

Merchant Shipping (Maritime Labour Convention) (Amendment) Bill

Bill No. 29/2016.

Read the first time on 10 October 2016.

A BILL

i n t i t u l e d

An Act to amend the Merchant Shipping (Maritime Labour Convention) Act 2014 (Act 6 of 2014) and to make a related amendment to the Work Injury Compensation Act (Chapter 354 of the 2009 Revised Edition).

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act is the Merchant Shipping (Maritime Labour Convention) (Amendment) Act 2016 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

5 Amendment of section 23

2. Section 23(2) of the Merchant Shipping (Maritime Labour Convention) Act 2014 (called in this Act the principal Act) is amended by deleting the full-stop at the end of paragraph (c) and substituting a semi-colon, and by inserting immediately thereafter the following paragraph:

“(d) where, in violation of the requirements of this Act or the terms of the seafarer’s employment agreement —

(i) the seafarer is left by the shipowner without the necessary maintenance and support (including adequate food, accommodation, drinking water supplies, essential fuel for survival on board the ship and necessary medical care); or

(ii) where the seafarer’s ties with the shipowner have been unilaterally severed by the shipowner including where the shipowner has failed to pay the seafarer’s contractual wages for a period of at least 2 months.”.

Amendment of section 34

3. Section 34 of the principal Act is amended —

(a) by deleting subsection (2) and substituting the following subsection:

“(2) The requirement mentioned in subsection (1) is that there is in force a contract of insurance or other financial security —

(a) that is contracted with, or provided by, an approved financial security provider;

- (b) that is adequate to ensure that the shipowner will be able to meet any liabilities the shipowner may have —
- (i) arising from the shipowner’s obligation to repatriate a seafarer; or 5
 - (ii) to provide compensation in the event of death or long-term disability to seafarers arising from occupational injury, illness or hazard; and
- (c) that contains such terms and conditions, and meets such other requirements, as may be prescribed.”; 10
- (b) by deleting the words “subsection (2)” in subsection (3) and substituting the words “subsection (2)(b)”;
- (c) by deleting the words “section 23 of” in subsection (3)(b); and 15
- (d) by inserting, immediately after subsection (4), the following subsection:
- “(5) In this section, “approved financial security provider” means a provider of insurance or other financial security that has been approved by the Director under section 34A for the purposes of this section.”. 20

New section 34A

4. The principal Act is amended by inserting, immediately after section 34, the following section: 25

“Approved financial security provider

34A.—(1) The Director may approve, with or without terms or conditions, a person who provides insurance or other financial security services as an approved financial security provider for the purposes of section 34. 30

(2) In determining whether or not to approve any person as an approved financial security provider, the Director —

(a) must have regard to whether —

(i) the person is able and willing to meet the requirements of a financial security provider under this Act; and

5 (ii) the insurance or other financial security provided by the person will comply with the requirements of this Act; and

(b) may have regard to any other matter that the Director considers relevant.

10 (3) The Director may, by written notice to an approved financial security provider, vary any term or condition of approval.

(4) The Director may revoke the approval of a person as an approved financial security provider if the Director is satisfied that —

15 (a) the person is not able or willing, or has failed, to meet the requirements of a financial security provider under this Act;

20 (b) the insurance or other financial security provided by the person does not comply with the requirements of this Act;

(c) the person has breached any term or condition of approval; or

25 (d) it is otherwise not suitable for the person to continue to be an approved financial security provider.

30 (5) The Director must, before taking any action under subsection (3) or (4), give written notice to the approved financial security provider of the Director's intention to take such action and give the approved financial security provider an opportunity to submit reasons why the terms or conditions of approval should not be varied, or why the approval should not be revoked, as the case may be.

(6) A person aggrieved by any of the following decisions of the Director (called in this section the appellant) may appeal to the Minister against the decision:

- (a) the refusal to approve the appellant as an approved financial security provider; 5
- (b) the imposition of any term or condition upon the approval of the appellant as an approved financial security provider;
- (c) the variation of any term or condition of approval of the appellant as an approved financial security provider; 10
- (d) the revocation of the approval of the appellant as an approved financial security provider.

(7) An appeal under this section —

- (a) must be in writing; 15
- (b) must specify the grounds on which it is made; and
- (c) must be made within 14 days after the date of receipt of the decision that is appealed against.

(8) An appellant who makes an appeal to the Minister under this section must provide such information as may be required by the Minister in such manner and within such period as may be specified by the Minister. 20

(9) The Minister may reject an appeal of an appellant who fails to comply with the requirements of subsection (7) or (8).

(10) After consideration of an appeal, the Minister may — 25

- (a) reject the appeal and confirm the Director's decision;
or
- (b) allow the appeal and substitute or vary the Director's decision.

(11) The Minister's decision on an appeal is final. 30

(12) Every appellant must be notified of the Minister's decision under subsection (10).

(13) An appeal against the Director’s decision does not affect the operation of the decision appealed against until the determination of the appeal.”.

Amendment of section 82

5 **5.** Section 82(2) of the principal Act is amended —

(a) by deleting the word “and” at the end of paragraph (x); and

(b) by deleting the full-stop at the end of paragraph (y) and substituting a semi-colon, and by inserting immediately thereafter the following paragraphs:

10 “(z) prescribe the terms and conditions that a contract of insurance or other financial security mentioned in section 34(2) must contain, including —

15 (i) terms and conditions relating to all or any of the following:

(A) scope of coverage;

20 (B) right of seafarers covered by the contract of insurance or other financial security to claim under the contract of insurance or other financial security;

(C) submission and handling of claims;

(D) interim payments;

25 (E) minimum service standards;

30 (ii) a condition that the liability of the provider of the insurance or other financial security under the contract of insurance or other financial security will not cease before the end of the period of validity of the contract of insurance or other financial security unless the provider

has given the Director prior notice of the pending cessation of liability of such minimum length as may be prescribed; and

- (iii) any other term or condition necessary or desirable to ensure that the contract of insurance or other financial security meets the requirements of section 34; 5
- (za) prescribe the terms and conditions that a contract of insurance or other financial security mentioned in section 34(2) must not contain; 10
- (zb) provide that terms and conditions contained in a contract of insurance or financial security mentioned in section 34(2) in breach of any prescription mentioned in paragraph (za) are to be treated as having no effect; 15
- (zc) provide for — 20
 - (i) a certificate of the contract of insurance or other financial security mentioned in section 34(2) to be carried, and displayed, on board the ship to which the certificate relates; and 25
 - (ii) the form of the certificate;
- (zd) require a shipowner to give prior notification of the cancellation or termination of the contract of insurance or other financial security mentioned in section 34(2) to the seafarers to whom the contract of insurance or other financial security relates; and 30

(ze) require the person who provides insurance or other financial security under a contract of insurance or other financial security mentioned in section 34(2) to give notice to the Director if the contract of insurance or other financial security is cancelled or terminated.”.

Amendment of Second Schedule

6. The Second Schedule to the principal Act is amended by inserting, immediately after item 14, the following items:

“15. Financial security for repatriation.

16. Financial security relating to shipowner’s liability.”.

Related amendment to Work Injury Compensation Act

7. Section 20 of the Work Injury Compensation Act (Cap. 354) is amended by deleting the full-stop at the end of paragraph (f) and substituting a semi-colon, and by inserting immediately thereafter the following paragraph:

“(g) section 23 does not apply in respect of a seaman who is an employee in respect of whom there is in force a contract of insurance or other financial security under section 34 of the Merchant Shipping (Maritime Labour Convention) Act 2014 (Act 6 of 2014) covering the liabilities of the shipowner in respect of the seaman under that Act.”.

EXPLANATORY STATEMENT

This Bill seeks to amend the Merchant Shipping (Maritime Labour Convention) Act 2014 (Act 6 of 2014) (the Act) to enable Singapore to give effect to the Amendments of 2014 to the Maritime Labour Convention, 2006, approved by the International Labour Organization at the 103rd Session of the International Labour Conference in Geneva on 11 June 2014 (the 2014 Amendments to the Convention).

The Bill also makes a related amendment to the Work Injury Compensation Act (Cap. 354).

As background, the Maritime Labour Convention comprises 3 different but related parts: the Articles, the Regulations and the Code. The Articles and Regulations set out the core rights and principles and the basic obligations of Member States to the Convention. The Code contains the details for the implementation of the Regulations. The Code comprises Part A (mandatory Standards) and Part B (non-mandatory Guidelines). The 2014 Amendments to the Convention relate to the Code implementing Regulations 2.5 and 4.2. The amendments to the Code implementing “Regulation 2.5 – Repatriation” are intended to better address the specific problems faced in cases of abandonment of seafarers. The amendments to the Code implementing “Regulation 4.2 – Shipowners’ liability” further elaborate the existing requirement in Standard A4.2, paragraph 1(b), for shipowners to provide financial security to assure compensation in the event of the death or long-term disability of seafarers due to an occupational injury, illness or hazard. Consequential amendments were also made to the Appendices.

The Bill seeks to amend the Act to give effect to the 2014 Amendments to the Convention by —

- (a) expanding the scope of the obligation of a shipowner to repatriate a seafarer employed on a ship to cover the scenarios of “abandonment” described in the amendments to the Code which are not currently covered under the Act (and for which the shipowner is under a corresponding obligation to have in force a contract of insurance or other adequate security to ensure that the shipowner will be able to meet the obligation to repatriate the seafarer);
- (b) providing that the contract of insurance or other security —
 - (i) must be contracted with, or provided by, an approved financial security provider; and
 - (ii) must contain such terms and conditions, and meet such other requirements, as may be prescribed;
- (c) empowering the Director of Marine (the Director) to approve, with or without conditions, the approved financial security providers who may provide the contract of insurance or other financial security that a shipowner must have in force to ensure that the shipowner will be able to meet the liabilities which the shipowner may have arising from (amongst other things) repatriation of a seafarer or to provide compensation in the event of death or long-term disability to seafarers arising from occupational injury, illness or hazard; and
- (d) empowering regulations to be made to give effect to the detailed requirements that the 2014 Amendments to the Convention impose on the contract of insurance or other financial security that a shipowner must have in force.

Clause 1 relates to the short title and commencement.

Clause 2 inserts a new paragraph (d) into section 23(2) to set out additional circumstances in which a shipowner must repatriate a seafarer employed on a ship.

Clause 3 amends section 34 —

- (a) to delete and substitute subsection (2) to expand the requirements that a shipowner must meet before allowing a ship to put to, or to remain at, sea. In particular, to provide that the contract of insurance or other financial security that must be in force must be contracted with, or provided by, an approved financial security provider and that the contract of insurance or other financial security must meet such other requirements as may be prescribed;
- (b) to make clear that the liabilities of the shipowner to be covered by the contract of insurance or other security that must be in force (before a shipowner can allow a ship to put to, or remain at, sea) include the liabilities of the shipowner arising under the Work Injury Compensation Act as a whole and not just the liabilities arising under section 23 of that Act (which relates to compulsory insurance against employer's liability); and to make a consequential amendment to subsection (3) arising from the deletion and substitution of subsection (2); and
- (c) to insert a new subsection (5) to define the term "approved financial security provider".

Clause 4 inserts a new section 34A to provide for the approval, with or without conditions, by the Director of an approved financial security provider for the purposes of section 34, the matters the Director must have regard to when approving an approved financial security provider, the grounds for revocation of approval and appeals against refusal to approve, the imposition or variation of any term or condition of approval, or the revocation of approval.

Clause 5 amends section 82(2) to empower the Maritime and Port Authority of Singapore, with the approval of the Minister, to make regulations for and in respect of the contract of insurance or other financial security mentioned in section 34(2).

Clause 6 amends the Second Schedule to provide that the matters that are in principle to be covered by an inspection conducted on a ship that is not a Singapore ship under section 58(6) includes "financial security for repatriation" and "financial security relating to shipowner's liability".

Clause 7 amends section 20 of the Work Injury Compensation Act (on Special provisions relating to seamen) by inserting a new paragraph (g) to provide that section 23 of the Work Injury Compensation Act (Compulsory insurance against employer's liability) does not apply in respect of a seaman who is an employee in respect of whom there is in force a contract of insurance or other financial security

under section 34 of the Merchant Shipping (Maritime Labour Convention) Act 2014 covering the liabilities of the shipowner in respect of the seaman under the Merchant Shipping (Maritime Labour Convention) Act 2014. The effect is that the requirement for compulsory insurance against employer's liability as set out in section 23 of the Work Injury Compensation Act does not apply where the relevant seaman is covered by a contract of insurance or other financial security under section 34 of the Merchant Shipping (Maritime Labour Convention) Act 2014.

EXPENDITURE OF PUBLIC MONEY

This Bill will not involve the Government in any extra financial expenditure.
