



Swiss Regulations for Seafarers

Compilation of the main existing
provisions for seafarers

Edition 2016



Schweizerische Eidgenossenschaft
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Confederazione Svizzera
Confederaziun svizra

Swiss Regulations for Seafarers

2016 Edition

Compilation of the main existing provisions for seafarers
Published by the Swiss Maritime Navigation Office
(Navigation Act, Art. 67, para. 3)

A copy of the Swiss Regulations for Seafarers will be made available to each member of the crew when they embark on a Swiss vessel.

The original texts in German, French and Italian, as well as an unofficial translation in English, may be consulted on request with the captain.

Since 1 January 2016, the electronic versions of the German, French and Italian originals that are published in the classified compilation on <www.admin.ch> are legally binding.

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Abstract of the Federal Act on Navigation under the Swiss Flag (Navigation Act)

of 23 September 1953 (Stand am 20. August 2013)

The Federal Assembly of the Swiss Confederation,
in accordance with article 27 and article 122 of the Federal Constitution^{1,2},
after examination of a dispatch from the Federal Council of 22 February 1952³,
herewith enacts the following:

Part One: General provisions and authorities

Section One: General Principles

Art. 1

Swiss law and
international law

Navigation under the Swiss flag⁴ shall be subject to Swiss law insofar as it is compatible with the principles of international law.

Art. 4

Scope of
application of
Swiss law

¹ On the high seas Swiss federal law alone shall apply on board Swiss seagoing vessels. In territorial waters Swiss federal law shall apply on board Swiss seagoing vessels provided that the riparian State does not declare its law to be compulsorily applicable. In the event of shipwreck, Swiss law shall apply to the same extent to the survivors.

² Criminal offences under the Swiss Penal Code⁶ and other penal provisions of the Confederation that have been committed on board a Swiss seagoing vessel shall, however, be subject to Swiss law irrespective of the place where the vessel was at the time the offence was committed.

³ The penal provisions hereof shall apply irrespective of whether the offence was committed in Switzerland or abroad.

⁴ The offender shall not be liable for punishment in Switzerland:
– if he was acquitted of the felony or misdemeanour by a final decision taken abroad;

AS 1956 1305

¹ SR (Classified Compilation of the Federal Law) 101

² Wording according to article I of the Federal Act of 22 March 2013, in effect since 20 August 2013 (AS 2013 2323; BBl 2012 8639).

³ BBl 1952 I 253

⁴ As per article I of the Federal Act of 20 March 1987, in effect since 1 Feb. 1989 (AS 1989 212; BBl 1986 II 717). This amendment is taken into account throughout the entire Act.

⁶ SR 311.0

- if the penalty imposed on him abroad for the offence has been enforced, discharged or barred by statute of limitations.

If the penalty has only been partially enforced abroad, the portion already enforced shall be credited to the offender.

Art. 7

Application of the law by the Court

¹ In the event that the Federal legislation, in particular in respect of this law or the aforementioned international agreements, does not contain any applicable provision, the Court shall decide in accordance with the generally recognised principles of maritime law. If such principles do not exist, the Court shall decide in accordance with the rule that it as legislator would lay down, taking into consideration legislation and custom, legal writings and judicial precedents in maritime countries.

² The Court shall be unrestricted in its consideration of the evidence. Entries made by the master in logbooks, registers, records and reports shall also be subject to this free right of appraisal.

Art. 9

Swiss Maritime Navigation Office

¹ The Swiss Maritime Navigation Office shall have its main office in Basel and shall fulfil its obligations with respect to Swiss seagoing vessels through its own officials or through the Swiss consulates.

² For this purpose, the Swiss Maritime Navigation Office may operate directly with the Swiss consulates and consuls as well as with the authorities and representatives of foreign States.

³ Owners, operators and masters of Swiss seagoing vessels shall have a duty at any time to provide information which the Swiss Maritime Navigation Office requires and demands in order to fulfil its responsibilities. The Swiss Maritime Navigation Office may carry out inspections on board Swiss seagoing vessels.

⁴ The Swiss Maritime Navigation Office may delegate to recognised classification societies certain inspection, control or decision-making tasks, notably those provided for in the Maritime Labour Convention of 23 February 2006^{11, 12}

Art. 14

Civil jurisdiction

¹ Irrespective of the place of domicile of the defendant, Basel shall be the competent place of jurisdiction for all actions in rem with respect to a vessel entered in the Swiss ship register.

¹¹ SR 0.822.81

¹² Added through Art. 2 of FedD of 1 Oct. 2010 on accession to the Maritime Labour Convention, 2006, in effect since 20 Aug. 2013 (AS 2013 2507; BBl 2009 8979).

² For all claims arising out of unauthorised acts carried out on board a Swiss seagoing vessel and for all other civil actions hereunder, Basel shall be the competent place of jurisdiction provided no other jurisdiction in Switzerland is stipulated.

³ Basel shall be the competent place of jurisdiction for actions in connection with proceedings to limit the liability of the ship operator or for confirmation by the Court of a general average adjustment.

Art. 15

Criminal jurisdiction

¹ Criminal offences committed on board a seagoing vessel as well as criminal offences punishable hereunder shall be prosecuted and judged by the authorities of the canton of Basel Stadt provided said authorities are not subject to the jurisdiction of the Federal Supreme Court or of a court martial. The Canton of Basel Stadt shall be entitled to receive the fines imposed in accordance herewith.

² In the event of a contravention hereunder, the Swiss Maritime Navigation Office shall be the authority reporting said contravention.

³ The authorities of the canton of Basel Stadt shall have a duty to submit to the Office of the Attorney General of Switzerland all penal judgements and orders to dismiss proceedings issued hereunder.

Part Three: Navigation Operations

Section One: the Operator

Art. 45

Definition of operator

¹ The operator is the owner of the ship or any other organisation or person who has assumed responsibility for the operation of the ship from the owner and has agreed with the takeover of that responsibility to fulfil the duties and obligations imposed on operators in accordance with the Maritime Labour Convention of 23 February 2006,⁴⁰ regardless of whether any other organisation or persons fulfil certain of the duties or responsibilities on behalf of the operator.⁴¹

² The operator must equip, man and provision the vessel. He shall appoint and dismiss the master. Subject to his statutory powers and obligations, the operator shall be free to determine the duties of the master.

⁴⁰ SR 0.822.81

⁴¹ Wording according to Art. 2 of FedD of 1 Oct. 2010 on accession to the Maritime Labour Convention, 2006, in effect since 20 Aug. 2013 (AS 2013 2507; BBl 2009 8979).

Art. 48

Liability of the operator

¹ The operator shall be liable for any loss or damage caused to a third party by a crew member, a pilot or any other person working on board the seagoing vessel and exercising his duties, unless he demonstrates that such persons were not at fault. He shall however be liable to persons who claim contractual damages for the same reasons only to the extent of such claims.⁴³

² The operator may have recourse against the person responsible for damage to the extent that such person is himself liable in damages. In the event that the operator is the charterer of the vessel, he shall have a right of recourse against the owner of the vessel only for concealed structural defects or inadequate maintenance of the vessel prior to the chartering.

³ The operator of a tanker shall be liable for any loss or damage due to pollution in accordance with articles 1 to 11 of the International Convention of 29 November 1969⁴⁴ on civil liability for damage caused by hydrocarbons and with the related protocols of 19 November 1976⁴⁵ and 27 November 1992⁴⁶, as soon as the same have come into force.⁴⁷

Section Two: The Master**Art. 52**

Nautical operation of the vessel

¹ The master alone shall be responsible for operation of the seagoing vessel.

² The master shall operate the seagoing vessel in accordance with the recognised rules of navigation and in compliance with the international conventions and generally recognised navigation practices as well as the regulations of countries whose territorial waters the vessel enters.

³ The master must ensure that the vessel is in a seaworthy condition and that it is properly equipped, manned and provisioned for the entire duration of the voyage.

Art. 54

Discipline on board and hiring of the crew

¹ All persons on board shall be subject to the power of command of the master, the substance and extent of which shall accord with the

⁴³ Wording in accordance with Federal Law of 14 December 1965 (Section I) in effect since 1 January 1967.

⁴⁴ SR 0.814.291

⁴⁵ SR 0.814.291.1

⁴⁶ SR 0.814.291.2

⁴⁷ Added through Federal Law of 20 March 1987 (Section 1). Wording in accordance with Federal Law of 22 March 1996 (Section 1) in effect since 1 November 1997.

rules and practices generally recognised in maritime law. The master shall be responsible for order on board and shall exercise disciplinary powers.

² The master shall be responsible for hiring the crew unless the operator reserves this duty for himself. In the event however that the number of deck or engine room crew falls below the minimum requirement for safe manning, the master shall be obliged to engage the necessary replacements as soon as possible.

Art. 57

Competence in criminal matters

¹ In the event of a criminal act being committed on board, the master shall have the powers of an examining magistrate and shall carry out the preliminary investigation until the competent authority intervenes.⁵⁹

² To this end, he carries out the investigatory measures that cannot be delayed, gathers evidence, identifies and interviews the victims and suspects, and if necessary holds suspected persons under arrest. Article 306 of the Swiss Criminal Procedure Code of 5 October 2007⁶⁰ is applicable mutatis mutandis.⁶¹

³ The master shall draw up a report on his investigations and the results thereof. He shall retain his report, the records of interviews with any witnesses, and any items of evidence, and shall make the same available to the competent authority. He shall also notify the Office of the Public Prosecutor of the Canton of Basel Stadt and the nearest Swiss consulate of such evidence and documents.

⁴ The Federal Council may enact special procedural provisions.

Part Four: the Crew**Section One: General Provisions****Art. 60**

Composition

¹ Members of the crew are the master and the seafarers serving on board and entered as such in the ship's articles (muster roll).⁶³

² Ship's officers are seafarers who have a corresponding certificate of qualification and have been employed in such capacity.

⁵⁹ Wording according to Appendix 1 Clause II 24 of the Swiss Criminal Procedure Code of 5 October 2007, in effect since 1 Jan. 2011 (AS 2010 1881; BBl 2006 1085).

⁶⁰ SR 312.0

⁶¹ Wording according to Appendix 1 Clause II 24 of the Swiss Criminal Procedure Code of 5 October 2007, in effect since 1 Jan. 2011 (AS 2010 1881; BBl 2006 1085).

⁶³ Wording in accordance with Federal Law of 18 December 1992 (Section 1), in effect since 1 June 1993.

³ If it is necessary in order to protect Swiss interests, the Swiss Maritime Navigation Office may, at any time and without indication of grounds, order the dismissal of a crew member. The Confederation shall reimburse any losses incurred by the dismissed member or the operator unless the dismissal is due to fault on the part of the operator or the seafarer.

Art. 63⁶⁶

Labour and social insurance legislation

¹ On board Swiss vessels, the Swiss legislation on labour and social insurance shall apply to each crew member unless exceptions or derogations are provided for by law, international agreements or by the Federal Council.

² The Federal Council, with due consideration to international conventions and the navigation practices and after hearing the groups concerned, shall enact provisions relating to:

- a. Minimum requirements for seafarers to work on ships;
- b. Employment conditions;
- c. Accommodation, recreational facilities, board and service;
- d. Health protection, medical care, welfare and social security protection;
- e. Compliance with and enforcement of the Maritime Labour Convention of 23 February 2006^{67, 68}

Art. 66⁶⁹

Swiss seafarers book

¹ Every Swiss crew member of a Swiss seagoing vessel will receive a seafarer's book issued in his name by the Swiss Maritime Navigation Office. This book may also be given to a Swiss crew member on board a foreign seagoing vessel. A seafarer's book or a similar document may also be given to a Swiss citizen who needs it specifically in order to perform other activities at sea.

² At the time of signing off, the master shall enter in the seafarer's book the nature and duration of the work performed on board.

Art. 67

Serving on board

¹ Serving on board a Swiss seagoing vessel shall not result in any change in domicile.

⁶⁶ Wording in accordance with Federal Law of 20 March 1987 (Section I), in effect since February 1989.

⁶⁷ SR 0.822.81

⁶⁸ Wording according to Art. 2 of FedD of 1 Oct. 2010 on accession to the Maritime Labour Convention, 2006, in effect since 20 Aug. 2013 (AS 2013 2507; BBl 2009 8979).

⁶⁹ Wording in accordance with Federal Law of 20 March 1987 (Section I), in effect since February 1989.

² The Swiss Maritime Navigation Office may issue shipboard regulations for service on board Swiss seagoing vessels in order to regulate the medical examination, personal hygiene and customary care on board as well as the conduct of disciplinary measures. The shipboard regulations shall require the approval of the Federal Council.

³ Every crew member of a Swiss seagoing vessel shall receive a copy of the Swiss regulations for seafarers when he is signed on. The Swiss regulations for seafarers shall be drawn up by the Swiss Maritime Navigation Office and shall contain the main provisions applicable to seafarers.

Section Two: Contract of employment

Art. 68

Application of Swiss law

¹ The provisions governing the contract of employment shall apply to all seafarers serving on board Swiss seagoing vessels irrespective of their nationality

² The Swiss Code of Obligations⁷⁰ shall apply to the contracts of employment of seafarers for Swiss seagoing vessels unless the provisions hereof stipulate otherwise. The following articles of the Code of Obligations, however, shall not apply: article 333a on consulting the employee's representatives in the event of business transfer, article 335d to 335g on mass dismissals and article 336 paragraph 3.⁷¹

Art. 69

Signing of a contract

¹ The contract of employment may be drawn up for a specific period of time, for one or more voyages, or for an indefinite period. If a contract of employment that has been drawn up for a specific period of time or for several voyages lasts longer than one (1) year, the contract shall be deemed to have been drawn up for an indefinite period of time.

² The contract of employment shall be required to be made in writing in order to be valid. Each party shall be entitled to receive a copy of the contract. The copy intended for the seafarer shall be handed over to him at the latest upon his being employed.

³ The effects of a contract of employment shall commence at the latest on the embarkation of the seafarer.

⁷⁰ SR 220

⁷¹ Second sentence added in the Federal Law of 17 December 1993 (Section II), in effect since 1 May 1994.

Content of the contract of employment	<p>Art. 70</p> <p>The contract of employment shall clearly and unambiguously set forth the rights and obligations of both parties and in particular shall record:</p> <ol style="list-style-type: none"> a. the last name, first names, date of birth, place of birth and nationality of the seafarer, and for Swiss citizens, the place of origin; b. the place and date of the hiring and of the commencement of service; c. the name of the vessel or vessels on which the seafarer is to serve; d. the voyage or voyages which are to be carried out insofar as they can already be determined at the time of the signing on; e. the service for which the seafarer is employed; f. a reference to the legislation covering working hours, holidays as well as health and occupational accidents insurance; g. the amount of the pay and the currency in which it is to be paid t; h. the remuneration for allowable overtime; i. the termination of the contract and particularly the periods of notice; j.⁷² the seafarer's entitlement to repatriation; k.⁷³ der Heimschaffungsanspruch der Seeleute; l.⁷⁴ reference to the collective bargaining agreement, if applicable.
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Duty of the crew	<p>Art. 71</p> <p>¹ Every crew member shall carry out the work taken on with due care. He shall be liable for any damage that he causes intentionally or through negligence.</p> <p>² The seafarer shall show his master and other superiors respect and obedience. He shall follow the orders given and conform to the accepted practices.</p> <p>³ In the event of danger at sea, the seafarer shall give all the assistance required of him to save people, ship or cargo.</p>
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⁷² Added through Art. 2 of FedD of 1 Oct. 2010 on accession to the Maritime Labour Convention, 2006, in effect since 20 Aug. 2013 (AS 2013 2507; BBl 2009 8979).

⁷³ Added through Art. 2 of FedD of 1 Oct. 2010 on accession to the Maritime Labour Convention, 2006, in effect since 20 Aug. 2013 (AS 2013 2507; BBl 2009 8979).

⁷⁴ added through art. 2 of fedd of 1 oct. 2010 on accession to the maritime labour convention, 2006, in effect since 20 aug. 2013 (as 2013 2507; bbl 2009 8979).

Exceptional work	<p>Art. 72</p> <p>¹ The master may order the seafarer to carry out work other than that stipulated in the contract of employment if special circumstances require this in the interests of uninterrupted navigation. In such case the pay may not be reduced.</p> <p>² If the seafarer is required to carry out work that is more demanding than that for which he was employed, he shall be entitled to a corresponding increase in his pay for the duration of such work.</p> <p>³ Ship's officers may not be constrained to do any work that, according to accepted practice, is incompatible with their position.</p>
Indemnification and employment	<p>Art. 73</p> <p>¹ The seafarer shall be entitled to the wage stipulated and to overtime pay, where applicable, as well as to board and lodging on board ship.</p> <p>² For every hour of overtime work, the seafarer shall be entitled to remuneration that is 25% higher than his hourly wage calculated on the basis of the stipulated wage.⁷⁵</p> <p>³ The Federal Council shall determine by ordinance in what cases a fixed non-recurring payment for overtime work may be stipulated in a contract of employment.⁷⁶</p>
Termination and suspension of entitlement to a wage	<p>Art. 74</p> <p>¹ The entitlement to the wage shall begin at the latest on the day of signing on.</p> <p>² The wage is to be paid out at the end of each month and at the latest on the day of signing off, any advance payments being deducted.</p> <p>³ For the period of time during which the seafarer is unable to fulfil his duties because he is in detention or because of self-inflicted unfitness for work, he shall not be entitled to a wage.</p> <p>⁴ If the seafarer is unable to work because of illness or accident, the payment of the wage shall be suspended for the period of time during which the seafarer receives a sickness allowance.</p>
Special remuneration	<p>Art. 75</p> <p>¹ If during a voyage the number of crew members should for any reason drop below the prescribed or usual number, any seafarers who have to carry out additional work shall be entitled to share the pay saved thereby in proportion to the additional work performed by each</p>
	<p>⁷⁵ Wording in accordance with the Federal Law of 14 December 1965 (Section I), in effect since 1 January 1967.</p> <p>⁷⁶ Wording in accordance with the Federal Law of 14 December 1965 (Section I), in effect since 1 January 1967.</p>

of them, unless the said additional work has been already remunerated as overtime.⁷⁷

² Remuneration for assistance and salvage shall accrue, after deduction of the extra operating costs and damages, on a fifty-fifty basis to the operator and the crew. The share devolving upon the crew shall, as a rule, be distributed in proportion to the share of the total wages. However, the specific performance of the individual members of the crew shall be taken into account.

Art. 76

Payment to seamen

¹ The master shall keep the pay book in which every payment made to a seafarer shall be entered, indicating the currency and the rate of exchange.

² The seafarer shall acknowledge receipt of each payment by signing the corresponding entry in the pay book. In addition, a written statement shall also be given to the seafarer.

³ No payments may be made to seafarers in bars or taverns.

Art. 76a⁷⁸

Transfer of employment contract

¹ In the event that the employer transfers the business to a third party and arranges with him for the taking over of the contract, the said contract of employment shall be transferred with all the rights and obligations to the acquirer on the day of the business transfer, unless the employee refuses such transfer.

² In the event that transfer is refused, the contract of employment shall terminate according to the statutory period of notice. The acquirer of the business and the employee shall have a duty to adhere to the contract until the end of the said period of notice.

³ The previous employer and the acquirer of the business shall be jointly and severally liable for those claims on the part of the employee which became due before the transfer or which subsequently become due up to the statutory end of the contract or, in the event of a refusal of the transfer, up to termination thereof by the employee.

⁴ Furthermore, the employer shall not be entitled to transfer to a third party any rights arising out of the contract of employment unless it is so arranged or results from the circumstances.

⁷⁷ Wording in accordance with the Federal Law of 14 December 1965 (Section I), in effect since 1 January 1967.

⁷⁸ Added by virtue of the Federal Law of 17 December 1993 (Section II), in effect since 1 May 1994.

Art. 77

Termination of a contract of employment

¹ In the event that a contract of employment that has been entered into for a specified period of time expires during a voyage, the contract shall be extended until the arrival of the vessel in the next port.

² A contract of employment which has been entered into for an indefinite period of time may be cancelled by either party at any time by giving seven (7) days' written notice. If the period of notice comes to an end during a voyage, the contract shall be extended until the arrival of the vessel in the next port. Longer periods of notice may be stipulated in the contract of employment. The periods of notice shall be the same for both parties.⁷⁹

³ Each party may at any time terminate the contract of employment immediately for good cause. In addition to the examples of good cause cited in employment contract law, the following cases in particular shall be deemed to constitute good cause: breach of the health and labour regulations by the operator or master, misuse of the power of command or of disciplinary authority, felonies, misdemeanours and contraventions committed at sea, serious breaches of discipline, and if the seafarer has to be taken ashore owing to illness or accident, or if the statutory requirements stipulated for employment are no longer fulfilled.

Art. 78

Exceptional extension of contract

¹ If in a port of signing off the Swiss consulate or, in the absence of a consulate, the competent local authority finds that it is impossible to engage a suitable replacement, the departing seafarer shall remain in the ship's service for a maximum of an additional three (3) months, his contractual wage thereby increasing by 25%.

² In the event that a contract of employment terminates in a port in which the seafarer is unable to disembark on account of orders or sanctions imposed by the local authorities, the contract of employment shall be extended by law under the existing conditions until arrival at the next port in which the seafarer may be signed off. The foregoing extension may not exceed two (2) months.

³ If the seafarer is unable to disembark before the end of such period of time, the Swiss Maritime Navigation Office shall take over the case.

Art. 79

Payment to dependants

¹ In the event that a Swiss seagoing vessel, having been deemed to be lost, is deleted from the Register, the contracts of employment of the

⁷⁹ Wording according to Art. 2 of FedD of 1 Oct. 2010 on accession to the Maritime Labour Convention, 2006, in effect since 20 Aug. 2013 (AS 2013 2507; BBl 2009 8979).

seafarers shall terminate upon expiry of one month from the time that the vessel was last heard from. After the deletion of the seagoing vessel, the operator shall pay the wages owing up to that time to the Swiss Maritime Navigation Office.

² If a crew member has died, is reported missing, or has disappeared under circumstances that give rise to a presumption of death, the operator shall remit the outstanding pay to the Swiss Maritime Navigation Office.

³ The Swiss Maritime Navigation Office shall hold the amounts received and make them available to the persons entitled thereto.

Art. 80

Certificate

¹ Every crew member may ask the master to issue a certificate stating only the nature and duration of the service performed on board.

² For Swiss citizens this certificate shall be entered in the seafarer's book at the time of signing off.

³ Furthermore, on special request, the seafarer shall be issued with a certificate showing the quality of his work and his behaviour.

Section Three: Social Security

Art. 82

Repatriation right

¹ The seafarer who is put ashore shall be entitled to repatriation at the expense of the operator to the place where he was hired, unless he himself has terminated the employment contract without justifiable cause or the contract has been terminated for reasons attributable to him.⁸⁰

² The expenses to be borne by the operator include all necessary costs for transport and board and lodging of the seafarer during the voyage and for his maintenance until the time stipulated for the homeward voyage. If the seafarer fails to take up the first voyage offered to him, he shall himself bear any additional expenses resulting therefrom.

³ In the event that the operator refuses to provide repatriation although the seafarer appears entitled thereto, the nearest Swiss consul shall deal with the matter. The Confederation may have recourse against the operator and, if the claim to repatriation is found to be unjustified, against the seafarer.

⁸⁰ Wording according to Art. 2 of FedD of 1 Oct. 2010 on accession to the Maritime Labour Convention, 2006, in effect since 20 Aug. 2013 (AS 2013 2507; BBl 2009 8979).

Art. 83

Conditions of repatriation

¹ In the case of an existing right to repatriation, the parties may agree on indemnification corresponding to the cost of repatriation.

² The operator may also fulfil his duty to provide repatriation for the seafarer by offering him a reasonable position on another seagoing vessel calling at such seafarer's port of destination or, if the seafarer has to return inland, to the port from where he has to start the return trip to the country in accordance with the operator's instructions.

Art. 84

Health and accident insurance

¹ Navigation operations shall be excluded from compulsory state accident insurance, except for operational units located in Switzerland.

² The operator of a Swiss seagoing vessel shall insure the crew against illness and accidents at work.

³ After inviting the groups concerned to express their opinion, the Federal Council shall fix the minimum benefits and the provisions that the insurance contract must contain in order to comply with the operator's insurance obligation.

Art. 85

Liability and insurance

¹ In the event that insurance cover is provided in terms hereof, the operator shall be freed from his liability for simple negligence in respect of illness and accidents at work.

² If insurance cover is not provided for hereunder, the operator shall be liable, even if he is not responsible, to the person suffering the accident or illness or to his dependants, at least to the extent of the insurance benefits that would have been paid if insurance cover had been provided. These claims shall be accorded the same status as claims for pay.

Art. 86

Unemployment after a shipwreck

¹ In the event that a seagoing vessel has been reported missing as a result of shipwreck, the surviving crew members shall, without prejudice to their right to repatriation, be entitled to unemployment benefit.

² The benefit shall be paid, for a maximum duration of two (2) months, for each day of actual unemployment at a rate corresponding to agreed wage.

³ The unemployment benefits shall be accorded the same status as the entitlement to a wage.

Part Eight: Penal and Disciplinary Provisions¹³⁴

Section One: Criminal Offences against the Safety of the Ship and of Navigation

Art. 128

Endangering the ship

¹ Whoever intentionally damages, destroys, renders unusable or misappropriates a Swiss vessel, its parts or accessories, fuel or foodstuffs reserves on board, whoever intentionally impedes or interferes with the management of the vessel or with the order and operations on board, and thereby wilfully endangers the vessel or the persons on board, shall be liable to a term of penal servitude not exceeding ten years or to a term of imprisonment.

² In the event that the offence has resulted in the loss of the ship or the death of a person and if the offender could have foreseen this, the penalty shall be penal servitude.

³ In the event that the offender has acted negligently, the penalty shall be imprisonment or a fine.

Art. 129

Endangering the navigation

¹ The master or a seafarer of a Swiss vessel who intentionally disregards the provisions of law or the recognised rules of navigation or the regulations of the maritime police in Switzerland or abroad and thereby wilfully endangers a vessel or persons on board, shall be liable to a term of imprisonment.

² In the event that the act has resulted in the loss of a vessel or in the death of persons, and if the offender could have foreseen this, he shall be liable to a term of penal servitude not exceeding ten years or to a term of imprisonment.

³ In the event that the offender has acted negligently, the punishment shall be imprisonment or a fine.

Art. 129a¹³⁵

Pollution of the seas

¹ Whoever violates international conventions, this law or its implementing ordinances by discharging from a Swiss seagoing vessel into the sea any solid, liquid, gaseous or radioactive substances and thereby polluting the waters or the sea bed or the subsoil thereof shall be liable to a term of imprisonment or to a fine.

¹³⁴ Wording according to Art. 2 of FedD of 1 Oct. 2010 on accession to the Maritime Labour Convention, 2006, in effect since 20 Aug. 2013 (AS 2013 2507; BBl 2009 8979).

¹³⁵ Added by Federal Law of 20 March 1987 (Section I) in effect since 1 February 1989.

² In the event that the offender has acted negligently, he shall be liable to a term of imprisonment not exceeding six months or to a fine not exceeding 20,000 Swiss francs.

³ In minor cases, the offender shall be liable to a disciplinary penalty.

Art. 130

Violation of the navigation rules

The master or a seafarer of a Swiss vessel who violates the provisions of law or the recognised rules of navigation or the regulations of the maritime police in Switzerland or abroad shall, provided the offence is not punishable in terms of another provision, be liable to a fine not exceeding 5,000 Swiss francs.

Art. 131

Departure with a non-seaworthy vessel

¹ A master who intentionally or through negligence goes to sea with a Swiss vessel that is not seaworthy, in that it is insufficiently manned, equipped or provisioned, and thereby endangers the vessel or persons on board shall be liable to a term of imprisonment or to a fine.

² In the event that the offence has resulted in the loss of the ship or the death of persons and if the offender could have foreseen this, the penalty shall be penal servitude not exceeding five years or imprisonment.

Art. 132

Contravention of provisions as to seaworthiness

A master who puts to sea with a Swiss vessel that is not seaworthy, in that it is insufficiently manned, equipped or provisioned, or the operator who sends out such a vessel shall, provided the offence is not punishable in terms of another provision, be liable to a fine not exceeding 5,000 Swiss francs.

Art. 133

Failure to give assistance

¹ The master of a Swiss vessel shall be liable to a term of imprisonment in the event that he fails to give assistance to another vessel in distress or persons in danger even though he is able to do so without seriously endangering his vessel, the crew or the passengers.

² In the event that the offender has acted negligently, the penalty shall be a fine.

Section Two: Criminal Offences against Order and Discipline on Board

Art. 134

Deserting a ship
in distress

¹ A master who is not the last to leave a Swiss ship in a case of danger shall be liable to a term of imprisonment or to a fine.

² A seafarer who leaves a Swiss ship in a case of danger without the permission of the master shall be liable to a term of imprisonment not exceeding one year or to a fine.

Art. 136

Misuse and
usurpation of the
power of
command and
disciplinary
authority

¹ The master or an officer of a Swiss vessel who misuses his power of command by giving a subordinate commands which bear no relationship to his service on board, the master who exceeds or misuses his disciplinary authority, or anyone who, without the power of command or punishment, usurps such power on board a Swiss vessel, shall be liable to a term of imprisonment.

² In minor cases, the offender shall be liable to a fine.

Art. 137¹³⁶

Desertion

¹ The master or the seafarer of a Swiss vessel who, in violation of the contract of employment, does not board the vessel or leaves the vessel after signing on, shall, provided that the departure of the vessel is considerably delayed thereby or considerable expense is incurred in order to avoid the delay, be liable to a term of imprisonment not exceeding six months or to a fine not exceeding 5,000 Swiss francs.

² In the event that several persons act in accordance with a common plan, the penalty shall be a term of imprisonment or a fine. The instigators shall be liable to a more severe penalty.

³ In minor cases, a disciplinary penalty shall be imposed.

Art. 138

Leaving the post

¹ In the event that a seafarer of a Swiss vessel leaves his post during period of duty that is essential to the safety of the ship or to navigation, or if he falls asleep while on such duty, he shall be liable to a term of imprisonment not exceeding six months or to a fine not exceeding 2,000 Swiss francs.

² In minor cases, a disciplinary penalty shall be imposed.

Art. 139

Drunkenness

¹ The master of a Swiss vessel who due to the deliberate consumption of alcohol or drugs is in a condition that wholly or substantially precludes him from commanding the vessel shall be liable to a term of imprisonment not exceeding one year or to a fine not exceeding 5,000 Swiss francs

² A seafarer who, during a period of duty that is essential to the safety of the vessel or to navigation, is in a state of deliberately induced intoxication through alcohol or drugs shall be liable to a term of imprisonment not exceeding six months or to a fine not exceeding 2,000 Swiss francs. In minor cases, a disciplinary penalty shall be imposed.

Art. 140

Disobedience

¹ A seafarer of a Swiss vessel who does not obey the orders of a superior with regard to the navigation or technical operation of the vessel or with regard to the service of a disciplinary penalty shall be liable to a term of imprisonment not exceeding three months or to a fine not exceeding 1,000 Swiss francs.

² In minor cases, a disciplinary penalty shall be imposed.

³ In the event that the order is to save a ship or persons in distress at sea, the penalty shall be a term of imprisonment not exceeding one year or a fine not exceeding 5,000 Swiss francs.

⁴ A simple assault or act of aggression perpetrated by a seafarer against a superior shall be automatically prosecuted.¹³⁷

Art. 141

Prohibited
objects or
substances

¹ Whoever brings, keeps or conceals anything on board a Swiss vessel without the permission of the operator or the master, and in particular dangerous or prohibited objects or substances, whoever, without permission of the operator or master brings or conceals persons on board a Swiss vessel,

shall be liable to a term of imprisonment or to a fine.

² In minor cases, a disciplinary penalty shall be imposed.

Art. 142

Acts detrimental
to the operator or
to the master¹³⁸

¹ Whoever without the knowledge of the operator or the master of a Swiss vessel smuggles goods or commits any other unlawful acts that expose the operator or master to the risk of being punished or of

¹³⁶ Wording in accordance with Federal Law of 14 December 1965 (Section I), in effect since 1 January 1967.

¹³⁷ Added by Federal Law of 14 December 1965 (Section I), in effect since 1 January 1967.

¹³⁸ Wording according to Federal Law of 17 December 1976, in effect since 1 August 1976.

incurring a loss due to the confiscation of the ship or its cargo, to the delay of the voyage and the like, shall be liable to a term of imprisonment not exceeding one year or to a fine.

² In minor cases, a disciplinary penalty shall be imposed.

³ The master of a Swiss vessel who commits such an act without the knowledge of the operator shall be liable to a term of imprisonment or to a fine.

Section Three: Criminal Offences against the Rules of Order in Swiss Navigation

Art. 150

Violation of provisions as to nationality and labour law

The master or the operator of a Swiss vessel who fails to comply with the provisions established in the present law or in the related ordinances and implementing regulations with regard to the nationality of the crew, working hours, the minimum age for hiring, medical examinations, qualifications for employment on board, signing on and signing off procedures as well as the catering and accommodation on board, the master who fails to comply with the provisions relating to the enforcement of disciplinary penalties, shall be liable to a fine.

Art. 150a¹⁴³

Violation of provisions as to nationality and labour law

The master or the operator of a Swiss vessel who acts contrary to the provisions of the Maritime Labour Convention of 23 February 2006¹⁴⁴ is liable to a fine.

Part Five: Disciplinary Penalties

Art. 155

Breach of discipline

¹ A breach of discipline is committed by anyone who violates his employment obligations or offends against good order on board where the act is not punishable as a crime, misdemeanour or contravention.

² The following acts shall be regarded as a breach of discipline:

- a. disobeying the command of a superior while on duty;

¹⁴³ Added through Art. 2 of FedD of 1 Oct. 2010 on accession to the Maritime Labour Convention, 2006, in effect since 20 Aug. 2013 (AS 2013 2507; BBl 2009 8979).

¹⁴⁴ SR 0.822.81

- b. failure to comply with the provisions of the shipboard regulations;
- c. disruption of the order and operations on board;
- d. the negligent or careless performance of a duty;
- e. non-appearance for work or absence from service;
- f. unpermitted absence from the vessel;
- g. drunkenness when on duty; drunkenness when off duty if this constitutes a public nuisance;
- h. unseemly or offensive conduct towards superiors or other persons on board.

³ Only a person who has acted culpably shall be liable to punishment. The nature and the extent of the penalty shall be determined in accordance with the degree of guilt. In this connection the motives, the character of the offender and his normal conduct on board as well as the severity of the breach of order and safety on board shall be taken into account.

Art. 156

Legal scope of penalties

¹ All persons on board a Swiss vessel shall be subject to the disciplinary provisions of this law.

² Only the following shall be permitted as disciplinary penalties:

- a. For seafarers:
 - a reprimand,
 - withdrawal of shore leave for one to five days,
 - a fine of between 10 and 250 Swiss francs,¹⁴⁶
 - detention for one to three days;
- b.¹⁴⁷ For passengers or other persons on board:
 - a reprimand,
 - a fine of between 50 and 500 Swiss francs.

³ Different disciplinary penalties may not be combined.

Art. 157

Jurisdiction

¹ Jurisdiction over disciplinary matters shall be vested in the master or his deputy; they may impose any disciplinary punishments provided for by the present law.

² In criminal proceedings in respect of a misdemeanour for which a disciplinary penalty is imposed in minor cases, if the case is accepted

¹⁴⁶ Wording in accordance with Federal Law of 20 March 1987 (Section I), in effect since 1 February 1989.

¹⁴⁷ Wording in accordance with Federal Law of 20 March 1987 (Section I), in effect since 1 February 1989.

as being minor, or if the offence is otherwise regarded as a mere breach of discipline, the court may impose any disciplinary penalty while at the same time acquitting the accused. Should the investigating authority drop proceedings for the same reason, it shall refer the matter to the presiding judge of the court who would be competent to hear the penal matter. The latter may impose any disciplinary penalty requested.¹⁴⁸

³ In the event that the defendant is no longer employed on a Swiss vessel, a conventional sentence of detention for the same period of time may be imposed as an alternative to detention on board.¹⁴⁹

Art. 158

Enforcement of penalties

¹ A reprimand shall be given verbally or in writing. Reprimands to passengers may in some cases be given publicly.

² The withdrawal of shore leave shall be enforced on arrival at the next port. The defendant must remain on board even during his leisure time.

³ Detention shall be served by officers in their cabins, and by other seafarers in a special room on board the ship. Detention penalties shall be served immediately, provided service on board so permits. The person in detention shall not be required to perform any duties. The room used as place for detention must be dry, adequately lit and ventilated, and must fulfil the same sanitary requirements as a cabin.

⁴ ...¹⁵⁰

⁵ Fines shall be paid to the Swiss Maritime Navigation Office and used by the latter for the welfare of seafarers and their families. The Swiss Maritime Navigation Office may also use the funds for measures such as the promotion of navigation under the Swiss flag, or for rewarding the special performances of seafarers. The Federal Department of Foreign Affairs shall issue regulations on the use of such funds.¹⁵¹

Art. 159

Statute of Limitations

¹ The prosecution of a breach of discipline and the enforcement of any disciplinary penalty imposed shall be barred by statute of limitations after three months.

² The period of limitation shall not be interrupted. If, however, the act results in criminal proceedings, the period of limitation shall com-

¹⁴⁸ Wording in accordance with Federal Law of 20 March 1987 (Section I), in effect since 1 February 1989.

¹⁴⁹ Added through Federal Law of 20 March 1987 (Section I), in effect since 1 February 1989.

¹⁵⁰ Repealed by Federal Law of 20 March 1987 (Section I).

¹⁵¹ Wording in accordance with Federal Law of 18 December 1992 (Section I), in effect since 1 June 1993.

mence only on arrival at the next port and shall be suspended for the duration of such proceedings.¹⁵²

Art. 160

Procedure

¹ The accused shall in all cases be given the opportunity to express himself verbally or in writing with regard to his conduct and motives. If requested, his statement shall be recorded.

² Every disciplinary penalty order shall be communicated verbally or in writing to the accused, indicating the breach of discipline committed, and shall be recorded in the logbook. The defendant and the master shall certify in the logbook that such notice has been given. If the defendant refuses to certify this, another officer shall be called in to testify in writing to the order and its communication.

Art. 161¹⁵³

Enforcement and right of appeal

¹ The disciplinary punishment ordered by the master shall become enforceable on its communication. Within ten days after arrival at the next port the party concerned may appeal in writing:

- a. against a detention penalty to the presiding judge of the court mentioned in article 157 paragraph 2, second sentence;
- b. against any other disciplinary penalty to the Swiss Maritime Navigation Office.¹⁵⁴

² The appeal shall not suspend the enforcement of the penalty.¹⁵⁵

³ The Administrative Procedure Act shall apply mutatis mutandis to the appeal procedure.¹⁵⁶⁻¹⁵⁷

⁴ ...¹⁵⁸

¹⁵² Wording in accordance with Federal Law of 14 December 1965 (Section I), in effect since 1 January 1967.

¹⁵³ Wording in accordance with Federal Law of 14 December 1965 (Section I), in effect since 1 January 1967.

¹⁵⁴ Wording in accordance with Federal Law of 20 March 1987 (Section I), in effect since 1 February 1989.

¹⁵⁵ Wording in accordance with Federal Law of 20 March 1987 (Section I), in effect since 1 February 1989.

¹⁵⁶ Wording in accordance with Federal Law of 20 March 1987 (Section I), in effect since 1 February 1989.

¹⁵⁷ Wording in accordance with Federal Law of 20 March 1987 (Section I), in effect since 1 February 1989.

¹⁵⁸ Added through article 1 of the Federal Act of 17 December 1976 (AS 1977 1323; BBl 1976 II 1181). Repealed by Appendix 81 of the Federal Administrative Court Act of 17 June 2005, in effect since 1 Jan. 2007 (AS 2006 2197 1069; BBl 2001 4202).

**Abstract of the Ordinance implementing the
Federal Act on Navigation under the Swiss Flag¹
(Navigation Ordinance)**

of 20 November 1956 (Stand am 20. August 2013)

The Swiss Federal Council,

on the basis of articles 5, 11, 12, 20, 21, 23, 24, 26, 30, 33, 47, 50, 62, 63, 84, 122 and 124 of the Federal Act of 23 September 1953² on Navigation under the Swiss flag (the Navigation Act) and of article 66 of the Federal Act of 28 September 1923³, on the Swiss Ship Register⁴

decrees:

Section Two: Swiss Seagoing Vessels²⁴

III. Equipment of Seagoing Vessels and Safety Provisions²⁵

1. Application of International Conventions

Art. 9²⁶

¹ The latest version of the following international conventions shall apply to Swiss seagoing vessels, their equipment and safety, to the protection of human life at sea and of the waters of the sea as well as the training of seafarers:

- a. International Load Line Convention of 5 April 1966²⁷;
- b. International Convention of 1 November 1974²⁸ for the Safety of Life at Sea, with the protocol of 17 February 1978²⁹;
- c. Convention of 20 October 1972³⁰ on International Regulations for Preventing Collisions at Sea;

AS 1956 1305

¹ Wording in accordance with Ordinance of 29 June 1977 (Item 1), in effect since 1 August 1977.

² SR (Classified Compilation of the Federal Law) 747.30

³ SR 747.11

⁴ Wording in accordance with Ordinance of 5 May 1993 (Item I), in effect since 1 June 1993.

²⁴ Added through Ordinance of 5 May 1993 (Item 1), in effect since 1 June 1993.

²⁵ Wording in accordance with Ordinance of 5 May, 1993 (Item 1), in effect since 1 June 1993.

²⁶ Wording in accordance with BRB (=Federal Council Decision) of 4 November 1966, (Item I), in effect since 1 January 1967.

²⁷ SR 0.747.305.411

²⁸ SR 0.747.363.33

²⁹ SR 0.747.363.331

³⁰ SR 0.747.363.321

- d. Radio Regulations annexed to the International Communication Treaty of November 1982³¹;
- e. International Convention of 2 November 1973 on the Prevention of Pollution from Ships, in the version of the protocol of 17 February 1978³²;
- f. International Convention of 7 July 1978³³ on the Standards for Training, Certification and Watchkeeping for Seafarers;
- g.³⁴ International Convention of 30 November 1990³⁵ on Oil Pollution preparedness, response and cooperation,
- h.³⁶ Maritime Labour Convention of 23 February 2006³⁷ on the labour conditions on seagoing ships.³⁸

² The provisions of the international conventions mentioned in the first paragraph shall also apply to Swiss seagoing vessels of less than 500 gross register tons. However, the Swiss Maritime Navigation Office may, in individual cases, reduce the requirements for such vessels provided that the necessary safety and the desired protection are guaranteed.

³ No radioactive waste may be deposited in the water from Swiss seagoing vessels.

⁴ The provisions of the OFCOM³⁹ for the installation and operation of radiotelegraphy and radiotelephony systems on board seagoing vessels in accordance with the International Convention for the Safety of Life at Sea of 1 November 1974 with the protocol of 17 February 1978⁴⁰ are excepted herefrom.

Section Four: Employment Law at Sea

I. Young Seafarers

Art. 16

¹ The master shall enter seafarers of under 18 years of age in the ship's rolls with special reference to their date of birth.

² Persons under 16 years of age may not be employed on board Swiss seagoing vessels.⁵²

³ ...⁵³

³¹ SR 0.784.16

³² SR 0.814.288.2

³³ SR 0.747.341.2

³⁴ Added through Ordinance of 9 December 1996 (Item 1), in effect since 1 February 1997.

³⁵ BBl (Federal Journal) 1995 IV 271

³⁶ Added through Ordinance of 20 February 2013 (Item 1), in effect since 20 August 2013.

³⁷ SR 0.822.81

³⁸ Wording in accordance with Ordinance of 22 December 1988 (Item 1), in effect since 1 February 1989 (AS 1989 220).

³⁹ Wording in accordance with Appendix 1 of Telecommunications Act of 21 June 1991, in effect since 1 May 1992 (AS 1992 581). This amendment is taken into account throughout the entire Act.

⁴⁰ Wording in accordance with Ordinance of 22 December 1988 (Item 1), in effect since 1 February 1989.

⁵² Added through Ordinance of 20 February 2013 (Item 1), in effect since 20 August 2013.

II. Medical Examination

1. Medical Certificate of Fitness

Art. 17

¹ No person may be employed to serve on board a Swiss seagoing vessel unless he can prove by means of a medical certificate that he is able for the intended service and that he is not suffering from any medical condition that could pose a risk to other people on board. The medical certificate must be issued by a physician who is licensed in the country of examination and designated by the operator.⁵⁴

² The provisions contained on the form for a medical certificate of fitness published by the Swiss Maritime Navigation Office shall determine the nature of the medical examination. The Maritime Navigation Office may in exceptional cases permit derogation from individual minimum requirements provided for on the medical certificate form provided the fulfilment of such requirements is not essential for the proper conduct of the seafarer's duties on board.⁵⁵

³ The first medical examination must be carried out prior to the initial signing-on on board a Swiss seagoing vessel.

2. Regular Examinations

Art. 18

¹ Every seafarer must undergo a medical examination at least every two years. For persons under 18 years of age, an examination must be carried out every year.⁵⁶

² ...⁵⁷

³ In addition, a further medical examination that is appropriate to the circumstances must be carried out if a seafarer has suffered a serious illness or a serious accident, or in the event that, due to his behaviour on board, there is reason to believe that his hearing, sight or ability to distinguish between colours has decreased.

3. Exceptions and Examinations at own Expense

Art. 19

¹ In urgent cases a Swiss consulate, or, if a consulate is not available, the competent local authority may authorise the signing-on of a seafarer without a prior medical

⁵³ Repealed through Ordinance of 22 December 1988, with effect from 1 February 1989.

⁵⁴ Wording in accordance with Ordinance of 20 February 2013 (Item 1), in effect since 20 August 2013.

⁵⁵ Wording in accordance with Ordinance of 29 June 1977 (Item 1), in effect since 1 August 1977.

⁵⁶ Wording in accordance with Ordinance of 22 December 1988 (Item 1), in effect since 1 February 1989.

⁵⁷ Repealed through Ordinance of 22 December 1988 (Item 1), with effect from 1 February 1989.

examination provided that such examination is then carried out in the next port entered by the seagoing vessel.

² If after examination the seafarer is refused the medical certificate of fitness, he may at his own expense request a further examination by one or more physicians designated by the Swiss Maritime Navigation Office.⁵⁸

III. Swiss Qualification Certificates

2. Minimum Age and Examination

Art. 21

¹ The minimum age for the master and the first chief engineer shall be 23 years, for the first deck officer and the first assistant engineer, 21 years, and for all other officers and engineers, as well as for the wireless operator, 20 years.⁶²

² The examination for each rank must be passed at a navigation school recognised by the Swiss Maritime Navigation Office, whereby the examination requirements of such schools shall be the determining factor. For wireless operators and assistant wireless operators, the examination will however be supervised by OFCOM.

³ Second and third assistant engineers shall not be required to pass an examination, but must prove:

- a. that they have undergone suitable vocational training onshore;
- b. that they have a recommendation from the operator with regard to their ability;
- c. that they have taken part in an approved practical course on fire fighting.⁶³

3. Minimum Term of Service

Art. 22

¹ The term of service on board a seagoing vessel that is required for the acquisition of a certificate of qualification shall be determined by the provisions of the country in which the examination is conducted. If a foreign examination for deck officers covers several grades, the term of service, however, shall be as a minimum as follows:

- for a certificate of qualification as a master: one year as a first deck officer, or two years as a second deck officer;
- for a certificate of qualification as a first deck officer: one year as an independent watch-holding third deck officer;

⁵⁸ Wording in accordance with Ordinance of 20 February 2013 (Item 1), in effect since 20 August 2013.

⁶² Wording in accordance with BRB of 4 November 1966 (Item 1), in effect since 1 January 1967.

⁶³ Wording in accordance with Ordinance of 22 December 1988 (Item 1), in effect since 1 February 1989.

- for a certificate of qualification as a second deck officer: four years of deck service, including one year as an able seafarer, or one and a half years of service as a candidate officer or a third deck officer;
- for a certificate of qualification as a third deck officer, two years and a half of service on deck, including one year as an able seafarer, or one year of deck service as candidate officer.⁶⁴

² For engine-room officers, the provisions of the country of training or country of examination shall determine the required form and term of service. A second assistant engineer, however, must have been engaged for at least one year as a third assistant engineer, who in turn must have been engaged for at least one year as an assistant machinist on board a seagoing vessel.

IV. Working Time on Board

1. Normal Working Time

a. Watch-standing seafarers on deck, engine room and wireless service

Art. 23

¹ The normal working time for watch-standing officers and ratings on deck, engine room and wireless service shall be eight hours per day at sea, which shall include days of entrance into and departure from port, including Sundays and public holidays. The following are the days considered to be public holidays at sea and in port: New Year, Good Friday, Easter Monday, Ascension Day, Whit Monday, Christmas Day and Boxing Day (26 December).⁶⁵

² Working days spent at sea on a Sunday or public holiday shall be compensated for by an equal number of days' leave in port, as determined by the master. If this is not possible due to lack of time or to other compelling reasons, indemnification equal to 1/30 of the stipulated monthly base hire, not including remuneration for board and lodging, shall be paid in lieu of every day of leave not granted.

³ In ports and on roadsteads, the normal working time for officers and ratings on deck, engine room and wireless service shall be eight hours per day from Monday to Friday, and five hours on Saturday.

⁴ Standby duty on Sundays and public holidays and standby duty at night time in port and on roadsteads shall be compensated for by a corresponding amount of leave or by payment of indemnification at a level set forth in the contract of employment.⁶⁶

⁵ In port and on roadsteads, watch duty on Sundays and public holidays shall be indemnified as overtime; nightwatch service shall also be deemed overtime if the work period per day in terms of paragraph 3 above is thereby exceeded.⁶⁷

⁶⁴ Wording in accordance with BRB of 4 November 1966 (Item 1), in effect since 1 January 1967.

⁶⁵ Wording in accordance with Ordinance of 22 December 1988 (Item 1), in effect since 1 February 1989.

⁶⁶ Wording in accordance with BRB of 4 November 1966 (Item 1), in effect since 1 January 1967.

⁶⁷ Inserted in accordance with BRB of 4 November 1966 (Item 1), in effect since 1 January 1967.

b. Non-watch-standing seafarers on deck and engine room service

Art. 24

¹ The normal working time for officers and ratings on deck and engine room service who do not stand watch shall be eight hours per day from Monday to Friday at sea and on days of entrance into and departure from port. Working time on Saturdays shall be six hours and on Sundays and public holidays, two hours.

² Sundays and public holidays spent at sea shall not result in any entitlement to compensation in the form of leave or remuneration.

³ In port and on roadsteads, the normal working time shall be eight hours per day from Monday to Friday and five hours on Saturdays.

⁴ For standby duty or watch duty in port and on roadsteads on Sundays and public holidays, as well as at night, the provisions of Article 23 paragraphs 4 and 5 shall apply.⁶⁸

c. General service seafarers

Art. 25

¹ The normal working time for general service shall be nine hours per day on work-days as well as on Sundays and public holidays, irrespective of whether the ship is at sea, in port or on a roadstead. On Sundays and statutory public holidays, however, as a rule, only the work required to serve and cater for the crew and any passengers shall be carried out.

² For work performed on Sundays, a general service seafarer shall be entitled to at least two days of leave each month. In addition, a seafarer shall be granted a day of leave for work done on any public holiday.⁶⁹

³ The days of leave shall be taken in a port as determined by the master. If this is not possible because of lack of time or any other compelling reason, then indemnification amounting to 1/30 of the stipulated monthly basic hire not including compensation for board and lodging shall be paid in lieu.

2. Division of Work on Board

a. At sea and on days of entry into and departure from port

Art. 26

¹ The duty of the officers and ratings on deck and engine room service at sea and on the high seas shall be divided daily into three watches.

⁶⁸ Inserted in accordance with BRB of 4 November 1966 (Item I), in effect since 1 January 1967.

⁶⁹ Wording in accordance with BRB of 4 November 1966 (Item I), in effect since 1 January 1967.

² In long-distance coastal navigation, on seagoing vessels of up to 1000 gross register tons (GRT) on which a third watch cannot be maintained due to lack of space, duty may be divided into two watches. The master may undertake watch duty on all seagoing vessels in long-distance coastal navigation as well as on seagoing vessels of up to 4000 GRT, irrespective of the navigation area. Long-distance coastal navigation shall be defined as navigation between all the ports of Europe and the ports of the Mediterranean and Black Seas, as well as voyages of a similar type on overseas waters.⁷⁰

³ Seafarers who are not assigned to watches, and seafarers in general service shall serve their daily working time at sea within a period of 13 consecutive hours.

⁴ Wireless operators shall serve eight hours watch duty at sea per day in accordance with the provisions of the Radio Regulations annexed to the World Communications Treaty of 6 November 1982.⁷¹ If a vessel is equipped with additional automatic radio installations, the Swiss Maritime Navigation Office may declare that the wireless operator is exempted from watch duty after hearing the groups concerned. At sea the master may assign wireless operators clerical work or other administrative tasks after they have completed any maintenance work on the electronic installations.⁷²

b. In port and on the roadstead

Art. 27

¹ In port and on the roadstead, all members of the ship's crew shall as a rule work at the same time between 6:00 a.m. and 6:00 p.m., with the exception of the general service, whose work shall be organised according to the conditions at the time.

² Wireless operators may be used in port and on the roadstead by the master for clerical work or other administrative tasks only after completion of maintenance work on the radio systems or any other tasks relating to the wireless service and during the working time still available.

c. Work by young persons

Art. 28⁷³

Persons under 18 years of age may not be assigned to night work. The period from 9:00 p.m. to 6:00 a.m. shall be considered night.

⁷⁰ Wording in accordance with Ordinance of 22 December 1988 (Item 1), in effect since 1 February 1989.

⁷¹ SR 0.784.16

⁷² Wording in accordance with Ordinance of 22 December 1988 (Item 1), in effect since 1 February 1989.

⁷³ Wording in accordance with Ordinance of 20 February 2013 (Item 1), in effect since 20 August 2013.

3. Assignment of Work by the Master

Art. 29

Insofar as no provision is contained in this Ordinance, the master shall be responsible for assigning and determining the duration of the work.

4. Overtime

a. Duty to work overtime

Art. 30

¹ The master may in special cases extend working times, particularly if this is essential to the interests of the ship, of the cargo or of the persons on board. The officers and ratings shall have a duty to perform the overtime work assigned by the master.

² Overtime should if possible be avoided and should as a rule not amount to more than 4 hours a day. Every seafarer should have a minimum period of rest of 10 hours within every 24 hours of which one period shall be at least six hours in length.⁷⁴

b. Duty to remunerate

Art. 31

¹ Work outside the stipulated normal working time shall be regarded as overtime and shall confer the right to the remuneration stipulated in article 73 of the Navigation Act.

² The following work, which may also be assigned by the master outside the normal working time shall not be regarded as overtime and shall not confer any right to overtime pay:

- work that is urgent and necessary for the safety of the ship, the cargo or the persons on board;
- work for the purpose of assistance or salvage of ships or persons in distress at sea;
- the required mustering, fire-fighting, lifeboat or similar drills in accordance with the regulations and practices relating to the protection of human life at sea;
- additional work that may be required in order to deal with customs formalities and for compliance with quarantine provisions and other sanitary regulations;

⁷⁴ Wording in accordance with Ordinance of 20 February 2013 (Item 1), in effect since 20 August 2013.

- the work of the ship's officers for the purpose of regularly determining the position of the seagoing vessel as required and for the observation of the weather;
- the time necessary for the normal serving of the watches;
- the personal work of each seafarer for the maintenance and care of the sleeping quarters, his clothes and personal effects.

³ The contract of employment may stipulate for the whole crew that remuneration for overtime be paid in a fixed, lump sum⁷⁵. Additional work in terms of article 75, paragraph 1 of the Navigation Act shall not fall under this provision.⁷⁶

⁴ The pay that is shared in terms of article 75, paragraph 1 of the Navigation Act, or that is used to compute the remuneration for assistance and salvage in terms of article 75, paragraph 2 shall be the basic hire, excluding any other indemnification.⁷⁷

V. Catering for Seafarers on Board

3. Nature and Quantity of Food

Art. 34

¹ Every seafarer shall be entitled to meals on board. The food, insofar as this accords with the customs and practices of navigation, shall be the same for all crewmembers.

² The food must, after taking the size of the crew, the nature and duration of the voyage, the climatic conditions and the nationality of the seafarer in to consideration, be sufficient and reasonable in quantity, nutritional value, and variety, and it must be properly and professionally prepared.

³ Every seafarer shall receive three meals a day. These shall comprise breakfast, a midday meal and dinner at the customary times of the day. If work is performed during the night, an additional and, if necessary, hot meal shall be provided.

4. Supervision of Catering

Art. 35

¹ The ship's cook or another seafarer designated by the master shall each day check on the nature and composition of the meals and any additional food served.

² The master or another seafarer appointed by him shall keep a record of the nature and quantity of all food served to the crewmembers in the course of a month or a trip. This record shall be signed by the master and by the seafarer who has kept it.⁷⁸

⁷⁵ Wording in accordance with Ordinance of 22 December 1988 (Item I) in effect since 1 February 1989.

⁷⁶ Inserted in accordance with BRB of 4 November 1966 (Item I) in effect since 1 January 1967.

⁷⁷ Inserted in accordance with BRB of 4 November 1966 (Item I) in effect since 1 January 1967.

⁷⁸ Wording in accordance with BRB of 4 November 1966 (Item I), in effect since 1 January 1967.

³ The records kept shall be submitted for inspection to the Swiss Maritime Navigation Office on request.

⁴ The master shall be obliged – on at least one occasion per week – to inspect the condition of the kitchen, the storage and refrigeration facilities and the equipment and appliances used to prepare meals for the crew, and to supervise the preparation of the meals. Any deficiencies shall immediately be remedied. If the master is not able to do this, he must immediately advise the operator, which shall immediately take the necessary measures.

5. Exceptional Occurrences

Art. 36

¹ In the event of an unforeseeable extension to the duration of a trip or in the event of the occurrence of exceptional circumstances, the master shall have the right to adapt the catering to the circumstances and if necessary, to limit the catering in order to ensure as far as possible the well-being of all crewmembers until arrival at the next port.

² The master must record the reasons for making use of the foregoing power in the ship's log, together with the measures that he has taken.

VI. Seafarers' Complaints

Art. 37

¹ Complaints of seafarers relating to lack of accommodation or food, non-compliance with the regulations concerning minimum age, medical examinations, the division of work, the working time or overtime work shall be submitted in writing to the master. The master shall record each complaint he receives in the ship's log and shall indicate the measures that he has taken for the investigation and remedying thereof.

² If a seafarer is of the opinion that neither the master nor the operator has taken the measures required to remedy the situation, he may submit a report to the Swiss Maritime Navigation Office.⁷⁹

³ In the case of a violation of the provisions of the Maritime Labour Convention of 23 February 2006⁸⁰ with regard to working conditions on seagoing vessels, the seafarer may lodge a complaint directly with the authorised staff of the port authority of the harbour where the ship has docked. The employee and employer parties concerned are entitled to request legal assistance there under Article 59, paragraph 3 of the Maritime Act of 23 September 1953.^{81 82}

⁷⁹ Wording in accordance with Ordinance of 20 February 2013 (Item 1), in effect since 20 August 2013.

⁸⁰ SR 0.822.81

⁸¹ SR 747.30

⁸² Inserted in accordance with Ordinance of 20 February 2013 (Item 1), in effect since 20 August 2013.

VII. Right of the Seafarers to Vacation

1. Scope of the Right to Vacation

Art. 38⁸³

The minimum statutory rights to a paid vacation shall be determined by article 329a of the Swiss Code of Obligations.⁸⁴

2. Realisation of the Right to a Vacation

Art. 39

¹ Sundays and statutory public holidays that are not worked on as well as interruptions of work caused by illness or accident shall not be counted as days of vacation.

² Vacation shall be granted in a port of the country in which the seafarer was signed on or of which he is a citizen, or in which he has his residence or which lies closest to his native country or country of residence. The port to be selected among these ports is that most favourable to the seafarer unless the seafarer declares expressly his agreement to some other arrangement.

³ Vacation shall be granted in a single block or, if important employment circumstances do not permit this, be divided at most into two parts, or be transferred in whole or in part to the following year of employment. By way of exception or in the event of extraordinary circumstances, the right to vacation may be satisfied by payment in lieu, provided that the seafarer remains employed by the same operator and agrees to this.

⁴ The master, in consultation with the operator, shall determine the starting time of any vacation. The wishes and interests of the seafarer shall be taken reasonably into account.

3. Payment of Hire and Indemnification

Art. 40

¹ For the duration of the vacations, including Sundays and statutory public holidays falling within the vacation, the seafarer shall be entitled to continue to receive the stipulated hire – without indemnification for overtime work or other additional remuneration – as well as a reasonable indemnification for board. If a right to vacation exists at the time of the termination of the contract of employment, the same hire and board indemnification shall be paid in respect of the days of vacation not granted.

⁸³ Wording in accordance with Ordinance of 22 December 1988 (Item I), in effect since 1 February 1989.

⁸⁴ SR 220

² Unless otherwise stipulated in the contract of employment, the daily indemnification for board shall be equivalent to the income paid in kind for a day of board in non-agricultural occupations that forms the basis for contributions to the Swiss Old Age and Survivors Insurance. The indemnification for board shall be paid out before the start of the vacation.

³ A right to vacation existing at the time of shipwreck may not be taken into account in the period of time stipulated in article 86 of the Navigation Act during which unemployment benefit is to be paid. Unemployment benefit paid as a result of shipwreck in accordance with article 86 of the Navigation Act shall correspond to the basic hire plus the indemnification for board.⁸⁵

VIII. Health and Accident Insurance

1. Insurer

Art. 41

¹ A contract of health and occupational accident insurance shall be entered into with an insurance company authorised by the Federal Department of Justice and Police to do business in Switzerland. If the operator of a Swiss seagoing vessel has for his staff his own health insurance fund recognised by the Confederation in terms of the Health Insurance Act⁸⁶, this fund shall be permitted to take the place of the required contract of health insurance.⁸⁷

² Every operator of a Swiss seagoing vessel must send a duplicate of the insurance contract to the Swiss Maritime Navigation Office. This Office shall, prior to giving its approval, consult the Federal Insurance Office⁸⁸ or if necessary the Federal Social Insurance Office⁸⁹. The insurance companies are under the obligation to notify the Swiss Maritime Navigation Office of any cancellation or termination of the contract by registered post..

2. Minimum Benefits; Standard Contract

Art. 42

¹ The minimum benefits and the other conditions that the insurance contract must contain in order to comply with the insurance obligation of the operator in accordance with article 84, paragraph 3 of the Navigation Act shall be set forth in a stand-

⁸⁵ Inserted in accordance with BRB of 4 November 1966 (Item I), in effect since 1 January 1967.

⁸⁶ SR **832.10**

⁸⁷ Wording in accordance with Ordinance of 22 December 1988 (Item I) in effect since 1 February 1989.

⁸⁸ The name of the administrative unit has been amended in accordance with Art. 16 para. 3 of the Publications Ordinance of 17 Nov. 2004 (SR **170.512.1**).

⁸⁹ The name of the administrative unit has been amended in accordance with Art. 16 para. 3 of the Publications Ordinance of 17 Nov. 2004 (SR **170.512.1**).

ard contract by the Federal Council after the interested groups have been invited to express their opinion. This standard contract shall be annexed to the ordinance.⁹⁰

² Payments made on the basis of the contract of insurance shall be set off against any payment obligation on the part of the insured party.

3. Occupational Accidents

Art. 43

All accidents occurring during the fulfilment of an employment obligation shall be regarded as occupational accidents. Accidents on board the ship, when travelling by boat from ship to ship and from ship to land and back shall in all cases be regarded as occupational accidents.

⁹⁰ Annex III of this Ordinance.

*Annex III*⁵
(Art. 42)

Model agreement governing insurance for ships' crews in the maritime sector⁶

Approved by the Federal Council on 23 November 1965

A. Scope

I. Group of insured persons

Art. 1

¹ In accordance with Article 84 of the Maritime Navigation Act and Article 42 of the Maritime Navigation Ordinance of 20 November 1956, all of a ship's crew members are insured against illness and occupational accident.

² The ship's crew includes the captain and other seafarers who serve on board and are registered as such in the muster roll.

II. Scope of insurance

Art. 2

¹ The insurance shall cover the consequences of occupational accidents and illness.

² The sickness insurance requires a pre-employment medical examination by a doctor.

Art. 3

1. Accident insurance

¹ The following are deemed to be occupational accidents:

- any accidents that occur while performing professional duties;
- accidents that occur on board the ship, while travelling by boat from ship to ship and from ship to land or back;
- accidents that occur during the direct commute between the insured person's place of residence and the port of embarkation before or after a work assignment, excluding accidents that occur in the insured person's home or on the surrounding site.

² The definition of accident shall depend on the relevant provisions of compulsory accident insurance and the practice of the Swiss Accident Insurance Fund (SUVA).

⁵ Revised in accordance with Section II para. 2 of the O of 20 February 2013, in force since 20 August 2013 (AS 2013 813).

⁶ AS 1965 1015

Occupational accident insurance also covers the occupational illnesses and injuries recognised as subject to compensation by SUVA.

Art. 4 2. Health insurance

¹ With the exception of the restrictions mentioned in the following paragraph, all cases of illness are covered.

² The following are not covered:

- illnesses, medical conditions and their consequences that already existed when the seafarer's employment contract was concluded and that were intentionally concealed by the insured person;
- illnesses that only manifest themselves after cover has ended, unless the insured person can prove that he/she contracted the illness during the period of cover;
- illnesses that can be attributed to habitual use of narcotic substances or painkillers, habitual abuse of tobacco or alcohol or criminal activities on the part of insured persons.

III. Commencement and term of insurance cover

Art. 5

¹ The insurance cover shall commence for individual insured persons on the first day for which they are entitled to pay, at the latest when they join the ship, and shall end when they are discharged from the ship's crew, and 48 hours after their imprisonment, detention or suspension by a foreign power.

² For crew members who join the ship somewhere other than the port of embarkation, the accident insurance cover shall commence when they board a mode of transport to leave their place of residence to travel to the port.

³ For crew members who return to their place of residence on the nearest available means of transport after being discharged from the ship's crew, the accident insurance cover ends when they alight from the mode of transport at their place of residence, provided the insurance cover has not previously been terminated for the person concerned owing to imprisonment, detention or suspension.

⁴ In addition, the insurance cover shall expire automatically if Switzerland becomes involved in a war but subject to the restriction that, if the vessel is at sea at the time, the insurance shall remain valid until the journey started is complete and/or the vessel arrives at the port of destination or at a port of refuge, where the port of refuge is deemed to be the port of destination.

B. Insurance benefits

I. Accident insurance

Art. 6

¹ The amount of insurance benefits shall comply exclusively with the relevant provisions of the Federal Act of 13 June 1911⁷ on Sickness and Accident Insurance (KUVG), without prejudice to paragraph 2 below. In cases that are not clearly defined in this legislation, the practice of SUVA shall prevail.

² In amendment to

- a. Article 74 KUVG⁸ the sickness benefit (daily allowance) shall amount to 100 per cent of the eligible salary figure in accordance with letter d;
- b. Article 77 KUVG⁹ the incapacity benefit in the case of full incapacity for work shall amount to 100 per cent of the eligible salary figure in accordance with letter d. In the case of partial incapacity for work, the benefit shall be reduced accordingly;
- c. Articles 84–87 KUVG¹⁰ the widow's/widower's pensions shall amount to 40 per cent, the half-orphan's pension 20 per cent, the full orphan's pension 35 per cent and the ascendant's and sibling's pensions together 25 per cent of the eligible salary figure in accordance with letter d. All survivors' pensions combined may not exceed 90 per cent of this salary figure;
- d. Article 74 paragraph 2 and 78 KUVG¹¹ the eligible salary figure is deemed to be exclusively the basic wage plus the amounts for food and accommodation that have to be declared for old age and survivors insurance (OASI), but not exceeding the maximum insured annual income for compulsory accident insurance.

⁷ [BS 8 281; AS 1959 858, 1964 965, 1968 64, 1971 1465 II Art. 6 no. 2, 1977 2249 no. I 611, 1978 1836 Annex no. 4, 1982 196 1676 Annex no. I 2184 Art. 114, 1990 1091, 1991 362 no. II 412, 1992 288 Annex no. 37 2350, 1995 511. AS 1995 1328 Annex no. I]. See the Federal Act of 18 March 1994 on Health Insurance (SR 832.10). Regarding accident insurance, see the Accident Insurance Act (UVG) (SR 832.20).

⁸ Now: Art. 16 and 17 UVG (SR 832.20).

⁹ Now: Art. 20 UVG (SR 832.20).

¹⁰ Now: Art. 28–33 UVG (SR 832.20).

¹¹ Now: Art. 15 and 17 UVG (SR 832.20).

II. Health insurance

Art. 7¹²

The insurance benefits amount to:

- In the event of death: payment of funeral costs up to CHF 600. If the shipowner pays the funeral costs, it shall be entitled to claim compensation.
- In the event of temporary incapacity for work: a daily allowance of 100 per cent of the lost eligible daily wage in accordance with Article 6 paragraph 2 letter d for a maximum of 180 days.
- In addition: payment of 80 per cent of the medical treatment costs, up to a maximum of CHF 8,000 per case, whereby the applicable retention fee for crew members may not exceed half of the monthly basic wage.

Art. 8

¹ Seafarers are entitled to receive a daily allowance for the duration of, and in proportion to, their incapacity for work, provided they are on board the vessel.

² If the seafarers are on land, they are entitled to receive a full daily allowance for the duration of the partial incapacity for work, unless they are performing paid work. In this case, the daily allowance shall be reduced in proportion to the degree of incapacity for work, as determined by a doctor.

³ The duration and degree of the incapacity for work shall be certified by the captain, the attending physician or the company doctor.

⁴ The daily allowance shall only be granted for rest cures if the company doctor considers the cure necessary to treat the illness.

Art. 9

¹ Medical treatment costs are deemed to be the necessary doctors' fees and costs for medicines, hospital stays and other treatments within the limits set out in Article 7, provided such costs are incurred within one year from the onset of the illness. The same applies for replacement limbs (prostheses costs).

² Insured persons are entitled to accommodation and food in hospital at the company's expense in line with their rank, whereby in exchange, 80 per cent of the amounts for food and accommodation that have to be declared for OASI is deducted for the duration of the hospital stay.

³ Dental treatment costs are only covered for tooth extractions.

¹² Version in accordance with section I of the O of 10 December 1973, in force since 1 January 1974 (AS 1974 73).

C. Duties and obligations in the event of a claim

Art. 10

¹ If an accident occurs that is likely to cause the death or permanent disability of the insured person, the captain is obliged to report the incident, if possible in the presence of eyewitnesses to the accident, to the nearest Swiss consulate, or if this is not possible, to the nearest port authority. The statement should comprise truthful information about the cause of the accident and sequence of events, the location and time of the accident, the type and suspected consequences of the injury, and should give information on the activity during which the accident occurred and which other persons, if any, may be questioned as witnesses. A certified copy of this statement must be sent to the operating company immediately.

² If an insured person dies as a result of an accident immediately or at a later stage, the operating company must be notified immediately by telegraph. In cases where the captain is aware of the death of the insured person, it is his/her duty to send the telegraphic message to the operating company. If the surviving dependants refuse or prevent an autopsy or the involvement of an independent medical examiner as requested by the operating company, the company may refuse its liability to indemnify, if doctors believe that there may be other causes of death besides the accident, or that other illnesses or ailments may have had a contributory effect.

³ In the event of accidents that only result in a temporary incapacity for work, and in the event of illness, the captain must complete a notice of claim containing the facts of the case using the form provided by the operating company (log signed by the captain or excerpt from the ship's log) and send it to the operating company from the nearest port.

Art. 11

For every forfeiture of entitlement in the event of default or refusal, insured persons are obliged to provide the operating company with all the requested information regarding the claim in writing within 14 days, including details of their recovery process and their current and former state of health; they are required to allow the independent medical examiner to carry out an examination and, if required for medical clarification, to undergo observation in a hospital. In addition, they shall authorise all doctors treating them in relation to the claim, or due to other accidents or illnesses, or who carried out the pre-employment medical examination, to disclose any information about the claim that is requested by the operating company.

Art. 12

¹ If the insured seafarer or, in his/her place, the captain or his/her chief officer is unable to comply with the obligations described above, the persons asserting claims under the terms of the insurance shall be responsible for fulfilling such obligations.

² All the notifications to the operating company mentioned above may also be made to the insurance holder; he or she is then obliged to pass them on immediately to the operating company.

D. Final Provisions

Art. 13

If the operating company withdraws from the Agreement in accordance with Article 42 of the Insurance Policies Act of 2 April 1908¹³, its liability shall cease to exist 14 days after the date of the notice of repudiation. If the vessel is at sea, the insurance shall in any event remain valid until the current trip is complete or until the vessel arrives in the port of destination or in a port of refuge, where the port of refuge is deemed to be the port of destination.

Art. 14

Notifications from the company to insured persons or eligible persons shall be sent to the last known address with due legal validity.

Art. 15

Swiss courts shall have exclusive jurisdiction to settle any disputes arising in connection with this Agreement. In principle, the place of jurisdiction shall be the location of the operating company's domicile in Switzerland. The operating company shall also recognise the place of jurisdiction of the insured person's or eligible person's place of residence in Switzerland, and the Swiss domicile of the insurance holder.

Art. 16

The provisions of the Insurance Policies Act of 2 April 1908¹⁴ shall apply in all other respects.

¹³ SR 221.229.1

¹⁴ SR 221.229.1

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Act = Navigation Act

Ord = Navigation Ordinance

MA = Model agreement

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