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Merchant Shipping (Seafarers' Identity Documents) Regulations

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Merchant Shipping (Seafarers' Identity Documents) Regulations

The Seafarers' Identity Documents Convention (Revised), (2003), No. 185 (hereinafter the "Convention") was adopted on 19 June 2003 by the General Conference (hereinafter the "Conference") of the International Labour Organisation (hereinafter the "ILO").

The International Labour Organisation

The ILO, which became the first specialised agency of the United Nations in 1946, was established in 1919 and to date has 183 Member States. It was founded on the premise that lasting peace can only be established if it is based upon social justice and internationally recognised human and labour rights. Its main function is that of bringing together governments, employers and workers for the purpose of setting international labour standards through the adoption of conventions and recommendations as well as ensuring that labour standards are respected in practice as well as in principle. Whereas the ILO conventions' provisions are mandatory upon those Member States who have ratified the conventions, the recommendations have no mandatory legal force.¹

At the forefront of its regulatory agenda, the ILO is devoted towards promoting rights at work, encouraging decent and productive work in conditions of freedom, equity, security and human dignity, enhancing social protection and strengthening dialogue in handling work-related issues.²

¹http://www.ilo.org/global/About_the_ILO/lang--en/index.htm, accessed on 10 October 2010.

²*Ibid.*

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The Seafarers' Identity Documents Convention (Revised), (2003), No. 185

The Conference leading to the adoption of the Convention was convened in Geneva by the Governing Body of the International Labour Office (hereinafter the "Office") in its 91st session on 3 June 2003. It was resolved that the proposals agreed upon would take the form of a new international convention replacing the Seafarers' Identity Documents Convention, 1958, No. 108 (hereinafter the "former Convention").³

The Convention entered into force on the 9 February 2005 and to date has been ratified by 18 countries which are Albania, Azerbaijan, the Bahamas, Bosnia and Herzegovina, Brazil, France, Hungary, Indonesia, Jordan, Kazakhstan, the Republic of Korea, Madagascar, the Republic of Moldova, Nigeria, Pakistan, the Russian Federation, Vanuatu, Yemen and Lithuania. However, Lithuania, has made a declaration of provisional application.⁴

The revision of the former Convention was placed on the agenda of the Conference in March 2002 in response to a request by the International Maritime Organization (hereinafter the "IMO") to tighten the security of seafarers' identification in the wake of the 11 September 2001 terrorist attacks. Further to this, the Convention complements the 2002 amendments to the International Convention for the Safety of Life at Sea 1974 (hereinafter the "SOLAS")⁵ and in particular the provisions of the International Ship and Port Facility Security Code.⁶

³Convention concerning Seafarers' National Identity Documents, adopted in Geneva on the 13 May 1958 by the 41st session of the Conference. This Convention has been ratified by 61 Member States, representing approximately 60.7 per cent of the world fleet - http://www.ilo.org/global/about-the-ilo/press-and-media-centre/press-releases/WCMS_005217/lang-en/index.htm, accessed on 10 November 2010.

⁴<http://communicatinglabourrights.wordpress.com/2010/08/18/seafarers%E2%80%99-identity-documents-convention-consultations-on-23-24%C2%A0september/> - accessed on 10 October 2010.

⁵International Convention for the Safety of Life at Sea, adopted on the 01 November 1974 and which entered into force on 25 May 1980 – <http://www.imo.org>.

⁶The International Ship and Port Facility Security Code is a comprehensive set of measures introduced to enhance the security of ships and port facilities and developed in response to the perceived threats to ships and port facilities in the wake of the September 11 attacks in the United States. It is implemented through Chapter XI-2 "Special measures to enhance maritime security" in the SOLAS and compliance is mandatory for the 148 Contracting Parties to SOLAS – [http://www.imo.org/OurWork/Security/Instruments/Pages/ISPS Code.aspx](http://www.imo.org/OurWork/Security/Instruments/Pages/ISPS%20Code.aspx) accessed on 10 October 2010.

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For the purposes of the Convention, the term “*seafarer*” means “any person who is employed or is engaged or works in any capacity on board a vessel, other than a ship of war, ordinarily engaged in maritime navigation”.⁷ The issue of whether persons are to be regarded as seafarers for the purpose of the Convention “shall be determined... by the Competent Authority of the State of nationality or permanent residence of such persons after consulting with the shipowners’ and seafarers’ organizations concerned”.⁸ At present the Maltese Merchant Shipping Act (hereinafter the “MSA”) uses the term ‘seamen’, which in the light of the Maritime Labour Convention 2006, will need to be given new interpretation to be inclusive of all persons that work on board ships, subject to some restrictions as may be delineated by the flag.

Under the former Convention, the Seafarers’ Identity Documents (hereinafter “SIDs”) could be issued either by the crew member’s country of nationality, the country of the flag state, or the country of the crewmember’s employer.⁹

In terms of the Convention, the Competent Authority of the Member State shall, in the shortest possible time, permit the entry into their territory of any seafarer holding a valid SID, and such seafarer shall not be required to hold any entry visa that is otherwise required for nationals of that seafarer.¹⁰ Such entry may be restricted only where clear grounds exist for doubting the authenticity of the SID or such shore leave may pose a threat to the public health, public safety, public order or national security.¹¹ Further to this, the Competent Authority is entitled to notice of the holder’s arrival for the purposes of verification and any related enquiries and formalities pursuant to the Convention.¹²

⁷Article 1, Sub-article 1.

⁸Article 1, Sub-article 2.

⁹Article 2, C108 Seafarers’ Identity Documents Convention, 1958.

¹⁰Article 6.

¹¹Article 1.

¹²Article 1.

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The SID does not replace a seaman's passport and it cannot be used to enter the territory of another State if the crew member is travelling by some other means.¹³

Security of seafarers' identification is addressed by strengthening amongst other things the physical security aspects of the SID and intensifying the reliability of the SID in identifying the holder as the seafarer to whom it is to be issued. In view of the aforesaid, it would not be fair and correct to introduce security hardware requirements without taking into account the practical aspects of such requirements and how these are likely to affect those who work on ships and in ports.

Insofar as the content of the SID is concerned, the Convention in Annex 1 sets out a model for SIDs which represents a considerable overhaul when compared to the particulars concerning the bearer which arise under the former Convention. Besides a photograph of the seafarer a concise set of particulars concerning the bearer which were not required under the former Convention are required. These include, but are not restricted, to a unique document number and a biometric template based on a fingerprint printed as numbers in a bar code, a rather novel idea at the time of the adoption of the Convention.

Representatives from the International Civil Aviation Organization (hereinafter the "ICAO") and International Standards Office (hereinafter the "ISO") were invited by the Office in September 2003 to ensure the systems integration of all biometric systems developed by members for the enrolment and verification of seafarers and that these could interface with each other. The Office commissioned tests of biometric products in 2004, 2005, 2006 and 2008 and twelve biometric products from 11 different sources, each consisting of a fingerprint sensor combined with an enrolment and matching algorithm, have been found to meet the requirements of the Convention. It has been found that each of those products can be used to verify a seafarer's fingerprints enrolled by any of the others with an average equal error across all product combinations of under 1 per cent.

¹³Lex Universal, "*New Offshore and Maritime Seafarer ID Standards under ILO 185*" – <http://lexuniversal.com/en/news/10035>, accessed on 15 November 2010.

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This means that a person using another seafarer's SID would only have a 1 in 100 chance of having their fingerprints verified, while the legitimate holder of the SID would have a 99 in 100 chance of having their fingerprints verified.¹⁴

The Convention also provides for an amendment of Annex 1 at any time after the adoption of the Convention to take account of technological developments. This and other amendments to the Annexes may be made by the Conference, acting on the advice of a duly constituted maritime body of the Office.

The Convention sets out that the materials used shall “prevent tampering with the document or falsification, as far as possible, and enable easy detection of alterations”.¹⁵

An electronic database to record the issuance, suspension or withdrawal of each SID is also mandated by the Convention¹⁶ as well as systems and procedures to ensure that it is updated regularly.¹⁷ The details of the record of each SID are set out in Annex II of the Convention and may also be amended at any time after the adoption of the Convention in the above mentioned manner should the need arise.

Annex III to the Convention sets out minimum requirements relating to the procedures to be adopted by each Member with respect to the issuance of SIDs. Part B thereof recommends procedures and practices for achieving the minimum mandatory results that must be achieved by each Member in implementing a system of SIDs insofar as the following are concerned:

- production and delivery of SIDs;
- the operations relating to the issuance process;
- custody, handling and accountability for blank and completed SIDs;
- processing of applications, suspension or withdrawal of SIDs and appeal procedures;

¹⁴Background paper of the International Labour Organisation, “*Consultations on the Seafarers' Identity Documents Convention (Revision), 2003 (No. 185)*”, Geneva 23-24 September 2010.

¹⁵Article 3, Sub-article 2 (a).

¹⁶Article 4, Sub-article 1.

¹⁷Annex 3, Part A, Paragraph 4.

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- operation, security and maintenance of the database; and
- quality control of procedures and periodic evaluations.

The position of the Council of the European Union & United Nations General Assembly

The need to provide adequate living and working conditions for seafarers is essential.

The Council of the European Union took the initiative by issuing a Decision¹⁸ calling upon member States to ratify the Convention. In the words of the Council Decision the ratification of the Convention is important both for the well being of seafarers in relation to shore leave and transit, and also for the purposes of strengthening security.

The United Nations General Assembly also invited all members to ratify the Convention on 28 December 2008.¹⁹

Extensive innovations in the Convention relate to the introduction of modern security features in the materials used for the new SID's, its biometric features (the fingerprint template and the photograph) and the means of facilitating verification of the SID (uniformity and machine readability), making possible both the confirmation of the rights of seafarers to shore leave without visa requirements as well as ensuring increased international security in the wake of the increased threat of international terrorism. Shore leave is vital to a seafarer's welfare and ensuring mechanisms to ascertain seafarer's identity so they may be granted shore leave is a necessary corollary for their well being. Heightening border protection is also beneficial for migration authorities at all ports of call.²⁰

¹⁸Council Decision 2005/367/EC of 14/04/2005 authorising Member States to ratify, in the interests of the European Community, the Seafarers' Identity Documents Convention (2003) No. 185 – OJ L 136, 30.05.2005.

¹⁹[http://www.ilocarib.org.tt/portal/images/stories/contenido/pdf/ILOinCaribbean/Meetings/MoL09/documents/ilo-presentations/Seafarers%20Identity%20Documents%20Convention%20\(Dr.%20Doumbia-Henry\).pdf](http://www.ilocarib.org.tt/portal/images/stories/contenido/pdf/ILOinCaribbean/Meetings/MoL09/documents/ilo-presentations/Seafarers%20Identity%20Documents%20Convention%20(Dr.%20Doumbia-Henry).pdf), accessed on 10 October 2010.

²⁰Lex Universal, "New Offshore and Maritime Seafarer ID Standards under ILO 185", 21 January 2010.

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Implementation into Maltese Law

The ratification of international conventions is regulated by the Ratification of Treaties Act²¹. Article 3 (4) of the latter Act provides that *“the instrument of ratification shall be issued under the signature of the Minister for foreign affairs”*.

In terms of article 375 (3) of the MSA, the Minister shall upon the ratification of the Convention publish a notice in the Gazette stating the date on which the Convention shall come into force with regard to Malta. In terms of article 12C of the Convention, the Convention will come into force six months after the date on which the formal ratification of the Convention will be communicated to the Director-General of the Office for registration.

Malta, being a dualist country, must not only ratify the Convention, but must also enact a separate legal instrument to give effect to the Convention domestically. In terms of article 3 (3) of the Ratification of Treaties Act, *“no provision of a Treaty shall become, or be enforceable as, part of the law of Malta except by or under an Act of Parliament”*.

Article 375 (1) of the MSA provides that *“for the purposes of the Ratification of Treaties Act, the Government of Malta is hereby empowered to ratify, or accede to the treaties or conventions (including protocols, annexes and appendices thereto) referring to merchant shipping listed in subarticle (2), and the Minister may upon the ratification or accession of any of the said treaties or conventions make regulations giving effect to the provisions thereof, and such power shall include the power to provide that any provision of this Act inconsistent with the provisions of any such treaty or convention shall no longer apply”*.

²¹Chapter 304 of the Laws of Malta.

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Motion Number 329²² of the House of Representatives entitled Ratification of Treaties and Conventions to the Merchant Shipping Act²³, dated 9 January 2008 and put forward by Honorable Minister Vincent Galea MP²⁴ sets the procedure going for the ratification of the Convention.

Thereinafter, sub-article 2 of section 375 of the MSA was amended to include *inter alia* the Seafarers' Identity Documents Convention (Revised), (2003), No. 185.²⁵

Hence, following the ratification of the Convention by the Government of Malta, Regulations giving effect to the provisions of the Convention shall be introduced by virtue of the power conferred on the Minister to give effect to such Regulations by article 375 (1) of the MSA. These Regulations shall be introduced by Legal Notice which shall be entitled Merchant Shipping Act (Chapter 234) Merchant Shipping (Seafarers' Identity Documents) Regulations.

Article 11 of the Interpretation Act²⁶ lays down the procedure which has to be followed for the coming into force of these Regulations, namely that they have to be laid before the House of Representatives and if, within a period of twenty-eight days the House resolves that they be annulled or amended, the same shall thereupon cease to have effect or be amended, as the case may require. If within such period of twenty-eight days no request has been made as afore-said the regulations shall become law upon publication in the Government Gazette.

When drafting the Regulations, full consideration was given to the recommended procedures and practices that are set out in Annex III, Part II of the Convention to ensure minimum mandatory results in implementing a system of issuance of SIDs.

²²http://www.parlament.mt/motion10_329, accessed on 15 November 2010.

²³Chapter 234 of the Laws of Malta.

²⁴At that time Minister of Competitiveness and Communication.

²⁵Section 375 (2) (jj), Merchant Shipping Act (Chapter 234 of the Laws of Malta).

²⁶Chapter 249 of the Laws of Malta.

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The provisions of the former Convention were transposed in the domestic system by the introduction of Articles 195-203 and the form of the Maltese seaman's card was determined by the Fourth Schedule of the MSA. Act Number 1 of 2011, entitled the Merchant Shipping (Amendment) Act will be introduced for the purpose of repealing the abovementioned provisions and Schedule. Moreover, those provisions of the MSA which can be applied to the Convention were transposed in the Regulations.

Conclusions

So far only 18 out of the 183 Member States have ratified the Convention. This shortfall has been largely attributed to the initial cost to install new machine-readable equipment at multiple ports of entry and also that of producing biometric identity documents. Insofar as Malta is concerned, one may contend that the financial burden might not be cost effective when considering that the number of Maltese Seaman or seaman who are permanent residents of Malta is minimal. It is for this purpose that the Ministry of Communications and Competitiveness should seek the European Union's (hereinafter "EU") financial assistance as well as considering the imposition of civil penalties by the immigration authorities where seaman fall short of possessing the appropriate entry documentation.

The implementation of this Convention to the domestic law of Malta should be seen against this backdrop and the honouring of Malta's international commitments as a United Nations and EU member and its unreserved position in favour of enhancing international security and the maximum respect for the effective enhancement of the rights of workers.

Malta offers the international shipping community a reputable open-ship register that is the eight largest in the World, and the second largest in Europe, and the Maltese Flag is a flag of confidence that enjoys white flag status. Hence, if Malta is to retain its prestigious status as a maritime jurisdiction it should lead by example insofar as the transposition of ILO Conventions into Maltese law is concerned.

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The Merchant Shipping (Amendment) Act

I assent
GEORGE ABELA
President

 / /

Act No. _ of 201_

AN ACT to amend the Merchant Shipping Act,
CAP. 234

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same as follows:

Short Title and
Commencement.

1. (1) This Act may be cited as the Merchant Shipping (Amendment) Act, 201_, and it shall be read and construed as one with the Merchant Shipping Act, hereinafter referred to as “the principal act”.

(2) This Act shall come into force on such date as the Minister responsible for shipping may, by notice in the Gazette, appoint.

Repeal of Article 195
of the principal Act.

2. Article 195 shall be repealed.

Repeal of Article 196
of the principal Act.

3. Article 196 shall be repealed.

Repeal of Article 197
of the principal Act.

4. Article 197 shall be repealed.

Repeal of Article 198
of the principal Act.

5. Article 198 shall be repealed.

Repeal of Article 199
of the principal Act.

6. Article 199 shall be repealed.

Repeal of Article 200 of
the principal Act.

7. Article 200 shall be repealed.

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Repeal of Article 201 of
the principal Act.

8. Article 201 shall be repealed.

Repeal of Article 202
of the principal Act.

9. Article 202 shall be repealed.

Repeal of Article 203
of the principal Act.

10. Article 203 shall be repealed.

Repeal of the Fourth
Schedule of the principal
Act.

11. The Fourth Schedule shall be repealed.

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Merchant Shipping (Seafarers' Identity Documents) Regulations

Title. **1.** The title of these regulations is Merchant Shipping (Seafarers' Identity Documents) Regulations.

Interpretation. **2.** (1) In these Regulations unless the context otherwise requires:

“Competent Authority” means the Authority for Transport in Malta established by the Authority for Transport in Malta Act;

“Convention” means International Labour Organization Seafarers' Identity Documents Convention (Revised), (2003), No.185.

“Malta” has the same meaning as is assigned to it by article 124 of the Constitution of Malta.

“Month” means calendar month.

“Name” in relation to a person, includes surname;

“Organization” means the International Labour Organization.

“Principal Act” means the Merchant Shipping Act (Chapter 234) of the Laws of Malta.

“Seafarer” means any person who is employed or is engaged or works in any capacity on board a vessel, other than a ship of war, ordinarily engaged in maritime navigation.

(2) In the event of any doubt whether any categories of persons are to be regarded as seafarers for the purpose of these regulations, the question shall be determined in accordance with the provisions of these regulations by the Competent Authority after consulting with the shipowners' and seafarers' organizations concerned.

(3) After consulting the representative organizations of fishing-vessel owners and persons working on board fishing vessels, the

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Competent Authority may apply the provisions of these regulations to commercial maritime fishing.

Issuance of Seafarers' Identity Documents.

3. (1) The Competent Authority shall issue to Maltese seafarers' a seafarers' identity document conforming to the provisions of article 5 of these regulations.

(2) Unless otherwise provided for in these regulations, the issuance of seafarers' identity documents may be subject to the same conditions as those prescribed by national laws and regulations for the issuance of travel documents.

(3) The Competent Authority may also issue seafarers' identity documents referred to in paragraph 1 to seafarers who have been granted the status of permanent residents in Malta. Permanent residents of Malta shall in all cases travel in conformity with the provisions of regulation 7, paragraph 7.

(4) The Competent Authority shall ensure that seafarers' identity documents are issued without undue delay.

(5) These regulations shall be without prejudice to the obligations of Malta under international arrangements relating to refugees and stateless persons.

Loss, destruction or defacement of an SID.

4. (1) If a seafarers' identity document is lost, destroyed, or defaced, the person to whom the seafarers' identity document was issued shall, as soon as practicable report the fact to the Competent Authority and, in the case of a defaced seafarers' identity document shall surrender the defaced seafarers' identity document to the office of the Competent Authority.

(2) Upon an application for the issue of a seafarers' identity document in substitution to a seafarers' identity document lost, destroyed or defaced, and upon payment of the fee if any, the Competent Authority, if satisfied that the seafarers' identity document has been lost, destroyed or defaced and, in the case of a defaced seafarers' identity document, that it has been surrendered as required by these regulations, shall issue a new seafarers' identity document.

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(3) A fee as the Minister may from time to time prescribe shall be paid for each seafarers' identity document issued in substitution to a seafarers' identity document which has been lost, destroyed or defaced:

Provided that no fee shall be charged if the Competent Authority is satisfied that such loss, destruction or defacement could not reasonably be avoided by the seaman or is due to fair wear and tear.

Content and form.

5. (1) The seafarers' identity document covered by these regulations shall conform – in its content – to the model set out in Schedule one. The form of the document and the materials used in it shall be consistent with the general specifications set out in the model, which shall be based on the criteria set out below. Provided that any amendment is consistent with the following paragraphs, Schedule one may, where necessary, be amended in accordance with regulation 12 below, in particular to take account of technological developments. The decision to adopt the amendment shall specify when the amendment will enter into effect, taking account of the need to give Malta sufficient time to make any necessary revisions of its national seafarers' identity documents and procedures.

(2) The seafarers' identity document shall be designed in a simple manner, be made of durable material, with special regard to conditions at sea and be machine-readable. The materials used shall:

- (a) prevent tampering with the document or falsification, as far as possible, and enable easy detection of alternations; and
- (b) be generally accessible to governments at the lowest cost consistent with reliably achieving the purpose set out in (a) above.

(3) The Competent Authority shall take into account any available guidelines developed by the Organization on standards of the technology to be used which will facilitate the use of a common international standard.

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(4) The seafarers' identity document shall be no larger than a normal passport.

(5) The seafarers' identity document shall contain the name of the Competent Authority, indications enabling rapid contact with that authority, the date and place of issue of the document, and the following statements:

(a) this document is a seafarers' identity document for the purpose of the Seafarers' Identity Documents Convention (Revised), (2003), No. 185 of the International Labour Organisation; and

(b) this document is a stand-alone document and not a passport.

(6) The maximum validity of a seafarers' identity document shall be determined in accordance with the laws and regulations of Malta and shall in no case exceed ten years, subject to renewal after the first five years.

(7) Particulars about the holder included in the seafarer's identity document shall be restricted to the following:

(a) full name (first and last names where applicable);

(b) sex;

(c) date and place of birth;

(d) nationality;

(e) any special physical characteristics that may assist identification;

(f) digital or original photograph; and

(g) signature.

(8) Notwithstanding paragraph 7 above, a template or other representation of a biometric of the holder which meets the specification provided for in Schedule One shall also be required for inclusion in the seafarers' identity document, provided that the following preconditions are satisfied:

(a) the biometric can be captured without any invasion of privacy of the persons concerned, discomfort to them, risk to their health or offence against their dignity;

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- (b) the biometric shall itself be visible on the document and it shall not be possible to reconstitute it from the template or other representation;
- (c) the equipment needed for the provision and verification of the biometric is user-friendly and is generally accessible to governments at low cost;
- (d) the equipment for the verification of the biometric can be conveniently and reliably operated in ports and in other places, including on board ship, where verification of identity is normally carried out by the competent authorities; and
- (e) the system in which the biometric is to be used (including the equipment, technologies and procedures for use) provides results that are uniform and reliable for the authentication of identity.

(9) All data concerning the seafarer that are recorded on the document shall be visible. Seafarers shall have convenient access to machines enabling them to inspect any data concerning them that is not eye-readable. Such access shall be provided by or on behalf of the competent authority.

(10) The content and form of the seafarers' identity document shall take into account the relevant international standards cited in Schedule one.

Incorrect particulars entered on SID.

6. (1) If any of the particulars entered upon a seafarers' identity document shall become or be found to be incorrect, the person to whom the seafarers' identity document was issued shall, as soon as practicable, report the fact to the Competent Authority and shall surrender the incorrect seafarers' identity document at his office; and the Competent Authority may thereupon either cause the seafarers' identity document to be amended or order the issue of a seafarers' identity document in substitution therefor.

Entries upon, and assignment or change of, SID.

7. (1) No person (other than the Competent Authority or a person authorised in that behalf by the Minister or by the Competent Authority), acting in accordance with the provisions of these regulations or instructions given by the Minister or by the Competent Authority shall make any mark or entry upon, or erase, cancel or alter any mark or entry made upon, or otherwise deface

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or destroy, a seafarers' identity document.

(2) No person shall assign or charge, or agree to assign or charge, any seafarers' identity document, and the assignment of, or any charge on, a seafarers' identity document shall be void and of no effect.

National Electronic
Database.

8. (1) The Competent Authority shall ensure that a record of each seafarers' identity document issued, suspended or withdrawn by it is stored in an electronic database. The necessary measures shall be taken to secure the database from interference or unauthorized access.

(2) The information contained in the record shall be restricted to details which are essential for the purposes of verifying a seafarers' identity document or the status of a seafarer and which are consistent with the seafarer's right to privacy and which meet all applicable data protection requirements. The details are set out in Schedule Two hereto, which may be amended in the manner provided for in Article 12 below, taking account of the need to give the Competent Authority sufficient time to make any necessary revisions of its national database systems.

(3) The Competent Authority shall put in place procedures which will enable any seafarer to whom it has issued a seafarers' identity document to examine and check the validity of all the data held or stored in the electronic database which relate to that individual and to provide for correction if necessary, at no cost to the seafarer concerned.

(4) The Competent Authority shall designate a permanent focal point for responding to inquiries, from the immigration or other competent authorities of all Members of the Organization, concerning the authenticity and validity of the seafarers' identity documents issued by its authority. Details of the permanent focal point shall be communicated to the International Labour Office.

(5) The details referred to in paragraph 2 above shall at all times be immediately accessible to the immigration or other

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competent authorities of Malta, either electronically or through the focal point referred to in paragraph 4 above.

(6) For the purposes of these regulations, appropriate restrictions shall be established to ensure that no data – in particular, photographs – are exchanged, unless a mechanism is in place to ensure that applicable data protection and privacy standards are adhered to.

(7) The Competent Authority shall ensure that the personal data on the electronic database shall not be used for any purpose other than verification of the seafarers' identity document.

Quality control and evaluations.

9. (1) Minimum requirements concerning processes and procedures for the issue of seafarers' identity documents, including quality-control procedures, are set out in Schedule three to these Regulations.

(2) Processes and procedures shall be in place to ensure the necessary security for:

- (a) the production and delivery of blank seafarers' identity documents;
- (b) the custody, handling and accountability for blank and completed seafarers' identity documents;
- (c) the processing of applications, the completion of the blank seafarers' identity documents into personalized seafarers' identity documents by the competent authority and unit responsible for issuing them and the delivery of the seafarers' identity documents;
- (d) the operation and maintenance of the database; and
- (e) the quality control of procedures and periodic evaluations.

(3) Subject to paragraph 2 above, Schedule three may be amended in the manner provided for in regulation 12, taking account of the need to give Malta sufficient time to make any necessary revisions to their processes and procedures.

(4) The Competent Authority shall carry out an independent evaluation of the administration of its system for issuing seafarers'

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identity documents, including quality-control procedures at least every five years. Reports on such evaluations, subject to the removal of any confidential material, shall be provided to the Director-General of the International Labour Office with a copy to the representative organisations of shipowners and seafarers in Malta. This reporting requirement shall be without prejudice to the obligations of Malta's under article 22 of the Constitution of the International Labour Organisation.

Facilitation of Shore
Leave and Transit and
Transfer of Seafarers.

10. (1) Any seafarer who holds a valid seafarers' identity document issued in accordance with the provisions of these regulations by the Competent Authority shall be recognized as a seafarer within the meaning of the Convention unless clear grounds exist for doubting the authenticity of the seafarers' identity document.

(2) The verification and any related inquiries and formalities needed to ensure that the seafarer for whom entry is requested pursuant to paragraphs 3 to 6 of this regulation or regulation 11 below is the holder of a seafarers' identity document issued in accordance with the requirements of these regulations shall be at no cost to the seafarers or shipowners.

(3) Verification and any related inquiries and formalities referred to in paragraph 2 above shall be carried out in the shortest possible time provided that reasonable advance notice of the holder's arrival was received by the Competent Authority. The notice of the holder's arrival shall include the details specified in section 1 of Schedule two.

(4) The Maltese Authorities shall, in the shortest possible time, and unless clear grounds exist for doubting the authenticity of the seafarers' identity document, permit the entry into its territory of a seafarer holding a valid seafarer's identity document, when entry is requested for temporary shore leave while the ship is in port.

(5) Such entry shall be allowed provided that the formalities on arrival of the ship have been fulfilled and the Maltese Authorities have no reason to refuse permission to come ashore on grounds of

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public health, public safety, public order or national security.

(6) For the purpose of shore leave seafarers shall not be required to hold a visa.

Transit and transfer.

11. The Maltese Authorities shall, in the shortest possible time, also permit the entry into its territory of seafarers holding a valid identity document supplemented by a passport, when entry is requested for the purpose of:

- (a) joining their ship or transferring to another ship;
- (b) passing in transit to join their ship in another country or for repatriation ; or any other purpose approved by the Maltese Authorities.

12. Such entry shall be allowed unless clear grounds exist for doubting the authenticity of the seafarers' identity document, provided that the competent authorities have no reason to refuse entry on grounds of public health, public safety, public order or national security.

13. The Maltese Authorities may, before permitting entry into Malta for one of the purposes specified in regulation 11 above, require satisfactory evidence, including documentary evidence of a seafarer's intention and ability to carry out that intention. The Maltese Authorities may also limit the seafarer's stay to a period considered reasonable for the purpose in question.

Continuous possession and withdrawal.

14. (1) The seafarers' identity document shall remain in the seafarer's possession at all times, except when it is held for safekeeping by the master of the ship concerned, with the seafarer's written consent.

(2) A seafarer who has in his possession more than one seafarers' identity document or holds, in addition to a seafarers' identity document, a distinctive seaman's document of identity issued under the authority of the government of any foreign country, shall without delay and in person produce such cards and documents of identity to the Competent Authority and shall surrender to him such one or more seafarers' identity documents as the Competent Authority may require.

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(3) The seafarers' identity document shall be promptly withdrawn by the Competent Authority if it is ascertained that the seafarer no longer meets the conditions for its issue under these regulations. Procedures for suspending or withdrawing seafarers' identity documents shall be drawn up in consultation with the representative shipowners' and seafarers' organisations and shall include procedures for administrative appeal.

Delivery of card issued to other persons.

15. Any person who comes into possession of a seafarers' identity document issued to some other person shall forthwith deliver or forward it to the Competent Authority.

Penalties.

16. Any person who contravenes or fails to comply with any of the provisions of regulations 4(1), 6, 7, or 14(2) shall be liable of an offence and for each offence be liable to a fine (*multa*) not exceeding twenty units.

Seafarers' Identity Documents

FIRST SCHEDULE

Model for seafarers' identity documents

The seafarers' identity document, whose form and content are set out below, shall consist of good-quality materials which, as far as practicable, having considerations such as cost, are not easily available to the general public. The document shall have no more space than is necessary to contain the information provided for by the Convention.

It shall contain the name of the Republic of Malta and the following statement:

“This document is a seafarers' identity document for the purpose of the Seafarers's Identity Documents Convention (Revised), (2003), No. 185 of the International Labour Organisation. This document is a stand-alone document and not a passport.”

The data page(s) of the document indicated in bold below shall be protected by a laminate or overlay, or by applying an imaging technology and substrate material that provide an equivalent resistance to substitution of the portrait and other biographical data.

The materials used, dimensions and placement of data shall conform to the International Civil Aviation Organisation (ICAO) specifications.

Other security features shall include at least one of the following features: watermarks, ultraviolet security features, use of special inks, special colour designs, perforated images, holograms, laser engraving, micro-printing, and heat-sealed lamination.

Data to be entered on the data page (s) of the seafarers' identity document shall be restricted to:

I. Issuing authority:

II. Telephone number(s), email and web site of the authority:

III. Date and place of issue:

Digital or original photograph of seafarer

(a) Full name of seafarer:

(b) Sex:

(c) Date and place of birth:

(d) Nationality:

(e) Any special characteristics of seafarer that may assist identification:

(f) Signature:

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- (g) Date of expiry:**
 - (h) Type or designation of document:**
 - (i) Unique document number:**
 - (j) Personal identification number (optional):**
 - (k) Biometric template based on a fingerprint printed as numbers in a bar code conforming to a standard to be developed:**
 - (l) A machine-readable zone conforming to ICAO specifications:**
- IV. Official seal or stamp of the issuing authority.**

Explanation of data

The Roman alphabet should be used for all entries in this document.

The information listed above shall have the following characteristics:

- I. Issuing authority: ISO code for Malta and the name and full address of the competent authority as well as the name and position of the person authorising the issue.
- II. The telephone number, email and web site shall correspond to the links to the focal point referred to in the Convention.
- III. Date and place of issue: the date shall be written in two-digit Arabic numerals in the form day/month/year; the place shall be written in the same way as on the national passport.

Size of the portrait photograph: as per ICAO Specifications.

- (a) Full name of seafarer: where applicable, family name shall be written first, followed by the seafarer's other names;
- (b) Sex: specify "M" for male or "F" for female;
- (c) Date and place of birth: the date shall be written in two-digit Arabic numerals in the form day/month/year; the place shall be written in the same way as on the national passport;
- (d) Statement of nationality: specify nationality;
- (e) Special physical characteristics: any evident characteristics assisting identification;
- (f) Signature of seafarer;
- (g) Date of expiry: in two-digit Arabic numerals in the form day/month/year;
- (h) Type of designation of document: character code for document type, written in capitals in the Roman alphabet (S);

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- (i) Unique document number: country code (see I above) followed by an alphanumeric book inventory number of no more than nine characters;
- (j) Personal identification number: optional personal identification number of the seafarer; identification number of no more than 14 alphanumeric characters;
- (k) Biometric template: precise specification to be developed;
- (l) Machine-readable zone: according to ICAO Specifications.

Seafarers' Identity Documents

SECOND SCHEDULE

Electronic database

The details to be provided for each record in the electronic database to be maintained by the competent authority in accordance with regulation 5, paragraphs 1, 2 and 6 and 7 of these Regulations shall be restricted to:

Section 1

1. Issuing authority named on the identity document.
2. Full name of seafarer as written on the identity document.
3. Unique document number of the identity document.
4. Date of expiry or suspension or withdrawal of the identity document.

Section 2

5. Biometric template appearing on the identity document.
6. Photograph.
7. Details of all inquiries made concerning the seafarers' identity document.

THIRD SCHEDULE

Requirements concerning the issuance of seafarers' identity documents.

Mandatory results that must be achieved, as a minimum, by each Member, in implementing a system of issuance of SIDs.

1. Production and delivery of blank seafarers' identity documents

Processes and procedures are in place to ensure the necessary security for the production and delivery of blank seafarers' identity documents, including the following:

- (a) all blank seafarers' identity documents are of uniform quality and meet the specifications in content and form as contained in Annex I;
- (b) the materials used for production are protected and controlled;
- (c) blank seafarers' identity documents are protected, controlled, identified and tracked during the production and delivery processes;
- (d) producers have the means of properly meeting their obligations in relation to the production and delivery of blank seafarers' identity documents;
- (e) the transport of the blank seafarers' identity documents from the producer to the issuing authority is secure.

2. Custody, handling and accountability for blank and completed seafarers' identity documents

Processes and procedures are in place to ensure the necessary security for the custody, handling and accountability for blank and completed seafarers' identity documents, including the following:

- (a) the custody and handling of blank and completed seafarers' identity documents is controlled by the issuing authority;
- (b) blank, completed and voided seafarers' identity documents, including those used as specimens, are protected, controlled, identified and tracked;
- (c) personnel involved with the process meet standards of reliability, trustworthiness and loyalty required by their positions and have appropriate training;

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- (d) the division of responsibilities among authorised officials is designed to prevent the issuance of unauthorised seafarers' identity documents.

3. Processing of applications; suspension or withdrawal of seafarers' identity documents; appeal procedures

Processes and procedures are in place to ensure the necessary security for the processing of applications, the completion of the blank seafarers' identity documents into personalized seafarers' identity documents by the authority and unit responsible for issuing them, and the delivery of the seafarers' identity documents, including:

- (a) processes for verification and approval ensuring that seafarers' identity documents, when first applied for and when renewed, are issued only on the basis of:
 - (i) applications completed with all information required by Annex I,
 - (ii) proof of identity of the applicant in accordance with the law and practice of the issuing State,
 - (iii) proof of nationality or permanent residence,
 - (iv) proof that the applicant is a seafarer within the meaning of Article 1,
 - (v) assurance that applicants, especially those with more than one nationality or having the status of permanent residents, are not issued with more than one seafarers' identity document,
 - (vi) verification that the applicant does not constitute a risk to security, with proper respect for the fundamental rights and freedoms set out in international instruments.
- (b) the processes ensure that:
 - (i) the particulars of each item contained in Annex II are entered in the database simultaneously with issuance of the seafarers' identity document,
 - (ii) the data, photograph, signature and biometric gathered from the applicant correspond to the applicant, and

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- (iii) the data, photograph, signature and biometric gathered from the applicant are linked to the application throughout the processing, issuance and delivery of the seafarers' identity document.
 - (c) prompt action is taken to update the database when an issued seafarers' identity document is suspended or withdrawn;
 - (d) an extension and/or renewal system has been established to provide for circumstances where a seafarer is in need of extension or renewal of his or her seafarers' identity document and in circumstances where the seafarers' identity document is lost;
 - (e) the circumstances in which seafarers' identity documents may be suspended or withdrawn are established in consultation with shipowners' and seafarers' organisations;
 - (f) effective and transparent appeal procedures are in place.
4. Operation, security and maintenance of the database

Processes and procedures are in place to ensure the necessary security for the operation and maintenance of the database, including the following:

- (a) the database is secure from tampering and from unauthorised access;
- (b) data are current, protected against loss of information and available for query at all times through the focal point;
- (c) databases are not appended, copied, linked or written to other databases; information from the database is not used for purposes other than authenticating the seafarers' identity;
- (d) the individual's rights are respected, including:
 - (i) the right to privacy in the collection, storage, handling and communication of personal data; and
 - (ii) the right of access to data concerning him or her and to have any inaccuracies corrected in a timely manner.

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5. Quality control of procedures and periodic evaluations
 - (a) Processes and procedures are in place to ensure the necessary security through the quality control of procedures and periodic evaluations, including the monitoring of processes, to ensure that required performance standards are met, for:
 - (i) production and delivery of blank seafarers' identity documents,
 - (ii) custody, handling and accountability for blank, voided and personalized seafarers' identity documents,
 - (iii) processing of applications, completion of blank seafarers' identity documents into personalised seafarers' identity documents by the authority and unit responsible for issuance and delivery,
 - (iv) operation, security and maintenance of the database.
 - (b) Periodic reviews are carried out to ensure the reliability of the issuance system and of the procedures and their conformity with the requirements of this Convention.
 - (c) Procedures are in place to protect the confidentiality of information contained in reports on periodic evaluations provided by other ratifying Members.

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