

INTERNATIONAL LABOUR OFFICE

REPORT FORM**FOR THE****SHIPOWNERS' LIABILITY (SICK AND INJURED SEAMEN)
CONVENTION, 1936 (No. 55)**

The present report form is for the use of countries which have ratified the Convention. It has been approved by the Governing Body of the International Labour Office, in accordance with article 22 of the ILO Constitution, which reads as follows: "Each of the Members agrees to make an annual report to the International Labour Office on the measures which it has taken to give effect to the provisions of Conventions to which it is a party. These reports shall be made in such form and shall contain such particulars as the Governing Body may request."

Practical guidance for drawing up reports**First reports**

If this is your Government's first report following the entry into force of the Convention in your country, full information should be given on each of the provisions of the Convention and on each of the questions set out in the report form.

Subsequent reports

In subsequent reports, information need normally be given only:

- (a) on any new legislative or other measures affecting the application of the Convention;
 - (b) in reply to the questions in the report form on the practical application of the Convention (for example, statistics, results of inspections, judicial or administrative decisions) and on the communication of copies of the report to the representative organizations of employers and workers and on any observations received from these organizations;
 - (c) *in reply to comments by supervisory bodies*: the report must contain replies to any comments regarding the application of the Convention in your country which may have been made by the Committee of Experts on the Application of Conventions and Recommendations or by the Conference Committee on the Application of Standards.
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Article 22 of the Constitution of the ILO

Report for the period to
made by the Government of

on the

SHIPOWNERS' LIABILITY (SICK AND INJURED SEAMEN) CONVENTION, 1936 (No. 55)

(ratification registered on))

- I. Please give a list of the legislation and administrative regulations, etc., which apply the provisions of the Convention. Where this has not already been done, please forward copies of these texts to the International Labour Office.

Please give any available information concerning the extent to which these laws and regulations have been enacted or modified to permit, or as a result of, ratification.

- II. Please indicate in detail for each of the following Articles of the Convention the provisions of the above-mentioned legislation and administrative regulations, etc., or other measures, which give effect to each Article.

If in your country ratification of the Convention gives the force of national law to its terms, please indicate by virtue of what constitutional provisions the ratification has had this effect. Please also specify what action has been taken to make effective those provisions of the Convention which require a national authority to take certain specific steps for its implementation, such as measures to define the exact scope of the Convention and the extent to which advantage may be taken of permissive exceptions provided for in it, measures to draw the attention of the parties concerned to its provisions, and arrangements for adequate inspection and penalties.

If the Committee of Experts or the Conference Committee on the Application of Standards has requested additional information or has made an observation on the measures adopted to apply the Convention, please supply the information asked for or indicate the action taken by your Government to settle the points in question.

Article 1

1. This Convention applies to all persons employed on board any vessel, other than a ship of war, registered in a territory for which this Convention is in force and ordinarily engaged in maritime navigation.

2. Provided that any Member of the International Labour Organisation may in its national laws or regulations make such exceptions as it deems necessary in respect of—

- (a) persons employed on board:
 - (i) vessels of public authorities when such vessels are not engaged in trade;
 - (ii) coastwise fishing boats;
 - (iii) boats of less than twenty-five tons gross tonnage;
 - (iv) wooden ships of primitive build such as dhows and junks;
- (b) persons employed on board by an employer other than the shipowner;
- (c) persons employed solely in ports in repairing, cleaning, loading or unloading vessels;
- (d) members of the shipowner's family;
- (e) pilots.

Please indicate under what provisions the laws and regulations implementing the Convention are made applicable to foreign seamen.

If advantage has been taken of any of the exceptions provided for in paragraph 2 of this Article please indicate which of the classes of persons mentioned in this paragraph have been excepted and indicate how these classes are defined.

Article 2

1. The shipowner shall be liable in respect of—
 - (a) sickness and injury occurring between the date specified in the articles of agreement for reporting for duty and the termination of the engagement;
 - (b) death resulting from such sickness or injury.
2. Provided that national laws or regulations may make exceptions in respect of—
 - (a) injury incurred otherwise than in the service of the ship;
 - (b) injury or sickness due to wilful act, default or misbehaviour of the sick, injured or deceased person;
 - (c) sickness or infirmity intentionally concealed when the engagement is entered into.
3. National laws or regulations may provide that the shipowner shall not be liable in respect of sickness, or death directly attributable to sickness, if at the time of the engagement the person employed refused to be medically examined.

If any of the exceptions allowed by paragraph 2 of this Article are provided for in the national legislation, please indicate which of the contingencies mentioned in this paragraph have been so excepted, and indicate how these contingencies are defined.

Please state whether the national legislation provides for the restriction of the shipowner's liability allowed by paragraph 3.

Article 3

For the purpose of this Convention, medical care and maintenance at the expense of the shipowner comprises—

- (a) medical treatment and the supply of proper and sufficient medicines and therapeutical appliances; and
- (b) board and lodging.

Please indicate the scope of the care provided for in the national legislation, stating whether all necessary medical, surgical and hospital care is included, and, if not, what forms of care are excluded. Please indicate also whether prosthetic appliances are furnished. Please indicate whether the shipowner's liability is limited to a prescribed maximum total or rate of expenditure for care, and, if so, what is the prescribed maximum.

Please indicate what, if any, standards of board and lodging are prescribed in the national legislation, and what, if any, limitation of the total or rate of expenditure for board and lodging is provided for.

Article 4

1. The shipowner shall be liable to defray the expense of medical care and maintenance until the sick or injured person has been cured, or until the sickness or incapacity has been declared of a permanent character.
2. Provided that national laws or regulations may limit the liability of the shipowner to defray the expense of medical care and maintenance to a period which shall not be less than sixteen weeks from the day of the injury or the commencement of the sickness.
3. Provided also that, if there is in force in the territory in which the vessel is registered a scheme applying to seamen of compulsory sickness insurance, compulsory accident insurance or workmen's compensation for accidents, national laws or regulations may provide—
 - (a) that a shipowner shall cease to be liable in respect of a sick or injured person from the time at which that person becomes entitled to medical benefits under the insurance or compensation scheme;
 - (b) that the shipowner shall cease to be liable from the time prescribed by law for the grant of medical benefits under the insurance or compensation scheme to the beneficiaries of such schemes, even when the sick or injured person is not covered by the scheme in question, unless he is excluded from the scheme by reason of any restriction which affects particularly foreign workers or workers not resident in the territory in which the vessel is registered.

Please indicate what, if any, provision is made in the national legislation for ascertaining when the sick or injured person has been cured and when the sickness or incapacity has become permanent. In this connection please indicate what, if any, provision is made for obtaining impartial medical opinion.

If any limitation of the period during which the shipowner is liable for medical care and maintenance, as allowed by paragraph 2 of this Article, is provided for in the national legislation, please indicate the limitations.

Please indicate whether there exists—

- (i) a scheme of compulsory sickness insurance applying to seamen; and*
- (ii) a scheme of compulsory accident insurance or workmen's compensation applying to seamen; and, if so, please forward the texts of the laws and regulations governing such schemes.*

If such schemes exist please indicate whether provision is made in the national legislation for terminating the shipowner's liability as allowed by subparagraph (a) of paragraph 3 of this Article, and how the time at which the sick or injured person becomes entitled to medical benefits under such schemes is defined.

Please indicate the principal classes of seamen excluded from the scope of such schemes, mentioning any exceptions which affect particularly foreign seamen or seamen not resident in the territory in which the vessel is registered.

Article 5

1. Where the sickness or injury results in incapacity for work the shipowner shall be liable—
 - (a) to pay full wages as long as the sick or injured person remains on board;*
 - (b) if the sick or injured person has dependants, to pay wages in whole or in part as prescribed by national laws or regulations from the time when he is landed until he has been cured or the sickness or incapacity has been declared of a permanent character.*
2. Provided that national laws or regulations may limit the liability of the shipowner to pay wages in whole or in part in respect of a person no longer on board to a period which shall not be less than sixteen weeks from the day of the injury or the commencement of the sickness.
3. Provided also that, if there is in force in the territory in which the vessel is registered a scheme applying to seamen of compulsory sickness insurance, compulsory accident insurance or workmen's compensation for accidents, national laws or regulations may provide—
 - (a) that a shipowner shall cease to be liable in respect of a sick or injured person from the time at which that person becomes entitled to cash benefits under the insurance or compensation scheme;*
 - (b) that the shipowner shall cease to be liable from the time prescribed by law for the grant of cash benefits under the insurance or compensation scheme to the beneficiaries of such schemes, even when the sick or injured person is not covered by the scheme in question, unless he is excluded from the scheme by reason of any restriction which affects particularly foreign workers or workers not resident in the territory in which the vessel is registered.*

Please indicate, with reference to subparagraph (b) of paragraph 1 of this Article, whether the whole or a part of wages is payable to the dependants of the sick or injured person, and, if a part, what part.

Please supply the same information, mutatis mutandis, with reference to paragraphs 2 and 3 of this Article as has been requested with reference to paragraphs 2 and 3 of Article 4.

Article 6

1. The shipowner shall be liable to defray the expense of repatriating every sick or injured person who is landed during the voyage in consequence of sickness or injury.
2. The port to which the sick or injured person is to be returned shall be—
 - (a) the port at which he was engaged; or*
 - (b) the port at which the voyage commenced; or*
 - (c) a port in his own country or the country to which he belongs; or*
 - (d) another port agreed upon by him and the master or shipowner, with the approval of the competent authority.*
3. The expense of repatriation shall include all charges for the transportation, accommodation and food of the sick or injured person during the journey and his maintenance up to the time fixed for his departure.
4. If the sick or injured person is capable of work, the shipowner may discharge his liability to repatriate him by providing him with suitable employment on board a vessel proceeding to one of the destinations mentioned in paragraph 2 of this Article.

Please indicate, with reference to paragraphs 2 and 4 of this Article, which of the four destinations (a), (b), (c), (d), are provided for in the national legislation, and, where alternative destinations are so provided for, what, if any, provisions exist for determining the choice of the destination.

Article 7

1. The shipowner shall be liable to defray burial expenses in case of death occurring on board, or in case of death occurring on shore if at the time of his death the deceased person was entitled to medical care and maintenance at the shipowner's expense.

2. National laws or regulations may provide that burial expenses paid by the shipowner shall be reimbursed by an insurance institution in cases in which funeral benefit is payable in respect of the deceased person under laws or regulations relating to social insurance or workmen's compensation.

Please indicate, with reference to paragraph 1 of this Article, what, if any, provisions in the national legislation govern the amount of the burial expenses for which the shipowner is liable.

Please indicate whether provision is made in the national legislation for the reimbursement of burial expenses under legislation relating to social insurance or workmen's compensation.

Article 8

National laws or regulations shall require the shipowner or his representative to take measures for safeguarding property left on board by sick, injured or deceased persons to whom this Convention applies.

Article 9

National laws or regulations shall make provision for securing the rapid and inexpensive settlement of disputes concerning the liability of the shipowner under this Convention.

In particular, please indicate what, if any, provision is made for decisions having interim effect as regards disputes which occur abroad.

Article 10

The shipowner may be exempted from liability under Articles 4, 6 and 7 of this Convention in so far as such liability is assumed by the public authorities.

Please indicate to what extent, and in virtue of what provisions of the national legislation, the shipowner is exempted from liability, as allowed by this Article.

Article 11

This Convention and national laws or regulations relating to benefits under this Convention shall be so interpreted and enforced as to ensure equality of treatment to all seamen irrespective of nationality, domicile or race.

Article 12

Nothing in this Convention shall affect any law, award, custom or agreement between shipowners and seamen which ensures more favourable conditions than those provided by this Convention.

- III. Please state to what authority or authorities the application of the above-mentioned legislation and administrative regulations, etc., is entrusted, and by what methods application is supervised and enforced.
- IV. Please state whether courts of law or other courts have given decisions involving questions of principle relating to the application of the Convention. If so, please supply the text of these decisions.
- V. Please give a general appreciation of the manner in which the Convention is applied in your country, including such statistics as may be available relating to:

- (1) the total number of seamen serving on ships which are subject to the provisions concerning shipowners' liability, etc.;
- (2) the number of seamen who have been assisted in virtue of these provisions, distinguishing if possible between persons left ashore in the territory in which the ship is registered and those left ashore elsewhere;
- (3) the total expenditure incurred by shipowners in respect of their liability, and where any part of this liability is assumed by a public authority, expenditure incurred by the latter.

VI. Please indicate the representative organizations of employers and workers to which copies of the present report have been communicated in accordance with article 23, paragraph 2, of the Constitution of the International Labour Organization.¹ If copies of the report have not been communicated to representative organizations of employers and/or workers, or if they have been communicated to bodies other than such organizations, please supply information on any particular circumstances existing in your country which explains the procedure followed.

Please indicate whether you have received from the organizations of employers or workers concerned any observations, either of a general kind or in connection with the present or the previous report, regarding the practical application of the provisions of the Convention or the application of the legislation or other measures implementing the Convention. If so, please communicate a summary of the observations received, together with any comments that you consider useful.

¹ Article 23, paragraph 2, of the Constitution reads as follows: "Each Member shall communicate to the representative organizations recognized for the purpose of article 3 copies of the information and reports communicated to the Director-General in pursuance of articles 19 and 22."