

# Regulations of 18 February 2005 No. 145 on guarantees for social security entitlements for employees on Norwegian ships

**Legal basis:** Laid down by Royal Decree on 18 February 2005 under the Seamen's Act of 30 May 1975 No. 18 section 32. Prepared by the Ministry of Trade and Industry.

**Added legal basis:** Act of 21 June 2013 No. 102 relating to employment protection etc. for employees on board ships (Ship Labour Act) section 4-7, cf. Formal Delegation of 3 July 2013 No. 974.

**EEA references:** EEA Agreement Annex XVIII point 24 (Regulation (EEC) No 1408/71).

**Amendments:** Amended by Regulations of 19 August 2013 No. 1012, 19 December 2017 No. 2323.

## Chapter 1 General provisions

### Section 1 *Scope of application*

Chapter 2 applies to employees who are not covered by Norwegian social security schemes pursuant to statute or to a reciprocal agreement or by the social security Regulation of the EEA Agreement, Regulation (EEC) No 1408/71, Article 14b, and who are employed:

- a) on board ships registered in the Norwegian International Ship Register; or
- b) in the service of foreign employers who carry out business activities on board ships in foreign service that are registered in the Norwegian Ordinary Ship Register.

Chapter 3 applies to persons who are employed in hotel and restaurant services on board tourist ships registered in the Norwegian International Ship Register and who are covered by the social security Regulation of the EEA Agreement, Regulation (EEC) No 1408/71, Article 14b.

### Section 2 *Definitions*

For the purposes of these Regulations, the following definitions shall apply:

- a) "*Occupational injury*": Physical injury or disease caused by an industrial accident or any other injury or disease resulting from working conditions;
- b) "*Physical injury*": Also damage to a prosthetic appliance, support, bandage or the like;
- c) "*G*": The basic amount, a factor of calculation pursuant to the National Insurance Act.

## Chapter 2 Guarantees for social security entitlements for employees who are not covered by Norwegian social security schemes

### Section 3 *The company's obligation to furnish a guarantee for occupational injuries*

The company is obliged to furnish a guarantee for employees as referred to in section 1 first paragraph, ensuring that he or his survivors will receive compensation in the event of occupational injury leading to disability or death.

The guarantee shall cover:

- a) compensation in the event of disability resulting from occupational injury;
- b) compensation to the surviving spouse and children.

## Section 4

### *Calculation and payment of compensation upon occupational injury*

The compensation may be paid in the form of a lump sum. The size of the sum shall be agreed upon in the collective bargaining agreement between the employer and the employee's organisation in Norway or in the employee's country of residence. In cases where the compensation amount has not been laid down in such a collective bargaining agreement, the employee or his survivors are entitled to the same payments as under the provisions of Chapter 13 of the National Insurance Act and the Act relating to occupational injury insurance.

The employee may bring direct claims against the guarantor for compensation under the guarantee. The compensation amount shall be paid without unnecessary delay. Preliminary payments shall be made when it is difficult to evaluate the long-term disability of the employee.

Amended by Regulation of 19 December 2017 No. 2323.

## Chapter 3

### Guarantees for social security entitlements for EEA nationals employed in hotel and restaurant services on board tourist ships registered in the Norwegian International Ship Register

## Section 5

### *The company's obligation to furnish a guarantee for nursing care, wages during illness, compensation for occupational injuries and disability and old-age pensions*

The company is obliged to furnish a guarantee for employees as mentioned in section 1 second paragraph, for social security entitlements that at least:

- a) entitles employees who are ill or injured to nursing care at the expense of the company for as long as they are engaged in service on board and for 16 weeks thereafter, and to the other rights pursuant to the provisions of section 8-1 of the Ship Labour Act;
- b) entitles employees who are unfit for work by reason of illness or injury to full wages for a period not exceeding two months, and to the other rights pursuant to the provisions of section 4-4 (2) of the Ship Labour Act;
- c) entitles employees who are unfit for work by reason of an occupational injury to a lump-sum compensation not exceeding 18G, depending on the degree of disability and calculated according to general rules applicable in Norway. If the employee dies, the survivors shall be entitled to a lump-sum compensation of 12G and to 2G for each child under 18 years of age, but not exceeding a maximum of 6G;
- d) entitles employees who are unfit for work by reason of illness to a lump-sum compensation not exceeding 12G, depending on the degree of disability and calculated according to general rules applicable in Norway. If the employee dies, the survivors shall be entitled to a lump-sum compensation of 6G and to 2G for each child under 18 years of age, but not exceeding a maximum of 6G;
- e) entitles employees who are entitled to a seaman's tax allowance and who have been in continuous service with the company for more than five years to rights with regard to disability and old-age pensions pursuant to the provisions of the National Insurance Act.

Amended by Regulation of 19 August 2013 No. 1012 (in force on 20 August 2013).

## Chapter 4

### Requirements for the guarantee

## Section 6

### *Guarantor for the employee's social security entitlements and rights in the event of bankruptcy or liquidation*

A guarantee pursuant to these Regulations shall be furnished by an insurance company that is licenced to carry out such business activity in Norway. The Ministry of Trade and Industry may upon application permit other persons to furnish a guarantee for the whole or parts of the guarantee.

A national social security scheme in the employee's country of residence may be approved of as a guarantee pursuant to the first paragraph, provided that the social security benefits satisfy the requirements of these Regulations.

The guarantor shall be a legal person independent of the company.

Where no guarantee is provided, the company is responsible for benefits pursuant to these Regulations.

## Section 7

### *Documentation of a necessary guarantee*

The Ministry of Trade and Industry, or whoever is authorised by the Ministry, may require that documentary proof that a necessary guarantee has been provided shall be submitted.

To document the guarantee under these Regulations, a certificate or other documentary evidence issued by the guarantor shall be carried on board. The documentation shall be readily accessible to the employees. The documentation shall be in English or be accompanied by a translation into English.

The documentation shall contain the following information:

- a) name of the ship
- b) port of registry of the ship
- c) call sign of the ship
- d) IMO number of the ship
- e) name and address of the guarantor(s)
- f) contact information of the person or entity at the guarantor responsible for processing claims from the employees
- g) name of the company
- h) period of validity of the guarantee
- i) an attestation from the guarantor that the guarantee meets the requirements of the Maritime Labour Convention (ILO Convention No. 186) Standard A4.2.1.

Amended by Regulation of 19 December 2017 No. 2323.

## Section 8

### *Termination of guarantee*

The guarantee shall not cease before the end of the validity period as set out in the guarantee, unless the guarantor has provided the Norwegian Maritime Authority (NMA) with a written notification that the guarantee will cease to be valid. The guarantee shall not cease until 30 days after the NMA has received a written notification.

The company shall provide the ship employees with an advance written notification before the guarantee ceases to be valid.

Added by Regulation of 19 December 2017 No. 2323.

## Section 9

### *Entry into force*

These Regulations enter into force immediately. As of the same date, the Regulations of 17 December 1993 No. 1162 concerning mandatory guarantee scheme for employees on Norwegian ships, the Regulations of 23 December 1993 No. 1253 concerning guarantees ensuring payment of wages and passage home in the event of an employer's bankruptcy or liquidation, and the Regulations of 23 December 1993 No. 1254 concerning guarantees for social security entitlements for EEA nationals employed in hotel and restaurant services on board tourist ships registered in the Norwegian International Ship Register, are repealed.

Amended by Regulation of 19 December 2017 No. 2323 (formerly section 8).