

No. 3 - Payment of Contractual Compensation to Crewmembers

April 2001

Dear Sirs

Payment of Contractual Compensation to Crewmembers

As Correspondents may be aware the IMO Council and the Governing Body of the ILO established a Joint Expert ad hoc Working Group to;

- a. Assess and evaluate the extent of the potential problems relating to liability and compensation in connection with crew claims for death, personal injury and abandonment.
- b. Consider the adequacy and effectiveness of international instruments dealing with these matters.
- c. Formulate suitable recommendations to the IMO Legal Committee and the Governing Body of the ILO

The Working Group, of which the International Group and the International Shipping Federation (ISF) are participants, has met on two occasions and is due to meet again between the 30th April and 4th May 2001.

In response to particular concerns which the ITF expressed in relation to the payment of contractual entitlements, the International Group reiterated its stated policy (which is supported by the ISF) that payments due to crewmembers under contracts of employment in the event of illness, personal injury or death;

1. Should be made promptly and without deduction, as soon as the sums payable to such crewmembers have been ascertained.
For example in the event of the death of a crewmember, any death benefit which may be due under the terms of the contract of employment, should be paid in full without delay. In the case of an injured crewmember, it will of course often not be possible to ascertain the sum payable until the extent of the injury has been finally established.
2. Should not be made subject to the crewmember or his or her dependants executing a release foregoing any rights of action in tort, negligence etc. **unless** the contract of employment or relevant domestic legislation provides that payment of a fixed sum shall be in full and final settlement of all claims howsoever arising.

This Circular is to remind Correspondents of the International Group's policy. With this in mind the Group recommends where relevant the use of the attached Model Receipt and Release Form (see over).

Should Correspondents require any further information they are requested to contact Clubs.

Yours Faithfully

MODEL RECEIPT AND RELEASE FORM (INTERNATIONAL GROUP DRAFT)

I, [insert name of seafarer or seafarer's legal heir/dependent/representative of the estate] hereby acknowledge receipt of [insert the amount in currency and figures followed by the amount and currency in words]. I accept this payment in settlement and full satisfaction of all contractual obligations of [insert name of seafarers employers] arising from the contract of employment dated [insert date] in respect of the accident which occurred during my [or insert seafarers's name if legal heir etc.] service aboard the [insert ship name] on or about [insert date of accident].

I acknowledge that the payment is made solely in respect of [insert employers name's] contractual obligations in connection with the above mentioned accident, without any admission of liability and without prejudice to my right to pursue any other non contractual claim against [insert name of employer] or other party. I accept that such payment may be offset against any damages awarded or agreed to be payable to me resulting from any other such claim arising from the above mentioned accident.