

No. S 71

MERCHANT SHIPPING ORDER, 2002
(S 27/02)

MERCHANT SHIPPING (PROPERTY OF DECEASED SEAMEN) REGULATIONS, 2007

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In exercise of the power conferred by section 90 of the Merchant Shipping Order, 2002, the Minister of Communications, with the approval of His Majesty the Sultan and Yang Di-Pertuan, hereby makes the following Regulations —

Citation.

1. These Regulations may be cited as the Merchant Shipping (Property of Deceased Seamen) Regulations, 2007.

Interpretation.

2. (1) In these Regulations, unless the context otherwise requires —

"employer", in relation to a seaman, means the owner of the ship on which the seaman is employed or, where the seaman is deceased, means the person who last employed him as a seaman before his death;

"next of kin" means a person named as the seaman's next of kin in the crew agreement.

(2) A reference in these Regulations to a seaman shall include a reference to the master of a ship.

Application.

3. These Regulations shall apply to all Brunei Darussalam ships.

Property of seaman upon his death.

4. (1) This regulation applies to all property, including money, left on board a ship by a seaman dying while or after being employed in the ship.

(2) The master shall —

(a) take charge of all the property;

(b) make an entry in the official log-book signed by the master and by a member of the crew comprising —

- (i) a list of all such property so taken into his charge;
- (ii) in the case of a sale under sub-regulation (3)(a) of any property or part thereof, a description of each article sold and the sum received; and
- (iii) in the case of the destruction or disposal of any property or part thereof under sub-regulation (3)(b), a description of each article destroyed or disposed of and the name of any person to whom disposal was made.

(3) The master may at any time —

(a) sell, by auction or otherwise any part of the property which in his opinion is likely, before it can be delivered to the next of kin or beneficiary in accordance with regulation 5, to perish or deteriorate to such a degree as to be unusable for the purpose which it is intended or to be of no value and the proceeds of sale shall form part of the property; and

(b) destroy or otherwise dispose of any part of the property which, in his opinion, endangers or is likely to endanger the health or safety of any person on board the ship or endanger the safety, or affect the efficiency, of the ship or any equipment on the ship.

Delivery of property of deceased seaman.

5. (1) The master or employer shall deliver any property or part thereof which has not been disposed of under regulation 4(3) to —

(a) the seaman's next of kin; or

(b) in the case of any person who appears to be beneficially entitled to the property under a will or on intestacy, to the personal representative of the deceased.

(2) When any property is left in a country or territory outside Brunei Darussalam by a seaman who dies while or within 3 months after being employed in a ship, the employer shall make a list of the property and deliver the property to the person as provided in sub-regulation (1).

(3) A person to whom the property has been delivered in accordance with sub-regulation (1) shall give a written acknowledgement of the receipt of the property to the master or employer which shall include a list of all the property so taken into his charge.

Wages due to deceased seaman.

6. For the purposes of regulations 4 and 5, the property of the deceased seaman shall include wages due to the seaman at the time of his death.

Delivery of wages due to deceased seaman.

7. In the case of a seaman who dies while or after being employed in a ship, the employer shall pay any wages due to the seaman at the date of his death to the person to whom the deceased seaman's property left on board the ship is required to be delivered to in accordance with regulation 5(1).

Forgery of documents etc. for purpose of obtaining property of deceased seaman.

8. No person shall for the purpose of obtaining, either for himself or for any other person, any property of any deceased seaman to the sea service —

(a) forge or fraudulently alter, or assist in forging or fraudulently altering, or procure to be forged or fraudulently altered any document purporting to show or assist in showing any right to such property;

(b) make use of any document which has been so forged or fraudulently altered as mentioned under paragraph *(a)*;

(c) give or assist in giving, or procure to be given, any false evidence, knowing the same to be false;

(d) make and assist in making, or procure to be made, any false representation, knowing the same to be false; or

(e) assist in procuring any false evidence or representation to be given or made, knowing the same to be false.

Penalty.

9. Any person who contravenes or fails to comply with any provision of these Regulations shall be guilty of an offence and liable on conviction to a fine not exceeding \$2,000.

BRUNEI DARUSSALAM GOVERNMENT GAZETTE

Made this 12th. day of Zulhijjah, 1428 Hijriah corresponding to the 22nd. day of December, 2007.

PEHIN ORANG KAYA SERI KERN DATO SERI SETIA
DR. HAJI AWANG ABU BAKAR BIN HAJI APONG
Minister of Communications,
Brunei Darussalam.