

SEAFARER SUBJECT GUIDE

ABANDONMENT IN HONG KONG

This Guide deals with the situation where seafarers are abandoned in a port in Hong Kong or on a Hong Kong flagged vessel in a port outside Hong Kong. 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 Hong Kong.

*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 is no specific definition of an abandoned seafarer in Hong Kong.
- 1.2 The Merchant Shipping (Seafarers) (Repatriation) Regulation applies to seafarers of any nationality on Hong Kong ships, who 'became so employed outside Hong Kong and left behind in Hong Kong.'
- 1.3 For seafarers employed on non-Hong Kong ships, the Merchant Shipping (Seafarers) Ordinance applies to 'any seafarer' discharged or left behind on 'any ship.' This section provides for the procedure upon discharge and for seafarers left behind in Hong Kong.

2. What is the immigration status of abandoned seafarers?

- 2.1 The Hong Kong Immigration Department may permit seafarers to land in Hong Kong, without being examined on arrival. Their immigration status would be as seafarers and they could work in Hong Kong as seafarers only.
- 2.2 The conditions of stay for a seafarer are that he shall not remain in Hong Kong after the date of departure of the ship or later than 14 days after the date of landing.
- 2.3 An abandoned seafarer will be illegally in Hong Kong when the ship leaves Hong Kong waters and he is in breach of his conditions of stay.
- 2.4 The Immigration Department has a discretion to allow abandoned seafarers to remain in Hong Kong subject to conditions of stay.
- 2.5 If the permit of a seafarer to stay is extended, the abandoned seafarer will be permitted to stay in Hong Kong as a visitor and he cannot work in Hong Kong.

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3. Can an abandoned seafarer get shore leave?

3.1 An abandoned seafarer will be allowed to land in Hong Kong.

4. Is abandonment of seafarers considered a crime?

4.1 Pursuant to the Merchant Shipping (Seafarers) Ordinance:

'any master or any other person who forces on shore and wrongfully leaves behind in Hong Kong any seafarer belonging to such ship before the completion of the voyage, commits an offence and is liable on conviction to a fine of Hong Kong\$10,000 and to imprisonment for 6 months.'

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

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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.