

SEAFARER SUBJECT GUIDE

ABANDONMENT IN SOUTH AFRICA

This Guide deals with the situation where seafarers are abandoned in a port in South Africa as well as where seafarers are abandoned on a South African flagged vessel in a port outside South Africa. 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 South Africa.

*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 in concerning abandoned crew?

- 1.1 There is no definition of an abandoned seafarer in South African law.
- 1.2 There does not appear to be any specific legislation or case law reported on abandonment of seafarers.

2. What is the immigration status of abandoned seafarers?

- 2.1 Abandoned seafarers are eligible for a crew permit to enter South Africa. A crew permit is a temporary residence permit, ordinarily granted for the duration a ship is in a South African port. It may have geographical limitations. It can be granted if financial guarantees are met, or if those crew members are entered on the articles of that ship. If granted by virtue of the ship's articles, the geographical limit will be the port city.
- 2.2 Abandoned seafarers would be deemed to be in possession of crew permits. In the normal course of events these seafarers would be repatriated after the sale of the ship.

3. Can an abandoned seafarer get shore leave?

- 3.1 The practical difficulty in this regard is that there is no way for the crew of a ship at the roads or outer anchorage to enter the port or city. There is no ferry service of any sort, and the only contact a ship at the roads would have with the port is via a launch hired for the delivery of provisions or fuel and the like. The only occasion that crew

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members would leave the vessel and return to the port on a launch would be for crew change purposes, in which case the vessel would have an agent in the port and, as indicated above, the crew members would be deemed to have a visa, or a crew permit.

- 3.2 There have been instances in the past of abandoned vessels remaining at the outer anchorage for some time, up to several months, with the crew unable to request assistance, or not knowing who to contact. These vessels, anchored in plain sight of Durban, often ran low on provisions and other essential items, resulting in hardship for the crew. These instances, due to cooperative relationships being forged with the South African Police Services Water Wing, the Sheriffs for Durban and Cape Town, and others, and the increased ease of communication by way of cell phones, are now largely avoided.

4. Is abandonment of seafarers considered a crime?

- 4.1 Abandonment of seafarers does not appear to be a crime under South African law.

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

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5.5 Governments and Embassies

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