

SEAFARER SUBJECT GUIDE

ABANDONMENT IN INDIA

This Guide deals with the situation where seafarers are abandoned in a port in India or on an Indian flagged vessel in a port outside India. 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 India.

*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 The Indian Merchant Shipping Act 1958 deals with 'distressed seamen.' These provisions only apply to Indian seafarers who have been abandoned in countries other than India. Where the Indian seafarers are abandoned in countries outside India, they can approach the Indian Consular Office in that country. In such a scenario the Indian government would have an obligation to repatriate the Indian seafarer back to India from the country where he was abandoned. All repatriation expenses, incurred by or on behalf of the Indian government, constitute a debt owed by the shipowner and/or agent of the ship (on which the seamen rendered his service) owing to the Indian Government.
- 1.2 The Indian Merchant Shipping Act 1958 imposes a duty upon the master to 'transmit the complaint of any dispute of a foreign seaman of a vessel, registered in a country other than India, in Indian territorial waters, with the master, owner or agent, to the competent authority of the country of registration and a copy of such complaint shall be forwarded to the Director General, International Labour Organisation Office.'

2. What is the immigration status of abandoned seafarers?

- 2.1 Abandoned seafarers are considered as non-immigrants. An abandoned seafarer may be granted a temporary visa. The foreign seafarer can approach the Embassy or High Commission of his country in India to obtain assistance for repatriation.

3. Can an abandoned seafarer get shore leave?

- 3.1 Whether a seafarer can get shore leave depends on the terms of his contract of employment.

SEAFARER SUBJECT GUIDE

4. Is abandonment of seafarers considered a crime?

- 4.1 There is no legislation which expressly states that abandoning a seafarer is a crime. The abandoned seafarer would, however, have civil remedies against the shipowner and/or manager.

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.