

SEAFARER SUBJECT GUIDE

ABANDONMENT IN NORWAY

This Guide deals with the situation where seafarers are abandoned in a port in Norway as well as where seafarers are abandoned on a Norwegian flagged vessel in a port outside Norway. This document is not intended to be legal advice nor does it constitute legal advice. If a seafarer is abandoned, he is strongly advised to consult a lawyer qualified to practise in Norway.

*A full text version of this Subject Guide including footnotes will become available for subscription in due course. In the meantime if there is a specific inquiry on any Subject Guide, please contact SRI.

- 1. When is a seafarer considered abandoned according to national case law or legislation? Is there any special legislation concerning abandoned crew?**
 - 1.1 There are no special regulations regarding abandoned seafarers in the Norwegian Seafarers Act; hence there is no legal definition of the abandonment of seafarers.
 - 1.2 A seafarer's rights will first of all depend on the nationality of the flag state. A seafarer who works aboard Norwegian ships, domestic or international, will have his working conditions regulated by the Norwegian Seafarers Act.
 - 1.3 A seafarer from a country other than Norway will have to apply for a residence permit in Norway if his ship operates between Norwegian harbors, regardless of the ship's nationality. The seafarer will not have to apply for a residence permit if the ship only sporadically docks in Norwegian harbors.
 - 1.4 Whether or not a seafarer is entitled to membership in the Norwegian National Insurance Scheme must be checked. This will be assessed taking into account the flag of the ship, the nationality of the ship's owner, the citizenship of the seafarer and the ship's domestic route. Membership in the Norwegian National Insurance Scheme will, amongst others, give a right to unemployment benefits, pension earnings and sick pay. Abandoned seafarers should contact the local NAV office for further advice.
 - 1.5 The right to public assistance requires legal residence in Norway.
 - 1.6 There is no law securing the right to any unpaid salary for none-Norwegian residence seafarers abandoned other than normal procedures for arresting the ship for unpaid wages.
 - 1.7 For a foreign seafarer not covered by the Norwegian Seafarers Act there are no binding provisions giving the seafarer the right to repatriation. A seafarer on a

SEAFARER SUBJECT GUIDE

Norwegian ship covered by the Norwegian Seafarers Act will in some cases, depending on the length of their employment, have the right to repatriation.

- 1.8 There is legislation in progress regarding a new Seafarers Act, which will fulfill Norway's obligations after international law. Norway has ratified the Maritime Labour Convention 2006 ('the MLC'). Since the MLC became effective as of August 2013, Norway has an obligation to alter Norwegian legislation to accord with the MLC. The date when the new Seafarers Act will be effective is unknown.

2. What is the immigration status of abandoned seafarers?

- 2.1 The immigration status of an abandoned seafarer is dependent on the seafarer's citizenship. Norwegian, Nordic and EU-citizens have right to reside in Norway.
- 2.2 Non-Norwegian citizens, who are employed on foreign ships travelling between Norwegian harbors, must have a residence permit. Non-Norwegian residence seafarers on international routes have no actual immigration status in Norway. This applies to all seafarers whether or not they are abandoned.

3. Can an abandoned seafarer get shore leave?

- 3.1 Abandoned seafarers have the same right to shore leave as any other seafarers. The Immigration Act with its secondary law, states that seafarers from foreign countries have a right to shore leave under certain circumstances. First, all seafarers with an international identity card have right to shore leave and to stay in the ship's harbour for the duration of time that the ship is in the harbour. This permission is limited to three months. If an abandoned ship with its seafarers stays more than three months in Norway (which in most cases will be the situation for abandoned seafarers), the seafarer must apply for a residence permit. Without regard to the three month limitation. the Norwegian Police may deny shore leave or a stay at the harbor if there are security issues, safety issues, or any other justifiable reasons to deny shore leave. Seafarers without permission for shore leave or seafarers without residence permits can, in severe cases, be expelled from Norway.
- 3.2 Neither the Norwegian Police nor the Norwegian Immigration Authorities have as of yet expelled abandoned seafarers.

SEAFARER SUBJECT GUIDE

4. Is abandonment of seafarers considered a crime?

- 4.1 There is no legislation that criminalizes the abandonment of seafarers.
- 4.2 However, the Norwegian Criminal Code regulates crime in maritime affairs. The law has provisions in relation to the situation where a ship leaves a seafarer at a port. It is determined that if someone aboard the ship abandons a seafarer at a port the guilty person can be prosecuted.

5. What entities and/or persons may be involved with or assist an abandoned crew?

- 5.1 Various entities and/or persons may be involved with or assist an abandoned crew.
- 5.2 Lawyers

See FIND ASSISTANCE on the SRI app which can be downloaded from the home page of the SRI website at www.seafarersrights.org

- 5.2.1 In addition, reference may be made to the Guide on Using Lawyers and Fact File available on the SRI app and at

https://www.seafarersrights.org/seafarers_subjects/using_lawyers/

- 5.3 ITF Inspectors and union officials

See FIND ASSISTANCE on the SRI app which can be downloaded from the home page of the SRI website at www.seafarersrights.org

- 5.4 Welfare agencies

See FIND ASSISTANCE on the SRI app which can be downloaded from the home page of the SRI website at www.seafarersrights.org

- 5.5 Governments and Embassies

Additionally the seafarer may need to access government official websites, including lists of embassies, to find an appropriate contact.