

## **GUIDANCE NOTE 02/2020Rev 5**

### **IMPACT OF COVID-19 ON OPERATION OF CAYMAN ISLANDS REGISTERED SHIPS**

**To: OWNERS, MANAGERS, OPERATORS, CREWING AGENCIES AND MASTERS OF CAYMAN ISLANDS REGISTERED SHIPS (INCLUDING YACHTS)**

#### **1. BACKGROUND**

- 1.1 The Cayman Islands Shipping Registry (CISR) understands that in view of the ongoing and evolving situation with the outbreak of novel coronavirus (COVID-19) owners and managers of Cayman Islands registered Ships are facing challenges in meeting various statutory requirements under international Conventions extended to the Cayman Islands and the Merchant Shipping Laws and the subsidiary legislation.
- 1.2 These challenges may include the timely repatriation of seafarers onboard Cayman Islands registered ships at the end of the period in the seafarer's employment agreement (SEA), deployment of seafarers who are not able to obtain revalidation from training institutes for their expiring certification, inability to obtain shipyard dry-docking services, inability to carry out mandatory periodical surveys, audits and inspections in time, etc.
- 1.3 The CISR is keenly aware of the situation faced by owners and managers and wishes to take a pragmatic approach to assist the industry in overcoming these challenges. The following guidance includes a non-exhaustive list of scenarios and provides instructions for owners and managers who face such challenging issues due to the COVID-19 pandemic, in order to obtain favourable consideration by the CISR.
- 1.4 In addition to this guidance note attention is drawn to the following guidance issued by the World Health Organization (WHO) "Operational considerations for managing COVID-19 cases / outbreak on board ships": <https://www.who.int/publications-detail/operational-considerations-for-managing-covid-19-cases-outbreak-on-board-ships> and "Operational considerations for managing COVID-19 cases or outbreaks on board ships: interim guidance": <https://www.who.int/publications/i/item/operational-considerations-for-managing-covid-19-cases-or-outbreaks-on-board-ships-interim-guidance>.
- 1.5 As restrictions due to the COVID-19 pandemic are starting to ease in many countries, both the IMO and ILO maintain that it is critical to uphold the highest level of compliance with existing statutory and classification provisions where possible. At the same time, they acknowledge that in demonstrated exceptional circumstances and/or force majeure considerations, routine compliance with established statutory parameters may not always be possible.

1.6 When seeking any extension, exemption or relaxation of mandatory requirements it is vital that proof is presented to demonstrate a case of “exceptional circumstances” and/or “force majeure”.

## **2. EXTENSION OF SEA SERVICE BEYOND CONTRACTUAL PERIODS**

2.1 As a result of the global outbreak of COVID-19 some port authorities have adopted stringent controls to limit (or even bar) movement of people to attempt to minimise the chance of the illness spreading.

2.2 While progress has been made with restrictions in some areas and in agreeing international protocols to facilitate crew changes and ensure the welfare of seafarers in this difficult situation, problems are continuing in many areas and some seafarers have been working on board for significantly longer than originally contracted for. To reconfirm that all seafarers have a right to be repatriated –

- (a) where the Seafarer Employment Agreement (“SEA”) expires;
- (b) when the SEA is terminated by the shipowner;
- (c) when the SEA is terminated by the seafarer in accordance with the terms of their SEA;
- (d) when the seafarer is no longer able to carry out their duties under their SEA or cannot be expected to carry them out in the specific circumstances; or
- (e) after a maximum of 11 months service on board.

2.2A A Crew Repatriation Plan, with supporting evidence, should be available for all seafarers before the term of their SEA is extended.

2.3 It is understood that many SEA’s / Collective Bargaining Agreements (CBAs) provide for a short extension (usually a month) to the period of service where required. This should be utilized where possible in the current situation and would not normally require any involvement by the CISR provided that this period of extension results in a maximum period of service of less than 11 months or any such shorter maximum period of service provided for under the CBA.

2.4 For seafarers whose time on board exceeds or is due to exceed 11 months (or any such shorter maximum period of service provided for under the CBA), and where it has not been possible to arrange repatriation due to COVID-19 restrictions, the CISR will consider case by case whether a further extension to the SEA can be approved.

2.5 If repatriation is not possible through scheduled ports of call, the possibility to divert the ship to a port where repatriation is possible should be taken into account. Circumstances rendering repatriation more difficult or burdensome do not constitute a case of force majeure.

2.6 Before considering such requests the CISR must be provided with the details of all the affected seafarers and confirmation that these seafarers voluntarily consent to the extension in writing. In addition, a “Seafarer Repatriation Plan” containing following information is to be submitted to CISR for acceptance:

- Arrangements for repatriation at first port where crew change and repatriation is practicable (including plans for contingencies);
- Details of why repatriation has not been possible before reaching 11 months of continuous service on board the ship (or such maximum period allowed under the CBA). In cases where the SEA is governed by a CBA, these details should cover the period starting from the beginning of the ‘repatriation window’ established by the CBA;
- Provision for monitoring for signs of crew fatigue and measures taken to address it; and
- Measures to support wellbeing, including arrangements for contacting family and friends at home.

Once accepted by CISR, a copy of the “Seafarer Repatriation Plan” should be maintained on board and made available to any Port State Control (PSC) officer on request.

- 2.7 The company should ensure that seafarers are kept informed about the reasons why they are required to stay on board and about any arrangements for their repatriation. A valid SEA must remain in force until repatriation. If any of the SEAs have expired, they must be extended, or new ones issued, on the same terms and conditions.
- 2.8 The situation should be kept under review and the company needs to ensure that the seafarers are sent home at the first available opportunity even if this is part way through an extension to their SEA. Evidence should be retained by both the seafarer and the company including an entry in the Official Log Book clearly demonstrating the reason why the seafarer was asked to extend their contract. Whenever a SEA is extended, the seafarer should always be repatriated at the first port where crew change and repatriation is practicable.
- 2.9 Where seafarers unavoidably have to remain on board for longer than their contracted period of service, shipowners and seafarers should consider the following:
- Extended periods working on board ship without leave are likely to give rise to greater risk of fatigue, and a dip in morale particularly if anticipated leave is deferred at short notice.
  - The master and all seafarers should monitor and be alert for signs of fatigue and report any concerns to the master or the safety committee.
  - Consideration should be given to rearranging work patterns to allow for additional rest periods/shore leave where possible, and to providing increased connectivity to allow seafarers to contact home and entertainment on board.
  - The seafarer’s informed consent should be obtained in any case where the shipowner is advising/requesting the seafarer to stay on board, where repatriation might be possible.
  - Even where deferred repatriation/leave is unavoidable, seafarers and/or seafarers’ organisations should be kept informed of the reasons and consulted on possible impacts and mitigating measures. A record of such discussions and outcomes should be kept.

- Shipowners should give serious consideration to whether it is safe to continue operating where there are signs of fatigue or a significant or sustained deterioration in the wellbeing of crew members.

- 2.10 Whilst the CISR will consider such requests that comply with the above favorably it must be pointed out that, whilst we would hope that given the current situation that Port States will be pragmatic, we must make it clear that PSC authorities may not always look favorably where periods of service are exceeded.
- 2.11 Many Port State Control authorities are now conducting PSC inspections at or close to pre-pandemic levels. As a result, a number of ships have been detained due to the crew on board exceeding the maximum period of service permitted in their SEA and by the Maritime Labour Convention (MLC).

### **3 QUARANTINE AND SELF ISOLATION**

- 3.1 The CISR is aware that many countries have imposed quarantine or self-isolation measures on persons in or arriving from certain locations or who have interacted with infected persons. Here follows guidance which owners, masters and managers should take into account regarding such measures.
- 3.2 Any seafarer that is diagnosed with COVID-19 whilst employed would be entitled to medical care and sick leave as per their SEA, the law and MLC.
- 3.3 Any "mandatory quarantine" not in or at the seafarers agreed place of repatriation on joining or leaving a ship should be considered as the seafarer still being in the service of the ship and therefore paid accordingly. For newly employed seafarers (i.e. not returning from leave), whether this applies prior to joining a vessel for the first time would be down to the contract, though the CISR strongly encourages owners and managers to give due regard to the current situation.
- 3.4 "Precautionary self-isolation" may not be considered as in the service of the ship and is at the discretion of the employer, though the CISR strongly encourages owners and managers to give due regard to the current situation and consider self-isolation as in the service of the ship.

### **4. EXTENSION OF SEA SERVICE PERIOD BEYOND QUALIFICATION REVALIDATION DEADLINE**

- 4.1 *Withdrawn by Shipping Notice CISN 03-2020.*
- 4.2 *Withdrawn by Shipping Notice CISN 03-2020.*
- 4.3 *Withdrawn by Shipping Notice CISN 03-2020.*

### **5 EXTENSION OF MANDATORY SURVEYS, AUDITS AND EXPIRY OF STATUTORY CERTIFICATES**

- 5.1 The CISR will also give consideration to the extension of mandatory statutory surveys, inspections or audits.
- 5.2 Application for extension of surveys / inspections / audits or the validity of statutory certificates may be submitted to CISR, accompanied by a recommendation from the ship's recognised organisation (RO).
- 5.3 In addition to paragraph 5.2 the CISR may look favourably on the extension of a vessel's docking, or servicing of critical equipment as required under the respective Conventions. In all cases such requests should be supported by the vessel's Recognised Organisation and include the reasons why the vessel is unable to comply.
- 5.4 It is strongly advised that owners and managers submit such applications before the due date of the surveys / audits or expiry date of the statutory certificate in order to avoid Port State Control issues.
- 5.5 All requests for consideration as mentioned in paragraph 2.4, 2.6 and 5.1 should be submitted to the CISR at [technical@cishipping.com](mailto:technical@cishipping.com).
- 5.6 If your call is out of hours and urgent please contact either of following, taking into consideration the local time: -
- UK duty surveyor on +44 7824 302 502
  - George Town duty surveyor on +1 345 815 1666
- 5.7 When considering requests to extend mandatory surveys / audits and certification, CISR will follow the guidance contained in [Circular Letter No. 4204/Add.19/Rev.2](#)<sup>1</sup> (*Guidance for flag States regarding surveys and renewals of certificates during the COVID-19 pandemic*).
- 5.8 When deciding if any extension or deferment is reasonable and the application is supported by proof demonstrating a case of "exceptional circumstances" and/or "force majeure", CISR will adopt the six stage approach contained in Circular Letter No.4202/Add.19/Rev.2. This approach is outlined below –
- 5.8.1 **Step 1:** Have all options for completing the survey and renewing the certificates (using all available means permitted by the CISR) been exhausted?
- 5.8.2 **Step 2:** For each case of demonstrated exceptional circumstances and/or force majeure, examine the available information on the ship and its history as a means to considering alternative evidence on the condition of the ship in lieu of completing the survey.
- 5.8.3 **Step 3:** Consider how the requirements of the convention and classification rules can be shown to be met in the interim without changing the requirements themselves.

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<sup>1</sup><https://wwwcdn.imo.org/localresources/en/MediaCentre/HotTopics/Documents/Circular%20Letter%20No.4204-Add.19-Rev.2.pdf>

5.8.4 **Step 4:** Use verification requirements which are based on accepted survey procedures (these are bespoke to each classification society/RO).

5.8.5 **Step 5:** Consider alternative evidence for assessing compliance to account for:

- Confidence (how accurate a representation of the actual condition is this?); and
- Durability (i.e. how long can this be considered a valid evidence before revalidation is required?)

5.8.6 **Step 6:** Concluding with an overall documented evidence on which the extension period and any service restrictions are based.

5.9 Owners, managers and others seeking to extend mandatory surveys / audits and certification should fully consider the guidance contained in Circular Letter No.4202/Add.19/Rev.2 prior to making a request for any such extension.

### **Special Note**

The Maritime Authority of the Cayman Islands (MACI) reserve the right to amend or cancel this guidance notice at any time in view of the changes and advice provided in respect to COVID – 19. Extensions or dispensations will only be granted where the delay is due to official action, i.e. restrictions imposed by the Port Authority or other official body.