

R187 - Seafarers' Wages, Hours of Work and the Manning of Ships Recommendation, 1996 (No. 187)

Recommendation concerning Seafarers' Wages and Hours of Work and the Manning of Ships
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Preamble

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Eighty-fourth Session on 8 October 1996, and

Noting the provisions of the Protection of Wages Convention, 1949; the Minimum Wage-Fixing Convention, 1970, the Seafarers' Annual Leave with Pay Convention, 1976, the Merchant Shipping (Minimum Standards) Convention, 1976, the Repatriation of Seafarers Convention (Revised), 1987, the Protection of Workers' Claims (Employer's Insolvency) Convention, 1992, and the International Convention on Maritime Liens and Mortgages, 1993, and

Having decided upon the adoption of certain proposals with regard to the revision of the Wages, Hours of Work and Manning (Sea) Convention (Revised), 1958 and the Wages, Hours of Work and Manning (Sea) Recommendation, 1958, which is the second item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation supplementing the Seafarers' Hours of Work and the Manning of Ships Convention, 1996;

adopts this twenty-second day of October of the year one thousand nine hundred and ninety-six, the following Recommendation, which may be cited as the Seafarers' Wages, Hours of Work and the Manning of Ships Recommendation, 1996:

I. SCOPE AND DEFINITIONS

- 1.
 - (1) This Recommendation applies to every seagoing ship, whether publicly or privately owned, which is registered in the territory of the Member and is ordinarily engaged in commercial maritime operations.
 - (2) To the extent it deems practicable, after consulting the representative organizations of fishing-vessel owners and fishermen, the competent authority should apply the provisions of this Recommendation to commercial maritime fishing.
 - (3) In the event of doubt as to whether or not any ships are to be regarded as seagoing ships or engaged in commercial maritime operations or commercial maritime fishing for the purposes of this Recommendation, the question should be determined by the competent authority after consulting the organizations of shipowners, seafarers and fishermen concerned.
 - (4) This Recommendation does not apply to wooden vessels of traditional build such as dhows and junks.
- 2. For the purpose of this Recommendation:
 - (a) the term **basic pay or wages** means the pay, however composed, for normal hours of work; it does not include payments for overtime worked, bonuses, allowances, paid leave or any other additional remuneration;
 - (b) the term **competent authority** means the minister, government department or other authority having power to issue regulations, orders or other instructions having the force of law in respect of seafarers' wages, hours of work or rest or the manning of ships;
 - (c) the term **consolidated wage** means a wage or salary which includes the basic wage and other pay-related benefits; a consolidated wage may include compensation for all overtime hours which are worked and all other pay-related benefits, or it may include only certain benefits in a partial consolidation;
 - (d) the term **hours of work** means time during which a seafarer is required to do work on account of the ship;
 - (e) the term **overtime** means time worked in excess of the normal hours of work;
 - (f) the term **seafarer** means any person defined as such by national laws or regulations or collective agreements who is employed or engaged in any capacity on board a seagoing ship to which this Recommendation applies; and
 - (g) the term **shipowner** means the owner of the ship or any other organization or person, such as the manager or bareboat charterer, who has assumed the responsibility for the operation of the ship from the

shipowner and who on assuming such responsibility has agreed to take over all the attendant duties and responsibilities.

II. SEAFARERS' WAGES

- 3. For seafarers whose remuneration includes separate compensation for overtime worked:
 - (a) for the purpose of calculating wages, the normal hours of work at sea and in port should not exceed eight hours per day;
 - (b) for the purpose of calculating overtime, the number of normal hours per week covered by the basic pay or wages should be prescribed by national laws or regulations, if not determined by collective agreements, but should not exceed 48 hours per week; collective agreements may provide for a different but not less favourable treatment;
 - (c) the rate or rates of compensation for overtime, which should be not less than one and one-quarter times the basic pay or wages per hour, should be prescribed by national laws or regulations or by collective agreements; and
 - (d) records of all overtime worked should be maintained by the master, or a person assigned by the master, and endorsed by the seafarer at regular intervals.

- 4. For seafarers whose wages are fully or partially consolidated:
 - (a) the collective agreement, articles of agreement, contract of employment and letter of engagement should specify clearly the amount of remuneration payable to the seafarer and where appropriate the number of hours of work expected of the seafarer in return for this remuneration, and any additional allowances which might be due in addition to the consolidated wage, and in which circumstances;
 - (b) where hourly overtime is payable for hours worked in excess of those covered by the consolidated wage, the hourly rate should be not less than one and one-quarter times the basic rate corresponding to the normal hours of work as defined in Paragraph 3; the same principle should be applied to the overtime hours included in the consolidated wage;
 - (c) remuneration for that portion of the fully or partially consolidated wage representing the normal hours of work as defined in Paragraph 3(a) should be no less than the applicable minimum wage; and
 - (d) for seafarers whose wages are partially consolidated, records of all overtime worked should be maintained and endorsed as provided in Paragraph 3(d).

- 5. National laws or regulations or collective agreements may provide for compensation for overtime or for work performed on the weekly day of rest and on public holidays by at least equivalent time off duty and off the ship or additional leave in lieu of remuneration or any other compensation so provided.
- 6. National laws and regulations adopted after consulting the representative organizations of seafarers and shipowners or, as appropriate, collective agreements should take into account the following principles:
 - (a) equal remuneration for work of equal value should apply to all seafarers employed upon the same ship without discrimination based upon race, colour, sex, religion, political opinion, national extraction or social origin;
 - (b) the articles of agreement or other agreement specifying the applicable wages or wage rates should be carried on board the ship; information on the amount of wages or wage rates should be made available to each seafarer, either by providing at least one signed copy of the relevant information to the seafarer in a language which the seafarer understands, or by posting a copy of the agreement in a place accessible to the crew or by some other appropriate means;
 - (c) wages should be paid in legal tender; where appropriate, they may be paid by bank transfer, bank cheque, postal cheque or money order;
 - (d) wages should be paid monthly or at some other regular interval, and on termination of engagement all remuneration due should be paid without undue delay;
 - (e) adequate penalties or other appropriate remedies should be imposed by the competent authorities where shipowners unduly delay, or fail to make, payment of all remuneration due;
 - (f) wages should be paid directly to the seafarer or to the seafarer's designated bank account unless he or she requests otherwise in writing;
 - (g) subject to subparagraph (h), the shipowner should impose no limit on the seafarer's freedom to dispose of his or her remuneration;
 - (h) deduction from remuneration should be permitted only if:
 - (i) there is an express provision therefor in national laws or regulations or in an applicable collective agreement;
 - (ii) the seafarer has been informed, in the manner deemed most appropriate by the competent authority, of the conditions for such deductions; and

- (iii) they do not in total exceed the limit that may have been established by national laws or regulations or collective agreements or court decisions for making such deductions;
 - (i) no deductions should be made from a seafarer's remuneration in respect of obtaining or retaining employment;
 - (j) the competent authority should have the power to inspect stores and services provided on board ship to ensure that fair and reasonable prices are applied for the benefit of the seafarers concerned; and
 - (k) to the extent that seafarers' claims for wages and other sums due in respect of their employment are not secured in accordance with the provisions of the International Convention on Maritime Liens and Mortgages, 1993, such claims should be protected in accordance with the Protection of Workers' Claims (Employer's Insolvency) Convention, 1992, of the International Labour Organization.
7. The Member should, after consulting with shipowners' and seafarers' organizations, have procedures to investigate complaints relating to any matter contained in this Recommendation.

III. MINIMUM WAGES

- 8.
 - (1) Without prejudice to the principle of free collective bargaining, the Member should, after consulting representative organizations of shipowners and seafarers, establish procedures for determining minimum wages for seafarers. Representative organizations of shipowners and seafarers should participate in the operation of such procedures.
 - (2) When establishing such procedures and in fixing minimum wages, due regard should be given to international labour standards concerning minimum wage fixing, as well as the following principles:
 - (a) the level of minimum wages should take into account the nature of maritime employment, manning levels of ships, and seafarers' normal hours of work; and
 - (b) the level of minimum wages should be adjusted to take into account changes in the cost of living and in the needs of seafarers.
 - (3) The competent authority should ensure:
 - (a) by means of a system of supervision and sanctions, that wages are paid at not less than the rate or rates fixed; and

- (b) that any seafarer who has been paid at a rate lower than the minimum wage is enabled to recover, by an inexpensive and expeditious judicial or other procedure, the amount by which he or she has been underpaid.

IV. MINIMUM MONTHLY BASIC PAY OR WAGE FIGURE FOR ABLE SEAMEN

- 9. For the purpose of this Part, the term "able seaman" means any seafarer who is deemed to be competent to perform any duty which may be required of a rating serving in the deck department, other than the duties of a leading or specialist rating, or any seafarer who is defined as an able seaman in accordance with national laws, regulations or practice, or collective agreement.
- 10. The basic pay or wages for a calendar month of service for an able seaman should be no less than the amount periodically set by the Joint Maritime Commission or another body authorized by the Governing Body of the International Labour Office. Upon a decision of the Governing Body, the Director-General of the ILO shall notify any revised amount to the Members of the International Labour Organization. As of 1 January 1995, the amount set by the Joint Maritime Commission was 385 United States dollars.
- 11. Nothing in this Part should be deemed to prejudice arrangements agreed between shipowners or their organizations and seafarers' organizations with regard to the regulation of standard minimum terms and conditions of employment, provided such terms and conditions are recognized by the competent authority.

V. EFFECT ON EARLIER RECOMMENDATION

- 12. This Recommendation supersedes the Wages, Hours of Work and Manning (Sea) Recommendation, 1958.