of the Act, in respect of working and living conditions of seafarers on the ship, with an indication of appropriate provisions in the national law or solutions principally equal or exemptions granted by the competent body to a given ship;
- 2) part II – prepared by the shipowner and stipulating measures established in order to ensure compliance with the requirements determined in part I of the declaration.

3. The declaration shall be issued, upon the shipowner request, by the director of the maritime office competent for the ship’s home port, after verifying the information provided by the shipowner in part II of the declaration, based on the positive results of the inspection concerning the working and living conditions on the ship.

4. The declaration shall be annexed to the certificate and kept on board the ship.

**Article 92.** 1. A ship of a gross tonnage (GT) of at least 500 GT, involved in international shipping or shipping between ports of other country, shall have a certificate or a interim certificate and a declaration.

2. For a ship of a gross tonnage (GT) of less than 500 units, the certificate, the interim certificate and the declaration shall be issued upon the shipowner request.

3. The certificate, the interim certificate and the declaration shall be issued in Polish and in English, along with their copy and shown in a visible place available for seafarers on the ship.

4. The original of the certificate or the interim certificate and the declaration shall be kept with other documents of the ship and made available upon request of the competent authorities or upon the request of employers and employees organisation.

5. A fee shall be charged for the inspection and the issue of the certificate, the interim certificate and the declaration. The fee shall constitute the state budget revenue.

6. The minister responsible for maritime economy shall determine, by way of a regulation, the specimen of the certificate, the interim certificate and the declaration (part I and II), taking into account the requirements provided for in this respect in MLC Convention.

**Article 93.** 1. The fees for the inspection and the issue of the certificate with the declaration are as follows for the ships of the following gross tonnage (GT):

- 1) up to 500 units– PLN 1,500;
- 2) above 500 units to 2,000 units – PLN 2,000;
- 3) above 2,000 units to 10,000 units – PLN 2,500;
- 4) above 10,000 units to 30,000 units– PLN 3,500;
- 5) above 30,000 units – for each next 20,000 units additional – PLN 1,000.

2. The fees for the inspection and the issue of the interim certificate for the ships of the following gross tonnage (GT):

- 1) up to 500 units– PLN 750;
- 2) above 500 units to 2,000 units – PLN 1,000;
- 3) above 2,000 units to 10,000 units – PLN 1,250;
- 4) above 10,000 units to 30,000 units – PLN 1,750;
- 5) above 30,000 units – for each next 20,000 units additional – PLN 500.

3. The fee for inspection aiming at confirmation of the validity of the certificate with the declaration amounts to 50% of the rate determined for the inspection for the issue of the certificate with the declaration, by which the validity has been confirmed.

**Article 94.** 1. The ship referred to in Article 92(1)-(2) shall be subject to the following inspection:

- 1) initial – carried out to obtain either the certificate or the interim certificate for the first time;
- 2) indirect – carried out to confirm the validity of the certificate between the second and the third anniversary date, referred to in Article 5(22) of the Act on maritime safety;

- 3) renewal – carried out in connection with the expiration of the certificate, in order to issue a new one, not earlier than 3 months before the expiration of the certificate;
- 4) ad hoc – carried out for an additional verification of working and living conditions of seafarers on the ship;
  2. The minister responsible for maritime economy shall specify, by way of a regulation, the scope and modality of each type of inspection, referred to in Paragraph 1, bearing in mind the need to ensure the efficiency of the inspections and a proper verification if the working and living conditions of seafarers on the ship are met.

**Article 95.** 1. The working and living conditions of seafarers on the ship shall be controlled by controlling bodies based on the Act and by the Chief Labour Inspectorate bodies according to the Act of 13 April 2007 on the Chief Labour Inspectorate (Journal of Laws of 2015, item 640 and 1240), hereinafter the “Act on Chief Labour Inspectorate”.

2. The compliance with the provisions on the time of work and rest of seafarers shall be subject to control either ex officio or based on the request or complaint submitted by the person in possession of information on irregularities in respect of compliance with the provisions on the hours of work and rest of seafarers on the ship.

3. The entity carrying out the control, referred to in Paragraph 1, hereinafter the “inspector” shall be obliged not to reveal the data of the person referred to in Paragraph 2.

4. The control shall be carried out when the ship is berthed at a port, in the manner not delaying the ship’s departure.

5. For the time of control, the ship’s master or a person authorised by the ship’s master, shall make an official premises on the ship available to the inspector.

6. Upon the inspector request, the ship’s master or a person authorised by the ship’s master shall make available, insofar as the provisions on the data protection are complied with, the original documents and materials concerning the records of seafarers’ time of work and rest and the schedule of work.

7. The inspector shall establish the facts also based on oral or written explanations of the seafarers employed on the ship.

8. Based on the evidence collected in the course of control, the inspector shall determine the facts in respect of compliance with the provisions on the time of work and rest of seafarers employed on the ship.

9. In the event that any irregularities are detected in respect of compliance with the provisions on the seafarers’ time of work and rest on the ship, the inspection authority shall undertake actions in accordance with Article 27 of the Act on maritime safety, and the Chief Labour Inspectorate body shall act according to Article 11 of the Act on the Chief Labour Inspectorate.

10. The minister responsible for maritime economy shall specify, by way of a regulation, the mode in which the compliance with the provisions on the time of work and rest of seafarers is controlled, taking into account the efficiency of the control and a proper use of its outcomes.

## Chapter 9

### On-board complaint procedures

**Article 96.** 1. Seafarers have the right to lodge complaints about non-provision of adequate conditions of life and work on a ship.

2. It shall be prohibited to take any actions against seafarers in connection with their complaints.

3. The person to whom a seafarer lodged a complaint shall ensure confidentiality of the source of the complaint.

**Article 97.** 1. A complaint may be lodged by a seafarer personally, through an authorised person or a representative of ship’s crew, if one is delegated.

2. A seafarer can lodge a complaint to his/her immediate superior or to the ship’s master.

3. The seafarer’s immediate superior shall examine the complaint immediately.

4. If the decision on the complaint by the immediate superior is not satisfactory to the seafarer, he/she shall lodge a complaint to the ship’s master.

5. The ship’s master shall examine the complaint within 14 days from the date of receipt.

6. If settlement of the complaint on the ship is impossible, the ship’s master shall immediately forward the complaint to the shipowner.

7. The shipowner shall examine the complaint within 30 days from the date of receipt.

**Article 98.** Records of complaints shall be kept on a ship.

**Article 99.** 1. Regardless of the authorisation of a seafarer, referred to in Article 97(2), the seafarer may lodge a complaint to the inspection authority in the port at which the ship calls, and to the employment agency through which the seafarer was employed on the ship.

2. When a seafarer lodges a complaint to the inspection authority, the inspector from the flag state inspectorate shall take action with a view to initial assessment of the complaint.

3. The inspector from the flag state inspectorate shall not disclose that the inspection is carried out as a result of the complaint.

4. Preliminary assessment of a complaint, depending on its nature, shall include verifying whether complaint procedures provided for in the MLC Convention had been applied on the ship.

5. The inspector from the flag state inspectorate shall make every effort to examine the complaint on board the ship.

6. If a complaint is not resolved on the ship and the ship's master fails to forward the complaint to the shipowner in accordance with Article 97(6), the inspection authority shall immediately inform the shipowner, specifying the time limit for the shipowner's response and provision of a corrective action plan.

7. If it is impossible to resolve a complaint as a result of the measures taken in accordance with Paragraph 6, the inspection authority may, by way of a decision, detain the ship in port and notify competent organisations of shipowners or seafarers, respectively, and the State Labour Inspectorate or the State Sanitary Inspection of the complaint.

8. If a complaint was lodged to the employment agency, the agency shall explain the complaint with the shipowner, and if it is impossible to clarify the complaint, if it contains information referred to in Article 24(1)(1) or (3), the agency shall notify the director of the maritime office.

9. The director of the maritime office shall check how the employment agency explains the complaints lodged by seafarers during the audits referred to in Article 18(4) and (5).

## Chapter 10

### Work on non-convention ships

**Article 100.** 1. The provisions of the Act that concern the following shall apply accordingly to work on non-convention ships:

- 1) minimum requirements on work on a ship for seafarers, taking into account the current international and national requirements relating to sea fishermen and employees of maritime schools and universities;
- 2) conditions of employment and organisation of work on a ship – with the exception of the provisions of Article 34, Article 40, Article 41, Articles 43-47, Article 50, Article 51(2) and Articles 53-56;
- 3) conditions of life and work on a ship – with the exception of provisions of Article 28(1) and (2), Article 63, Article 64(2)-(4), Article 65, Article 67(2) and (3), and Article 69(2), but the provision of Article 63(3) shall apply to ships referred to in Article 103;
- 4) protection of health and social security protection.

2. The provisions of the Act on job agency may apply to non-convention ships.

3. The provisions relating to the repatriation of seafarers shall not apply to non-convention ships not engaged in international voyages.

4. On non-convention ships the seafarer employment agreement may provide for remuneration components other than those referred to in Article 35(3).

**Article 101.** 1. During fishing or other activities directly linked to fisheries, the time of work on a fishing vessel may be extended up to 14 hours a day and 72 hours per week.

2. A fishing vessel is at sea from departure to sea to catch fish until arrival at a port after catching fish. The day of departure to sea and arrival at the port shall be considered days spent at sea.

3. When a fishing vessel is at sea, it is allowed to introduce working time basis and schedule depending on the fishing conditions, but employees must be provided at least 6 hours of uninterrupted rest a day. The interval between two consecutive resting times may not be longer than 14 hours.

4. Work performed according to the working time basis and schedule defined in Paragraph 3 shall not be considered overtime.

5. The provision of Article 81 shall apply accordingly.

**Article 102.** 1. The employment relationship on a fishing vessel may arise pursuant to a cooperative contract of employment.

2. A contract of employment on a fishing vessel can be concluded for a fishing season. Workers employed on the basis of such a contract shall be entitled to annual leave of 2 working days for each completed month of service.

3. In addition to the elements referred to in Article 27, a contract of employment on a fishing vessel shall also specify:

- 1) the meals on a fishing vessel or arrangements concerning the payment of an equivalent for meals;
- 2) the norms of provision of personal protective equipment and work clothing and footwear;
- 3) remuneration for readiness for work;
- 4) remuneration for days off.

**Article 103.** 1. On ships on permanent rescue duty seafarers shall conduct search and rescue operations and to maintain constant readiness for such operations.

2. The seafarers referred to in Paragraph 1 are required to perform work related to the requirements of the rescue service of up to 12 hours a day and 40 hours per week, on average, in the settlement period not longer than one month.

3. The seafarers referred to in Paragraph 1 are entitled to rest time of not less than 12 hours per day, while maintaining readiness for a rescue operation.

4. During the rest period referred to in Paragraph 3, the ship's master may order work resulting only from a rescue operation. The rescue operation time shall be included in working time.

5. If the time of a rescue operation coincides with rest time, a seafarer shall be entitled to a compensatory rest time immediately after the rescue operation.

6. For each hour of readiness for a rescue operation, seafarers shall be paid remuneration not lower than 18% of an hourly rate resulting from the minimum salary determined on the basis of the provisions on minimum remuneration for work.

**Article 104.** 1. The seafarers referred to in Article 103 shall remain on a ship for shifts of 15 consecutive days. After this period, seafarers shall be granted days off whose number shall not be lower than the number of days of work.

2. In a month comprising 31 days seafarers on one shift shall remain on board for 16 consecutive days. Seafarers on such shift shall be granted days off whose number shall be at least 16 days in the next month comprising 31 days.

**Article 105.** 1. The provisions of Article 103 and Article 104 shall apply accordingly to ships on a permanent duty other than permanent rescue duty as long as they are subject to equivalent terms employment.

2. On ships being on a permanent duty and on ships incessantly in special state service it is possible to employ seafarers on the basis of replacement seafarers' employment contracts to supplement the ship's crew.

**Article 106.** 1. On school ships, employment of a seafarer may depend on whether he/she has qualifications useful in teaching and formation, specified by the shipowner.

2. The working time of a seafarer who has the qualifications referred to in Paragraph 1 may cover work on a ship and in maritime education units referred to in Article 74(2) of the Act on maritime safety. The sea allowance shall be granted only for work on a ship.

**Article 107.** 1. On ships used for tourist traffic service seafarers' employment agreements can be concluded with seafarers for the duration of the tourism season.

2. The provision of Article 34 shall apply accordingly to work on the ships referred to in Paragraph 1.

**Article 108.** 1. The working hours on drilling or mining platforms covered by crews or crew parts replaced one after another may be extended to 14 hours per day and 84 hours per week. In this case, after each uninterrupted period of work not longer than two weeks, the employee shall be granted at least an equal period off work on land. Upon the employee's consent, the period of work may be extended to 3 weeks.

Work within working time norms referred to in Paragraph 1 shall not be treated as overtime if the number of hours worked during the settlement period does not exceed 44 hours on average.

In the case of work in accordance with Paragraph 1, the provisions of Article 133 of the Labour Code shall not apply.

## **Chapter 11.**

### **Criminal liability**

**Article 109.** 1. For violation of the rules work and stay on board a ship by a seafarer, disciplinary sanctions can be imposed in accordance with the provisions of the Labour Code, except that:

- 1) the seafarer's opposition to the sanction shall be considered by the ship's master;
- 2) if the violation takes place at a port where the registered seat of the shipowner is located, the seafarer's opposition to the sanction shall be considered by the shipowner;
- 3) the ship's master may not impose a sanction after 7 days from the date on which he/she became aware of the violation, not later than 3 months after the date of the violation;
- 4) before imposing a sanction the ship's master shall inquire about the opinion of a representative of ship's crew, if one is delegated;
- 5) during a sea voyage a sanction may be considered non-existent also at the request of a representative of ship's crew, if one is delegated.

2. A seafarer or a representative of ship's crew may, within 7 days from the date when the ship's master decides to reject opposition to the sanction, submit a protest on the issue with a rationale to the ship's master in writing. In such case the ship's



master shall refer the matter for consideration by the shipowner. The shipowner shall decide to reject the opposition, in consultation with the trade union representing the seafarer concerned, within 14 days from the date of arrival of the seafarer to the place where the seafarers' employment agreement was concluded.

3. The shipowner may punish the ship's master within 30 days from the date of his/her arrival at the shipowner's registered office, but not later than nine months from the date of violation of the rules of work and stay on the ship.

**Article 110.** 1. Whoever, being a shipowner or acting on the shipowner's behalf, violates the provisions concerning:

- 1) keeping a copy of the seafarer employment agreement on the ship for the period during which the seafarer is on the ship's crew list,
- 2) keeping a model format for seafarer employment agreement, collective bargaining agreement or remuneration rules on a ship,
- 3) entries and annotations on the ship's crew list,
- 4) conducting and documenting an analysis of occupational risk associated with work on individual workstations on the ship,
- 5) informing seafarers of the results of the occupational risk assessment, application of necessary preventive measures and training of seafarers in protection against threats,
- 6) informing seafarers of the threats posed by dangerous goods carried on board a ship, preventive measures, procedures for handling the goods in emergency, and first aid rules in the event of undesirable effects of these threats

- shall be liable to a fine whose amount does not exceed 20 times the average salary in the national economy for the preceding year, published by the President of the Central Statistical Office in the Official Journal of the Republic of Poland "Monitor Polski" for pension purposes.

2. The same punishment shall apply to a ship's master who:

- 1) makes entries in a seaman's book in violation of Article 8(2);
- 2) fails to make the required entries in a log book;
- 3) violates provisions on examination of complaints with respect to work and life conditions of the seafarers on a ship;
- 4) fails to perform an inspection of food and potable water, food and potable water storage facilities, ship's galley and appliances used to prepare and serve meals;
- 5) fails to put information on the work schedule for each workstation on the ship in an accessible place on the ship;
- 6) fails to provide seafarer's training in occupational health and safety on a ship before allowing him/her to work at a particular workstation;
- 7) fails to determine the circumstances and causes of an accident at work;
- 8) fails to notify the shipowner of an accident at work and suspicion of an occupational disease on a ship.

3. The same punishment shall apply to anyone who:

- 1) issues a medical certificate to a seafarer without authorisation;
- 2) fails to notify the director of a maritime office of the circumstances referred to in Article 14(2)(2) and (3);
- 3) fails to submit a seaman's book for invalidation to the director of a maritime office;
- 4) fails to notify the director of a maritime office according to the obligation set out in Article 24(1) and Article 99(8);
- 5) fails to provide the list of persons referred to in Article 25(1) to maritime administration authorities, upon their request;
- 6) prevents seafarers from access to facilities, equipment and social facilities ashore;
- 7) fails to ensure confidentiality of the source of a complaint in the case of a complaint by a seafarer.

**Article 111.** 1. Whoever running an employment agency:

- 1) does not withdraw from offering a job on a ship from a shipowner in the absence of attached documents referred to in Article 20(2),
- 2) does not withdraw from offering a job on a ship when becoming aware of information referred to in Article 24(1),
- 3) provides employment agency services without a document authorising him/her to refer seafarers to work on ships, issued by the competent director of a maritime office,
- 4) has no insurance or other financial safeguards with respect to liability for damages incurred by seafarers as a result of inefficiency of job agency services or the shipowner's failure to meet the obligations arising from the seafarers' employment agreement,

- shall be liable to a fine of PLN 1,000 to PLN 30,000.

2. The same punishment shall apply to anyone who, when rendering employment agency services, directly or indirectly collected from a jobseeker a fee for activities connected with job agency, and to anyone who failed to ensure that a person looking for a job on a ship does not incur costs directly related to placement for work abroad, including the cost of travel to the ship and return to the place of repatriation specified in the seafarer employment agreement, issue of a visa, medical examination and translation of documents.

**Article 112.** Whoever being a shipowner:

- 1) fails to cover the cost of a medical examination carried out for the purpose of issuing a seafarer's medical certificate referred to in Article 4,
  - 2) fails to pay a seafarer the benefit referred to in Article 32 or a compensation in the case of foundering or loss of ship in any other way,
  - 3) fails to cover the costs incurred by the seafarer as a direct result of changing the dates of his/her annual leave or recalling him/her from annual leave,
  - 4) fails to ensure that the work, living, and recreational spaces, showers, toilets and messes on board a ship comply with the requirements set out in the MLC Convention in terms of surface area, lighting, air cleanliness, noise and vibration level,
  - 5) fails to cover the costs related to seafarer's illness or injury or the costs of medical care referred to in Article 73(1), or the costs of body repatriation in the case of seafarer's death referred to in Article 73(3),
  - 6) does not have insurance or other financial security of liability referred to in Article 74
- shall be liable to a fine of PLN 1,000 to PLN 30,000.

**Article 113.** 1. Whoever, being a shipowner or acting on the shipowner's behalf:

- 1) employs a person below 18 on a ship, except in the case referred to in Article 3(3),
  - 2) employs a seafarer on a ship but does not enter him/her on the ship's crew list,
- shall be liable to a fine of PLN 1,000 to PLN 30,000.

2. The same punishment shall be imposed on anyone who employs a seafarer on a ship without a seafarer employment agreement or employs a seafarers who has no relevant documents confirming his/her professional qualifications required for appointment to a position on a ship, a minor for a purpose other than vocational training, as well as a seafarer with no valid medical certificate, subject to Article 6(2) and (3), and without a valid seaman's book.

**Article 114.** 1. Whoever, being a shipowner or acting on the shipowner's behalf, refers a seafarer without his/her written consent to work on a ship setting out on a sea voyage to an armed conflict zone, shall be liable to a fine of PLN 1,000 to PLN 30,000.

2. The same punishment shall be imposed on a shipowner who, if the decision to direct a ship to an armed conflict zone was taken after the sea voyage started, prevents a seafarer who has not consented to go there from disembarking the ship before reaching that zone.

**Article 115.** 1. Whoever, being a shipowner or acting on the shipowner's behalf, violates the provisions concerning:

- 1) the required form and contents of a seafarer employment agreement,
  - 2) the seafarer's periods of employment on the basis of a seafarer employment agreement for a specified period of time, defined in Article 26(3),
  - 3) seafarer's time of work and rest,
  - 4) the procedures for examining seafarer's complaints referred to in Article 97 and Article 99,
- shall be liable to a fine of PLN 1,000 to PLN 30,000.

## 2. The same punishment shall be imposed on anyone who, being a shipowner or acting on the shipowner's behalf:

- 1) prevents a seafarer from becoming familiar with the seafarer employment agreement before signing it;
- 2) fails to inform a seafarer about the terms and conditions of a seafarer employment agreement before signing it;
- 3) fails to provide a seafarer with clarifications in the case of doubts about a seafarer employment agreement before signing it;
- 4) does not pay remuneration for work or any other benefit related to work on a ship to a seafarer or authorised family members in a timely manner, reduces the amount of this remuneration or benefits in an unjustified way or makes undue deductions;
- 5) does not grant the annual leave or a compensatory leave due to the seafarer or unlawfully reduces the duration of the leave;
- 6) deducts repatriation costs from seafarer's remuneration for work or from other benefits resulting from a seafarer employment agreement, with the exception of the situations referred to in Article 59(3).

**Article 116.** Whoever, being a shipowner or acting on the shipowner's behalf:

- 1) does not repatriate the seafarer in the cases referred to in Article 58(1);

- 2) does not ensure that the workstations, machinery, installations and equipment on board a ship provide safe and hygienic working and living conditions for seafarers and other persons on board a ship, and in particular that they do not pose a risk of accidents or threats to health as a result of exposure to dangerous or harmful factors or nuisance in the work environment;
- 3) does not provide appropriate quality free food and potable water to the seafarer;
- 4) does not provide crew members with free personal protective equipment and work clothing and footwear as protection against hazardous and harmful factors present in the working environment at sea and does not inform the crew how to use this equipment;
- 5) does not provide the seafarer with access to health care referred to in Article 70(1) and (2);
- 6) does not ensure that the ship referred to in Article 71(2) employs a qualified medical practitioner;
- 7) does not ensure that the crew of the ship referred to in Article 71(3) includes at least one seafarer trained in medical care for the sick

- shall be subject to a fine of PLN 1000 to PLN 30,000.

**Article 117.** 1. To the competence of the bodies and the procedure of imposing and enforcing fines for violations referred to in Article 110, the provisions of the Act of 21 March 1991 on maritime areas of the Republic of Poland and the maritime administration (Journal of Laws of 2013, items 934 and 1014) shall apply.

2. Ruling in cases concerning the acts referred to in Articles 111-116 shall take place on the basis of the request of the director of the maritime office or a labour inspector, in line with the provisions of the Act of 24 August 2001 – Code of Procedure in Misdemeanour Cases (Journal of Laws of 2013, item 395, as amended<sup>14</sup>).

## Chapter 12

### Amendments to the provisions in force

**Article 118.** Article 21 of the Act of 26 July 1991 on personal income tax (Journal of Laws of 2012, item 361, as amended<sup>15</sup>) shall be amended as follows:

1) In paragraph 1, after subparagraph 23b, subparagraph 23c shall be added and shall read as follows:

“23c) the income of seafarers who are citizens of a Member State of the European Union or a state belonging to the European Economic Area, obtained from work on seagoing ships of Polish nationality, used for transporting cargo or passengers in international voyages, within the meaning of the Act of 24 August 2006 on tonnage tax, performed for more than 183 days in total in a tax year, except for seafarers employed on:

- a) tugboats, where the transport of cargo or passengers by sea accounted for less than 50% of the work time actually performed by the tugboat in a year;
- b) dredgers, where the transport of excavated material by sea accounted for less than 50% of the work time actually performed by the dredger in a year;”;

2) Paragraph 35 shall be added that reads as follows:

“35. The exemption referred to in paragraph 1(23c) shall apply, provided that the certificate or certificates referred to in Article 85 of the Act of 5 August 2015 on work at sea (Journal of Laws item 1569) are submitted to the tax office referred to in Article 45(1b), not later than by the deadline laid down in Article 45(1).”.

**Article 119.** In Article 9 of the Act of 20 December 1996 on sea ports and harbours (Journal of Laws of 2010 No 33, item 179), paragraph 3 shall be added and shall read as follows:

“3. The port managing body may allocate a part of revenues from port fees, up to EUR 0.005 per gross tonnage unit (GT) of a ship, for the activities of the social committees referred to in Article 87 of the Act of 5 August 2015 on maritime labour (Journal of Laws item 1569).”.

**Article 120.** The Act of 27 August 2004 on health care benefits financed from public funds (Journal of Laws of 2015, item 581, as amended<sup>16</sup>) shall be amended as follows:

1) In Article 68, paragraph 8a shall be added after paragraph 8 and shall read as follows:

<sup>14</sup> The amendments to the consolidated text of the said Act were published in the Journal of Laws of 2013, item 765 and 1247, of 2014, item 486, 579, 786 and 969 and of 2015, item 21, 396, 841, 1186, 1269 and 1549.

<sup>15</sup> The amendments to the consolidated text of the said Act were published in the Journal of Laws of 2012, item 362, 596, 769, 1278, 1342, 1448, 1529 and 1540, of 2013, item 21, 888, 1027, 1036, 1287, 1304, 1387 and 1717, of 2014, item 223, 312, 567, 598, 773, 915, 1052, 1215, 1328, 1563, 1644, 1662 and 1863 and of 2015, item 73, 211, 251, 478, 693, 699, 860, 933, 978, 1197, 1217, 1259, 1296, 1321, 1322 and 1333.

<sup>16</sup> The amendments to the consolidated text of the said Act were published in the Journal of Laws of 2015, item 1240, 1269 and 1365.

“8a. In the case of seafarers who are persons referred to in Article 3(1)(1) and (2), excluding the persons staying on the territory of the Republic of Poland based on the permit for stay for humanitarian reasons or consent for tolerated stay, and in subparagraph 2a, excluding the persons using temporary protection on the territory of the Republic of Poland, the period referred to in paragraph 8 shall not include the period of their employment on seagoing ships of foreign nationality.”;

2) Article 83(3)(1) shall read as follows:

“1) the income of the insured exempted from the income tax pursuant to Article 21(1)(23c) and (46) of the Act of 26 July 1991 on personal income tax from which the taxpayer does not calculate the advance payment for that tax.”.

**Article 121.** The Act of 18 August 2011 on maritime safety (Journal of Laws of 2015, item 611, 1320 and 1336) shall be amended as follows:

1) In Article 5, after subparagraph 34, subparagraph 34a shall be added and shall read as follows:

“34a) the ISPS Code, it shall mean the International Ship and Port Facility Security Code, specified in Chapter XI-2 of the SOLAS Convention.”;

2) Article 18(8) shall read as follows:

“8. An inspector from the flag state inspection may be a person who has qualifications, experience and knowledge in terms of requirements concerning the safety of ships and the issues covered by the MLC Convention.”;

3) Article 27(1) shall read as follows:

“1. If the flag state inspection finds that the condition of the ship or its loading condition constitutes a threat to safety at sea, life or marine environment, or that the working or living conditions of seafarers do not meet the requirements of the MLC Convention, the inspection authority, by way of a decision, shall detain the ship, prohibit the use of the ship or stop the operations during which the irregularities were found, indicating at the same time the irregularities to be remedied, taking into account the degree of threat. The decision shall be immediately enforceable.”;

4) Article 40(2) shall read as follows:

“2. The inspection authority shall perform a more detailed inspection, if the preliminary inspection finds clear reasons to conclude that the condition of the ship, its equipment, or the composition and qualifications of the ship’s crew, and the working and living conditions on the ship do not meet the requirements laid down in international agreements.”;

5) After Article 40, Article 40a shall be added that reads as follows:

“Article 40a. 1. In case a more detailed inspection reveals that living and working conditions on the ship do not conform to the requirements of the MLC Convention, the inspection authority shall inform the ship’s master about the deficiencies found and about the deadlines by which they should be remedied.

2. In case the deficiencies referred to in paragraph 1 turn out to be significant or related to the information referred to in Article 56a(1) of the Act, the inspection authority shall also notify this fact to the representative seafarers’ or shipowners’ organisations.”;

6) In Article 43:

a) Paragraph 1(1) shall read as follows:

“1) the condition of the ship or its loading condition constitutes a threat to the safety of the ship, persons on board or to marine environment, or if the working or living conditions of seafarers on board constitute a clear threat to their safety, health or protection, or if there are deficiencies constituting gross or repeated breach of the requirements of the MLC Convention, the inspection authority, by way of a decision and taking into account the degree of threat, shall detain the ship or halt the operations during which the irregularities were found, indicating at the same time the irregularities to be remedied.”;

b) After paragraph 4, paragraph 4a shall be added that reads as follows:

“4a. If the decision to detain a ship due to gross or repeated breach of the requirements of the MLC Convention, or due to the fact that the working and living conditions of seafarers on the ship constitute a clear threat to their safety, health or protection, is issued, the inspection authority shall immediately notify this to the flag state administration, requesting it to address the irregularities found by a specified deadline and informing it about the possibility for its representative to take part in the inspection. The inspection authority shall also immediately notify the shipowner and the representative organisations associating seafarers or shipowners in the port state.”;

7) Article 45(1) shall read as follows:

“1. The decision to release the ship from detention and the decision to withdraw the halting of operations shall be issued by the inspection authority following the repeated inspection, if the inspection authority finds that the irregularities have been removed or has approved the corrective action plan which will be immediately implemented. Before approving the corrective action plan, the inspection authority may consult the administration of the flag State of the ship.”;

8) After Article 56, Article 56a shall be added that reads as follows:

“Article 56a. 1. A member of the ship’s crew may inform the inspection authority about the breach of requirements of the MLC conventions, including the seafarers’ rights. In such a case, an inspector of the inspection authority shall take action to perform an initial examination of the received information, ensuring its confidentiality and not revealing the identity of the authority submitting the information, hereinafter referred to as the “complaint”.

2. The initial examination of the complaint, depending on its nature, shall include the verification whether the on-board complaint procedures provided for in the MLC Convention had been applied. The inspector may also perform a more detailed inspection.

3. The inspector shall ensure that the complaint is examined on board, if possible.

4. If an initial examination referred to in paragraph 1 or an inspection find irregularities justifying the detention of the ship, the inspection authority shall detain the ship.

5. In other cases and when the complaint of a seafarer concerning the breach of the requirements of the MLC Convention has not been examined on board a ship, the inspector shall without delay notify about this the competent authority of the flag state, requesting it to address the irregularities found by a specified deadline and to present a corrective action plan.

6. If a complaint cannot be resolved as a result of actions taken in accordance with paragraph 5, to ensure keeping of information received from a ship's crew member and provision of information to the parties that may be interested in appealing against the result of the complaint resolution in accordance with the law, the inspection authority, in cases covered by the MLC Convention, shall provide a copy of the inspection report along with responses from competent authorities of the flag state, received in due time, to the Director-General of the International Labour Office and to representative organisations of seafarers or shipowners.

7. By 1 April each year, an inspection authority shall provide the Director-General of the International Labour Office with information on the number of complaints lodged in a given year and on how they were handled, in particular on the number of complaints considered unfounded and the number of complaints considered founded, finalised and not finalised, and information on the number of ship detentions on grounds of negligence relating to the MLC Convention.”;

9) After Article 57, Article 57a shall be added that reads as follows:

“Article 57a. If the inspection finds an indisputable violation of the European Union law on a ship flying a flag of a European Union Member State, where appropriate, the inspection authority shall without delay notify about this fact the appropriate authorities of the flag state, international institutions or other entities to enable them to take appropriate action.”;

10) In Article 80:

a) After paragraph 1, paragraph 1a shall be added that reads as follows:

“1a. When determining the composition of the ship's crew, the director of the maritime office shall take into account the requirements of the SOLAS Convention, in particular of the ISM Code and the ISPS Code, as well as the need to avoid and reduce to the minimum, if possible, the extended working time on a ship, to ensure appropriate rest and reduce fatigue of seafarers.”;

b) Paragraph 3 shall read as follows:

“3. The minister responsible for maritime economy shall specify, by way of a regulation, the template of the safe manning certificate and the conditions for determining the ship's crew composition by the director of the maritime office, in view of the provisions of the SOLAS Convention on the minimum safe manning of the ship and the requirements of the MLC Convention determining the working and living conditions on a ship, including the necessity to include a doctor and a cook among the crew, and to ensure safe operation of the ship.”;

11) Article 127(1)(7) shall read as follows:

“7) navigates a seagoing ship or a ship in inland waterways, a sea or inland water yacht, or performs duties concerning the ship's safety, its protection or prevention of marine environment pollution, being under the influence of alcohol or intoxicated.”

## Chapter 13

### Transitional and final provisions

**Article 122.** On the date of entry into force of the Act, the employees within the meaning of the Act repealed in Article 131 shall become seafarers within the meaning of this Act.

**Article 123.** The employment contracts with the employees pursuant to the Act repealed in Article 131 shall become seafarer employment agreements within the meaning of this Act.

**Article 124.** To the proceedings commenced and not finalised by the date of entry into force of this Act, the previous regulations shall apply.

**Article 125.** 1. Seaman's books issued for an indefinite period shall remain valid for 10 years from the entry of this Act into force.

2. The fee in the amount specified in this Act shall be collected for issue of a seaman's book in compliance with the previous regulations.

3. Seaman's books compliant with the template defined in the previous regulations may be issued until the stocks of the forms run out, however, not longer than for a year from the entry of this Act into force.

**Article 126.** 1. The ship's crew list issued in compliance with the previous regulations shall remain valid for 6 months from the entry of this Act into force.

2. The records of time worked, night work and rest kept on the form compliant with the specimen laid down in the previous regulations shall remain valid for 6 months from the entry of this Act into force.

**Article 127.** The shipowner shall obtain, within 6 months from the date of entry of this Act into force, a certificate or an interim certificate for the ship compliant with the requirements referred to in Article 92(1).

**Article 128.** An employment agency, which on the date of entry into force of this Act holds a document authorising it to place seafarers into work on ships, may provide job agency services according to the previous rules, until it obtains the document referred to in Article 18(2), however, for no longer than 6 months from the date of entry of this Act into force.

**Article 129.** The previous implementing regulations issued pursuant to Article 16, Article 19(4), Article 57(7) and Article 57a(3) of the Act repealed in Article 131 shall remain in force by the date of entry into force of the implementing regulations issued pursuant to Article 15, Article 36(6), Article 50(4) and Article 95(10) of this Act, respectively; however, for no longer than 6 months from the date of entry of this Act into force.

**Article 130.** 1. In the years 2016-2025, the maximum limit of the state budget expenditure being the financial consequence of the Act shall amount:

- 1) in 2016 to PLN  
– 48,300.00;
- 2) in 2017 to PLN  
– 1400.00;
- 3) in 2018 to PLN  
– 1400.00;
- 4) in 2019 to PLN  
– 1400.00;
- 5) in 2020 to PLN  
– 48,300.00;
- 6) in 2021 to PLN  
– 1400.00;
- 7) in 2022 to PLN  
– 1400.00;
- 8) in 2023 to PLN  
– 1400.00;
- 9) in 2024 to PLN  
– 48,300.00;
- 10) in 2025 to PLN  
– 1400.00.

2. If the maximum limit of expenditure adopted for a given budget year and referred to in paragraph 1 is exceeded or may be exceeded, corrective mechanisms consisting in streamlining of activities shall be applied.

3. The minister responsible for maritime economy shall be the body competent for monitoring the use of the expenditure limit referred to in paragraph 1 and for implementing the corrective mechanisms referred to in paragraph 2.

**Article 131.** The Act of 23 May 1991 on work on seagoing commercial ships (Journal of Laws of 2014, item 430) shall be repealed.

**Article 132.** The provisions of Article 85 of this Act and Article 21(1)(23c) and paragraph 35 of the Act amended in Article 118, in the wording stipulated in this Act, shall apply to revenue obtained from the beginning of the year in which the European Commission issued a positive decision on compliance of the state aid with the internal market, and shall apply during the period of its validity.

**Article 133.** The Act shall enter into force 30 days after its publication.

President of the Republic of Poland *A. Duda*

