

**Merchant Shipping
(Maritime Labour Convention)
(Amendment) Bill**

Bill No. 1/2020.

Read the first time on 6 January 2020.

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).

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 2020 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

5 Amendment of section 2

2. Section 2(1) of the Merchant Shipping (Maritime Labour Convention) Act 2014 (called in this Act the principal Act) is amended —

10 (a) by inserting, immediately before the definition of “Authority”, the following definition:

““armed robbery”, in relation to a ship, means —

15 (a) any illegal act of violence or detention or any act of depredation, or threat of such act, other than an act of piracy, committed for private ends and directed against the ship or against persons or property on board the ship, within a State’s internal waters, archipelagic waters and territorial sea; or

20 (b) any act of inciting or intentionally facilitating an act mentioned in paragraph (a);” and

25 (b) by inserting, immediately after the definition of “other relevant written law”, the following definition:

30 ““piracy” has the same meaning as in the United Nations Convention on the Law of the Sea adopted on 10 December 1982 by the Third United Nations Conference on the Law of the Sea;”.

Amendment of section 14

3. Section 14 of the principal Act is amended by inserting, immediately after subsection (12), the following subsection:

“(12A) Despite subsections (9) and (12) or any term of the seafarer’s employment agreement, where a seafarer is held captive on or off a ship as a result of an act of piracy or armed robbery against the ship, the seafarer’s employment agreement continues to have effect during the period of captivity, regardless of whether —

- (a) the date fixed for the expiry of the seafarer’s employment agreement has passed; or
- (b) either party to the seafarer’s employment agreement has given notice to suspend or terminate it.”.

Amendment of section 20

4. Section 20 of the principal Act is amended by inserting, immediately after subsection (7), the following subsection:

“(7A) Where a seafarer is held captive on or off a ship as a result of an act of piracy or armed robbery against the ship, the seafarer’s wages and other entitlements (including the remittance of any allotments made in accordance with section 21) under —

- (a) the seafarer’s employment agreement;
- (b) any applicable collective agreement; or
- (c) any written law,

must continue to be paid during the entire period of captivity and until —

- (d) the date on which the seafarer is released and duly repatriated in accordance with this Act; or
- (e) the date of the seafarer’s death, if the seafarer dies while in captivity.”.

Amendment of section 23

5. Section 23(2) of the principal Act is amended by deleting the full-stop at the end of paragraph (d) and substituting a semi-colon, and by inserting immediately thereafter the following paragraph:

“(e) where the seafarer is released from captivity after being held captive on or off a ship as a result of an act of piracy or armed robbery against the ship.”.

Amendment of section 34

5 **6.** Section 34 of the principal Act is amended by inserting, immediately after subsection (3), the following subsection:

10 “(3A) Where an approved financial security provider has made any payment to a seafarer under a contract of insurance or other financial security mentioned in subsection (2) for a liability arising from a shipowner’s obligation to repatriate a seafarer, any right which the seafarer has (or but for that payment would have had) against the shipowner as a result of the liability is, with respect to the amount of payment made, transferred to and vested in the approved financial security provider.”.

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EXPLANATORY STATEMENT

This Bill seeks to amend the Merchant Shipping (Maritime Labour Convention) Act 2014 (Act 6 of 2014) —

- (a) to enable Singapore to give effect to the Amendments of 2018 to the Maritime Labour Convention, 2006, approved by the International Labour Organization at the 107th Session of the International Labour Conference in Geneva on 5 June 2018 (the 2018 Amendments to the Convention); and
- (b) to facilitate, where an approved financial security provider has paid a seafarer under a contract of insurance or other financial security for certain liabilities owed by a shipowner to the seafarer, the transfer to and vesting in the approved financial security provider of any right that the seafarer has in respect of the liability.

Clause 1 relates to the short title and commencement.

Clause 2 inserts new definitions for “armed robbery” and “piracy” in section 2(1).

The definition of “armed robbery” is based on the definition of “armed robbery against ships” in the new paragraph 7(b) of Standard A2.1 inserted by the 2018 Amendments to the Convention.

The definition of “piracy” is based on the definition in the new paragraph 7(a) of Standard A2.1 inserted by the 2018 Amendments to the Convention. The term “piracy” has the same meaning as in the United Nations Convention on the Law of the Sea (UNCLOS) adopted on 10 December 1982 by the Third United Nations Conference on the Law of the Sea.

Clause 3 inserts a new section 14(12A) to provide that where a seafarer is held captive on or off a ship as a result of an act of piracy or armed robbery against the ship, the seafarer’s employment agreement continues to have effect during the period of captivity. This is regardless of whether the date fixed for the expiry of the seafarer’s employment agreement has passed or either party to the seafarer’s employment agreement has given notice to suspend or terminate it.

Clause 4 inserts a new section 20(7A) to provide that where a seafarer is held captive on or off a ship as a result of an act of piracy or armed robbery against the ship, the seafarer’s wages and other entitlements (including the remittance of any allotments made in accordance with section 21) under the seafarer’s employment agreement, any applicable collective agreement or any written law, must continue to be paid during the seafarer’s period of captivity. This obligation continues until the date on which the seafarer is released and duly repatriated in accordance with the Act or the date of the seafarer’s death, if the seafarer dies while in captivity.

Clause 5 inserts a new section 23(2)(e) to provide that a seafarer employed on a ship who is held captive on or off the ship as a result of an act of piracy or armed robbery against the ship is entitled to repatriation upon his or her release from that captivity. This ensures that a seafarer’s entitlement to repatriation does not lapse during the period of the seafarer’s captivity.

Clause 6 inserts a new section 34(3A). Currently, an approved financial security provider who has entered into a contract mentioned in section 34(2) may under the common law acquire certain rights of a seafarer against a shipowner where it has paid the seafarer under the contract for a liability of the shipowner, for example by subrogation or assignment. However, an approved financial security provider would need to take certain steps in order to do so. The new subsection (3A) facilitates the transfer to and vesting of a seafarer’s rights in an approved financial security provider, by providing the approved financial security provider with a statutory basis, in addition to its rights under the common law.

EXPENDITURE OF PUBLIC MONEY

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