

# SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 4999 GIBRALTAR Thursday 6th October 2022

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LEGAL NOTICE NO. 286 OF 2022

## GIBRALTAR MERCHANT SHIPPING (SAFETY, ETC.) ACT 1993

### GIBRALTAR MERCHANT SHIPPING (MARITIME LABOUR CONVENTION) (AMENDMENT) REGULATIONS 2022

In exercise of the powers conferred on it by section 118(1)(c) of the Gibraltar Merchant Shipping (Safety, etc.) Act, 1993 and all other enabling powers, the Government has made the following Regulations-

#### **Title.**

1. These Regulations may be cited as the Gibraltar Merchant Shipping (Maritime Labour Convention) (Amendment) Regulations 2022.

#### **Commencement.**

2. These Regulations come into operation on the day of publication.

#### **Amendments to the Gibraltar Merchant Shipping (Maritime Labour Convention) Regulations 2013.**

3. The Gibraltar Merchant Shipping (Maritime Labour Convention) Regulations 2013 (“the Principal Regulations”) are amended in accordance with regulations 4 to 7.

#### **Amendment to regulation 2.**

4. Regulation 2(1) of the Principal Regulations is amended-

(a) by inserting the following definition before the definition of “British Gibraltar Territorial Waters”-

““armed robbery against a ship” means any illegal act of violence or detention or any act or threat of depredation, other than an act of piracy, committed for private ends, or any act of inciting or intentionally facilitating this act, which is-

(a) directed against a Gibraltar ship or an MLC ship; or

(b) against persons or property on board a Gibraltar ship or an MLC ship,

within British Gibraltar Territorial Waters or an MLC State's internal waters, archipelagic waters or territorial sea;";

(b) by inserting-

(i) after the definition of "hours of work"-

""internal waters" has the same meaning as in the United Nations Convention on the Law of the Sea 1982;";

(ii) after the definition of "MLC ship"-

""piracy" has the same meaning as in Article 101 of the United Nations Convention on the Law of the Sea 1982;";

(iii) after the definition of "STCW"-

""territorial sea" has the same meaning as in the United Nations Convention on the Law of the Sea 1982;".

#### **Insertion of regulation 12A.**

5. The Principal Regulations are amended by inserting the following regulation after regulation 12-

#### **"Seafarers' employment agreements: captive seafarers.**

12A.(1) Sub-regulation (2) applies to a seafarers' employment agreement which would, but for the operation of that sub-regulation, terminate while the seafarer is held captive as a result of piracy or armed robbery against the ship.

(2) Where this sub-regulation applies, the seafarers' employment agreement continues to have effect until the date on which the shipowner's and employer's duty to repatriate the seafarer under regulation 19 ends in accordance with regulation 19B.

(3) The reference in sub-regulation (1) to the termination of a seafarers' employment agreement includes-

(a) the operation of any provision in the seafarers' employment agreement which would, but for this regulation, cause the seafarer's employment agreement to be terminated; and

(b) the expiry of the notice period to terminate the seafarers' employment agreement given for any reason, regardless of when the notice was given.

(4) For any period during which the seafarer is held captive as a result of piracy or armed robbery against the ship, the shipowner and the employer of the seafarer on board the ship must ensure-

- (a) the seafarer's wages and other entitlements, whether arising under a seafarers' employment agreement, collective agreement, collective bargaining agreement, or workforce agreement, or under any enactment, in respect of that seafarer's employment on board the ship, must continue to be paid;
- (b) any part of the seafarer's wages allotted to a person in accordance with regulation 14(3) must continue to be paid to that person; and
- (c) a term of any agreement is void to the extent that it purports to reduce, vary or terminate any payments which are owed to a seafarer by the shipowner or employer."

**Amendment to regulation 19B.**

6. Regulation 19B of the Principal Regulations is amended-

- (a) by inserting "and an employer" after "Where there is a duty on a ship owner"; and
- (b) substituting the following for paragraph (c)-
  - "(c) the shipowner has used reasonable endeavours to contact the seafarer for a period of three months or more, but has been unable to make such contact, except where the seafarer is held captive as a result of piracy or armed robbery against the ship;"

**Amendment of regulation 19C.**

7. Regulation 19C(2) is omitted.

Dated: 6<sup>th</sup> October 2022.

V DARYANANI,  
For the Government.

### **EXPLANATORY MEMORANDUM**

These Regulations amend the Gibraltar Merchant Shipping (Maritime Labour Convention) Regulations 2013 for the purpose of further implementing the Amendments to the Code of the Maritime Labour Convention, 2006, adopted on the 27<sup>th</sup> April 2018, relating to Regulations 2.1 and 2.2 and implementing Standard A2.1 and Standard A2.2.