



Citizenship and  
Immigration Canada

Citoyenneté et  
Immigration Canada

# ENF 17

## Maritimes Procedures

## ENF 17 Maritime Procedures

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## Updates to Chapter

Dates: 2011-02-11

- Section 5.11, reference to customs and immigration was replaced by CBSA Officer/office;
- Section 7.7, reference to customs was replaced by CBSA;
- Section 8.1, FOSS code 398 was replaced by FOSS code 184;
- Section 8.7, reference to customs was replaced by CBSA;
- Section 9.1, reference to customs was replaced by CBSA;
- Section 9.2, reference to customs and immigration was replaced by CBSA; and
- Section 9.3, reference to customs was replaced by CBSA.

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### 1. What this chapter is about

This chapter provides guidance about examination and enforcement procedures at maritime ports of entry with respect to crew members, stowaways and other persons arriving in Canada aboard vessels. It will also assist officers at airports and land borders in examining persons seeking entry for the purpose of joining vessels as crew members as well as inland officers who encounter persons claiming to have arrived in Canada as or to become members of a crew. Finally, it summarizes the obligations and financial liabilities of shipping companies with respect to administration fees, removal and medical costs.

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### 2. Program objectives

The objectives of maritime immigration procedures are the control of persons entering at maritime ports of entry and the enforcement of the Act and Regulations with respect to the obligations and liabilities of transportation companies.

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### 3. The Act and Regulations

Provision	Reference in Legislation
Contravention of Act	A124(1)(a)
Obligation of operators of vehicles and facilities	A148(1)(b) and (f)
Seizure of security for compliance	A148(2)
Entry to complete further examination or hearing	A23
Non-compliance with Act	A41
Preparation of report	A44(1)
Conditions imposed on foreign nationals who enter as members of a crew	R184(1)
Conditions imposed on foreign nationals who enter to become members of a crew	R184(2)
Obligation to hold a person	R261(1)
Stowaway notification	R262
Amended crew list	R265(2)
Assembly	R266
Reporting obligation	R268
Notifying transporters	R276(1)(a) and (b)
Notifying an officer	R276(2)

Time period	R276(3)
Non-compliance	R276(4)
Criteria for non-acceptance of arrangements	R276(5)
Removal costs	R278
Assessment of administration fee	R279(1)
Exceptions	R279(2)
Object detained or seized	R285
End of examination	R37
Ceasing to be a member of a crew	R3(1)(b)
Withdrawing application	R42

### 3.1. Forms

The forms required are shown in the following table.

Form title	Form number
Official Receipt - Cash Security Deposit by a Transporter Company	IMM0410B
Warrant for Arrest	IMM0420B
Costs Payable by Transporters	IMM0459B
Notice of Rights Conferred by the Vienna Convention and to be Represented by Counsel at an Admissibility hearing	IMM0689B
Visitor Record	IMM1097B
Declaration	IMM1392B
Notice of Detention or Seizure of Vehicle or Prescribed Good	IMM5266B
Extra duty and shiftwork authorization	PER0007

## 4. Instruments and delegations

Nil.

## 5. Departmental policy

### 5.1. Document exemptions for crew members

Persons coming to Canada as members of a ship's crew, or to become members of a crew, are seeking entry as temporary residents to engage in employment. IRPR exemptions have been created to facilitate the entry of crew members and to provide control of improperly documented passengers who pose as seafarers and are victims of abuse by people smugglers. These exemptions are listed below.

Type of exemption	Description
Exemption from temporary resident visa requirement	<p>Under R190(3.1) "A foreign national who is a member of a crew and who is carried to Canada by a vessel does not require a temporary resident visa if they are seeking</p> <p>(a) to enter Canada as a member of the crew of the vessel; and</p> <p>(b) to remain in Canada solely as a member of the crew of that vessel or any other vessel."</p> <p><b>Note:</b> All foreign nationals who arrive as passengers by air or land seeking entry to join a vessel as crew members are not exempt from temporary resident visa requirements. The visa exemption applies only to crew members who arrive as crew</p>

	members on board the vessel on which they are employed. The temporary resident visa must be located in the passport of the foreign national as opposed to the seafarers document.
Exemption from passport requirement	<p>Under R52(2)(g) “persons seeking to enter Canada as members of a crew who hold a seafarer’s identity document issued under International Labour Organization conventions and are members of the crew of the vessel that carries them to Canada” do not require a passport.”</p> <p><b>Note:</b> Foreign nationals seeking to enter Canada to join a vessel require a passport or travel document as per R52(1). The passport exemption applies only to foreign nationals entering Canada as a crew member who possess a seafarer’s document. Many crew members of cruise ships, for example, require passports because they do not have seafarer’s identity documents.</p>
Exemption from work permit requirement	<p>R186(s) permits foreign nationals to work as crew members of ships in Canada without work permit provided that the ship on which they are or will be employed is of foreign registry and is engaged in international transportation.</p> <p>Crew members may not, however, perform dockside functions such as the loading or unloading of cargo, without HRSDC confirmation and a work permit.</p> <p>Foreign nationals working as crew members aboard any ship of Canadian registry (e.g., fishing vessel, research vessel, pleasure yacht) or on foreign-registered vessels engaged in the coasting trade require HRSDC confirmations and work permits.</p>

**Note:** The coasting trade is the carriage of goods or passengers by ship from one place in Canada, either directly or indirectly through a foreign port, to any other place in Canada. It includes marine activity of a commercial nature by a ship in Canada, for example tour boats. Foreign ship owners wishing to engage in this activity require coasting-trade licences issued by Canada Border Services Agency in cooperation with the Canadian Transportation Agency.

## 5.2. Crew members on ships of Canadian registry

Crew members aboard ships of Canadian registry are not required to appear for examination before an officer at a maritime POE, provided that they are Canadian citizens. Pursuant to the Regulations, the master of a ship of Canadian registry need not present a crew list unless specifically requested to do so.

The master must notify an officer of the arrival of crew members who are not Canadian citizens and permanent residents. Such persons should be examined normally. They require work permits and HRSDC validations. If a Canadian registered vessel is converted to foreign registry while in Canada and subsequently leaves Canada, a crew list is not required before its departure.

## 5.3. Notification concerning crew members

R268 requires a transporter to notify an officer without delay when a person granted entry as or to become a crew member fails to become or ceases to be a crew member.

## 5.4. Medical expenses

R263(1) provides that transporters are liable for the medical and hospital costs incurred with respect to their crew members.

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**5.5. Hospitalized crew members**

R268(1) requires a ship's master to notify an officer when any crew member ceases to be a crew member. The master need report, however, only those crew members whose hospitalization will continue after the vessel's departure. R3(1)(b) provides that crew members who are hospitalized have 72 hours after their release from hospital to return to their vessel or leave Canada. They maintain their temporary resident status during this interval.

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**5.6. Requirement to notify when stowaways are on board**

R262 requires a shipping company to notify an officer of the presence aboard of any stowaways upon the vessel's arrival at its first port of call in Canada. The notice need not be in writing unless an officer has reason to request a written report. Notice is not required if the vessel is in transit through Canada to a port in the U.S.A.

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**5.7. Requirement to hold stowaways on board**

The examination of stowaways should take place aboard the ship on which they arrived. Section A148(1)(b) requires the master to hold a stowaway (in custody) aboard the ship until the examination has been completed. This will require that the master continue to hold a stowaway on board when an examination must be adjourned. The master of a ship in transit to the U.S.A. is prohibited from diverting the vessel to a Canadian port of entry for the sole purpose of disembarking stowaways in Canada. A stowaway aboard a vessel that is at anchor should not be examined. The examination should only be conducted upon the vessel's arrival at dockside. Stowaways who withdraw their application to enter Canada or are issued a removal order should depart Canada aboard the vessel that brought them to Canada unless the transporter has made satisfactory arrangements for that person's repatriation by other means. (See [Section 9.5](#), When to allow for repatriation by air.) A transporter that allows a stowaway to disembark at a place other than a designated POE, such as a seaway lock, faces prosecution under A124(1)(a) in addition to the usual financial liabilities (security deposits, administration fees and removal costs).

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**5.8. Liability for removal**

Pursuant to A148(1)(f), a transporter is liable for the removal from Canada of any foreign national whom they bring to Canada as a crew member or to become a crew member. They are also liable for the removal of any improperly documented stowaway or other inadmissible passenger provided they were not in possession of a visa.

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**5.9. Notice of requirement to convey**

R276(1)(b) provides that when the removal order is enforceable, an officer shall notify the transporter that it must carry the person from Canada and provide escorts if required.

Upon being notified of this requirement, R276(2) requires the transporter to inform an officer without delay of removal arrangements. R276(3) requires the transporter to convey the person from Canada within 48 hours of this notification

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**5.10. Presentation of crew lists from foreign-registered vessels**

A crew list is required from each foreign-registered vessel on its arrival in Canada, regardless of the number of crew members aboard. It may be computer generated or typed or printed on a form such as the International Maritime Organization crew list form.

The master must present two copies of the crew list, surrendering one endorsed copy at the time of the vessel's departure from Canada. If the master wishes to have an endorsed copy for the ship's records, a third copy should be presented upon arrival. While the vessel remains in Canada, the master must keep the crew list up-to-date, immediately revising it each time a crew change occurs. A current list must be presented whenever requested by an officer.

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**5.11. Delivering crew lists when an officer does not board**

Due to selective boarding procedures, Canada Border Services Agency (CBSA) officers do not board the majority of vessels on arrival. If a CBSA officer does not board, the master or ship's agent must deliver the crew list to the nearest CBSA office immediately after the vessel's arrival. In some circumstances an officer may allow for the list to be transmitted electronically (e.g., when a vessel arrives at a port which is not a port of entry). If the master sends the list by facsimile, the CBSA officer who receives it should send an endorsed copy by facsimile to the ship's agent for presentation at the time of the vessel's departure from Canada.

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**5.12. Persons to be named on the crew list of foreign-registered vessels**

R265 requires a transporter to provide an officer at a port of entry with a list of all members of the crew. This must include the names of all persons employed on the vessel to perform duties related to the operation of the vessel or the provision of services to passengers.

On a cargo ship, crew members include:

- licenced officers: master, first officer, chief officer or chief mate, first engineer or chief engineer, and subordinate officers and engineers; and
- non-licenced crew: ordinary seamen, able-bodied seamen, bosun (deck crew foreman), engine- room crew (oilers and fitters), and kitchen and mess-room staff (cooks, stewards and messmen).

On a cruise ship, crew members also commonly include the hotel manager, cruise director, purser, medical staff, managers and staff of the ship's bars, restaurants, boutiques and casino, as well as house-cleaning staff and entertainers.

On a fishing vessel, crew members include all persons involved in the processing of the catch.

On a research vessel, all persons employed aboard such as scientists, technicians and divers are considered to be members of the crew.

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**5.13. Persons not to be named on the crew list**

The definition of member of a crew does not include persons in the following categories.

- supernumeraries: wives, children and other dependants of crew members;

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**Note:** Supernumeraries occasionally present seamen's books and claim to be members of the crew. In such cases, the master must prove to an officer through ship's articles and employment contracts that the supernumerary is a legitimate crew member rather than someone pretending to be a crew member in order to circumvent the visa requirement.

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- fare-paying passengers on cargo ships;
- workaways: passengers provided with transportation aboard a vessel in exchange for work performed during the voyage;
- foreign contractors and shipping company technicians: foreign nationals temporarily assigned to a vessel for the sole purpose of making repairs; they may already be aboard the vessel when it arrives or arrive at a POE with the intention of proceeding to the vessel;
- shipping company superintendents, including persons referred to as supercargo, superintendent engineers, or port captains;

- employees or executives of a marine transportation company who travel aboard or who visit ships to monitor or supervise operations such as maintenance and repairs, preparation of cargo holds, preparation for inspection, and the loading or unloading of cargo;
- insurance company representatives who travel on vessels to familiarize themselves with shipboard operations on behalf of ship-owners' insurers; and
- meteorological officers: persons monitoring weather patterns whose presence aboard is unrelated to the navigation of the vessel.

These persons should not be named on crew lists. They are not exempt from passport and visa requirements. This list is not exhaustive. Even if non-crew members claim that they do not intend to go ashore while the vessel is in port, they are still required to comply with applicable visa and passport requirements.

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## 6. Definitions

Nil.

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## 7. Procedure: Crew members arriving on vessels of foreign registry

Crew members aboard vessels of foreign registry are not required to appear personally before an officer for examination at a POE unless asked to do so.

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### 7.1. Verifying the crew list

Before endorsing a crew list, an officer should take one or more of the following steps to ensure it is accurate and complete:

- ensure that surnames are distinguishable from given names, and if two or more identical surnames appear on the list, that the master has not included the names of dependants;
- look at the dates of birth to ensure that no person is either too young or too old to be a legitimate crew member;
- compare the particulars on the crew list with the information contained in seaman's identity documents or passports, ensuring that names and dates of birth are accurate;
- review the crew functions described under the list's rank or rating column and question the master about unclear terms or abbreviations;
- compare the names on the crew list with the names of crew members in the ship's articles or on employment records; and
- conduct a crew muster, asking each person named on the list to come forward to be identified; compare the particulars in each travel document with the information supplied by each person who comes forward; ensure that the photograph in the document bears a general resemblance to the holder; question the presence on board of unusual mixes of nationalities (e.g., two Tanzanians amongst a crew of Russians – these may have been stowaways whom the master has been told to pass off as crew members).

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**Note:** Crew members arousing suspicion should be questioned more thoroughly concerning their experience at sea and their knowledge of their duties. If they are unable to satisfy an officer that they

are legitimate crew members, the officer should allow them to withdraw their application to enter Canada or report them pursuant to section A44(1).

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A crew muster is the assembly of all crew members on the vessel. It can be conducted on the arrival or at any time prior to the departure of the vessel to ensure that all persons named on the crew list are accounted for. An officer should not give the master advance notice of a crew muster prior to the vessel's arrival. Advance notice of subsequent crew musters, however, is advisable because it encourages ship masters to comply with the requirement to notify an officer of desertions. Pursuant to R266, a master must assemble all members of the crew without delay on the request of an officer.

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## **7.2. Errors on the crew list**

If minor inaccuracies on the crew list are detected that are believed to be inadvertent, the officer should make the necessary corrections and initial the changes before endorsing the list. If there is reason to believe that the inaccuracies are due to a deliberate attempt to mislead, the officer should treat the matter as an offence and consider initiating enforcement action. Offences should be reported to the RCMP or to local or provincial police as appropriate.

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## **7.3. Deleting names from the crew list before endorsement**

Before an officer endorses a crew list, an ink line should be drawn through the name of each person who:

- is not a crew member; or
- is inadmissible to Canada.

The officer should initial each line that is deleted.

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## **7.4. Actions after deleting names**

An officer must examine persons whose names were deleted to ensure that they meet all entry requirements. If a crew member or passenger is believed to be inadmissible, an officer may allow the person to withdraw their application to enter Canada pursuant to R42 or report the person pursuant to A44(1). In these cases, a transporter must continue to hold the person. Section A148(1)(b) requires a transporter to present persons for examination and hold them until the examination is completed. R37 clarifies that the examination continues until the person is authorized to enter Canada, until their departure from Canada has been confirmed or until the Minister has issued a removal order or referred the case to the Immigration Division. R261(1) further clarifies that a transporter's obligation to hold a person only ends when they are informed that the examination is completed, the person is authorized to enter Canada for further examination under A23 or is detained under any Canadian law.

If the Minister issues a removal order, A148(1)(f) requires the transporter to carry the crew member from Canada. R276(1)(b) requires an officer to notify the transporter that the person has an enforceable removal order and must be conveyed from Canada

If an inadmissible person is detained for an admissibility hearing, an officer should arrange to have the person removed from the vessel and detained at a designated immigration detention centre.

See also:

[ENF 4](#), Port of Entry Examinations

[ENF 5](#), Writing Section 44(1) Reports

[ENF 11](#), Verifying Departure

[ENF 20](#), Detention.

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**7.5. Endorsing the crew list**

Until an officer endorses a crew list, the persons named on it have not been authorized to enter Canada. Consequently, none of them may disembark. When the officer has determined all persons named on the crew list to be admissible, or has deleted the names of those persons not admissible as crew members, that officer should endorse the last page of each copy of the document with a port stamp impression. The master must retain the endorsed copies, and use them to record any crew changes that occur while the vessel is in Canada. Pursuant to R265(2) and R265(3), the master must revise these endorsed copies as soon as crew changes have occurred and provide an officer with an up-to-date list upon request.

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**7.6. Recording crew changes**

The master must ensure that all crew changes are recorded on the endorsed copies presented at the time of the vessel's departure from its final Canadian port of call. If an officer is aware that the crew list presented upon the vessel's departure is not current, that officer should amend the list using the following format:

For deletions:	Immediately below the last entry on the endorsed copies of the crew list, officers should identify each person named on the list who has ceased to be employed aboard the vessel, using the corresponding number from the first column. It is unnecessary to rewrite the names and other particulars of the persons concerned. Following the number, add the reason for the change, the date the change occurred (that is, the date on which the person ceased to perform the duties of a crew member), and the officer's initials.
For additions:	Immediately below the last entry on the endorsed copies, the officer should record the name and particulars of each person who joined the vessel as a crew member after its arrival in Canada. The numbers assigned to crew members joining the vessel after its arrival in Canada must not begin again at number 1. They must continue in numerical sequence. For example, if the inbound crew list contained 20 names, the number 21 should be assigned to the first crew member to join the vessel in Canada. The officer's initials should be written at the end of each addition.

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**7.7. Filing crew lists**

Unless alternate arrangements have been made, crew lists endorsed by CBSA should be promptly forwarded to the immigration office. Because crew lists contain personal information, they must be kept on file for at least two years pursuant to section 4(1) of the *Privacy Regulations*.

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**8. Procedure: Crew members on vessels of Canadian registry**

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**8.1. Enforcement procedures**

When an officer has reasonable grounds to believe that a person has ceased to be a crew member, the officer should consult the ship's inbound crew list to verify whether or not the foreign national's name has been recorded. If the notification concerns a foreign national who failed to report for duty as a crew member after having been authorized to enter Canada for that purpose, the officer should determine when and where the person concerned was admitted and include this information on a Support System for Intelligence (SSI) report.

The master must surrender any identity documents belonging to the former crew member, and any information that may be helpful in locating the deserter (names and addresses of relatives or friends in Canada). Such documents should be seized to facilitate the identification and possible

removal of the person concerned. The officer should send any documents suspected of being fraudulent to the regional intelligence unit for analysis. Others should be kept on the case file until the deserter is located. The officer should also obtain a copy of the employment contract, medical records, ports- of-call list, and a copy of the ship's particulars.

An officer should inspect the deserter's cabin and remaining luggage, if possible. The inspection may result in the discovery of additional identity documents or information that could lead to the apprehension of the deserter.

An officer should initiate enforcement action by reporting the deserter under the appropriate section of the Act. During the process of data entry in FOSS, code 184 designating a ship deserter should be inserted in the cause field to facilitate the retrieval of statistical data. The body of the report should be worded in accordance with the following example:

*Name of deserter* is a person who was granted entry to Canada on *date* at *name of port* as a member of the crew of the *name of vessel*. On or about *date of desertion*, in *name of place*, the said *name of deserter* deserted the vessel, thereby ceasing to be a temporary resident.

The above wording will need to be adjusted in the case of crew members arrested and charged with a criminal offence, foreign nationals who fail to join a vessel after having been granted entry to become crew members, and crew members who fail to leave Canada after being discharged from duty. Suppressed remarks should be added to the FOSS report containing the following information:

- name of vessel to which the person concerned had been assigned as a crew member;
- date and port of vessel's arrival in Canada;
- date on which the person concerned ceased to be a crew member;
- name, address and telephone number of liable shipping company; and
- amount and official receipt number of any security deposited.

R184(2) requires a foreign national who enters Canada to become a member of a crew to join the vessel within the period authorized or within 48 hours if no period is specified. Crew members who fail to report within this time period are reportable under A41 and R184(2).

See also chapter [ENF 5](#), Writing Section 44(1) Reports.

If the person does not immediately report to a CIC office or is not immediately apprehended, an officer should issue a Warrant for Arrest (form IMM 0420B), signed by the Minister's delegate. The original of the warrant should be sent to the Immigration Warrant Response Centre for entry into the Canadian Police Information Centre (CPIC). For more information on issuing warrants for arrest, see also chapter [ENF 7](#), Investigations and Arrests.

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## **8.2. Procedures when a crew member reports to an inland office or comes to the attention of an investigator**

An inland officer encountering a crew member should query FOSS to determine if there is a warrant or any other record for this person. If a record is not found, the officer should ask the client for the ship's name and the name of the port of arrival and contact the office responsible for that port to determine if the person's name appears on the crew list for the vessel in question. The lack of a record in FOSS may indicate that:

- the crew member was discharged for repatriation but, without the knowledge of the shipping company, failed to leave Canada;

- the shipping company, in violation of the Regulations, failed to report the desertion of the crew member;
- the person is using a name other than the one shown on the crew list; or
- family and given names have been reversed or misspelled.

If a warrant is found, the officer should execute it, informing the deserter of the reason for the arrest and of their applicable rights, using a Notice of Rights Conferred by the Vienna Convention and to Be Represented by Counsel at an Admissibility Hearing form (IMM 0689B). An officer must arrest a crew member for whom there is an outstanding warrant even if the intention is to release the person immediately after the arrest. For more information on executing warrants, see also chapter [ENF 7](#), Investigations and Arrests.

Where there is no warrant, an officer can still arrest a crew member who has failed to join a vessel or a foreign national who has deserted where there are grounds to believe that the foreign national would not appear for an admissibility hearing or poses a danger to the public. The arresting officer should immediately request the transfer of the file from the CIC office where the desertion was reported. The file should include a copy of the SSI report and any identity documents retrieved from the vessel.

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### **8.3. Collecting security deposits**

When a crew member deserts or for any other reason contravenes the Act, an officer should issue a direction to the shipping company for the deposit of security, provided that the company has not deposited general security. Refer to [Section 11](#) for amounts to be collected.

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### **8.4. Detaining or seizing vessels when shipping companies fail to deposit security**

When a shipping company fails to comply with a direction to deposit security, an officer should advise the company that failure to comply may result in the detention or seizure of the vessel. If the requisite security has not been deposited by the time the vessel is about to leave Canada and the officer is doubtful that security will be received if the vessel is allowed to sail, the vessel or any other prescribed goods of the transporter should be detained under A148(2). Pursuant to R285, a vessel may be detained until the transporter deposits the requisite security or until another party deposits security on its behalf. The officer must complete and sign the Notice of Detention of Vehicle or Prescribed Good form (IMM 5266B) and serve the master and shipping agent with signed copies. CCRA, Coast Guard vessel traffic, and the pilotage authority, should be immediately notified of the vessel's detention, thereby ensuring that the vessel will not be permitted to sail. The vessel may, however, be allowed to move to another berth or to anchorage while detained.

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### **8.5. Crew members other than deserters who cease to perform their duties**

R184(1)(b) requires crew members to leave Canada within 72 hours of ceasing to be members of the crew. In such cases officers should follow the same procedures for taking enforcement action as apply in cases of desertion. The following circumstances may lead to the loss of crew member status:

- a labour dispute aboard a vessel;
- the crew member's arrest on criminal charges;
- the seizure of a vessel by court order or other authority; or
- suspension of a ship's operations due to an accident or mechanical problems.

In determining whether or not enforcement action is appropriate, an officer should assess whether or not the unwillingness or inability to perform duties will continue after the problem has been resolved. If no resolution is in sight, or if the officer has reason to believe that the crew member will not resume duties, enforcement action should be initiated as soon as possible after the 72-hour period expires. An SSI report should be generated for each crew member who has been reported for failing to leave Canada within the period required. Such reports trigger the assessment of administration fees in respect of the crew members concerned.

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#### **8.6. Discharged crew members**

The master must immediately notify an officer when a crew member who is not a Canadian citizen or permanent resident is discharged R268(1). Once discharged, a foreign crew member retains temporary resident status for a full 72 hours. This period may be shortened or lengthened where warranted. In such a case, the passport or seaman's book carried by the discharged crew member should be stamped and the code letter C followed by the expiry date should be written below the port stamp impression. The name of the vessel should be written under the expiry date. The 72-hour period does not apply to Canadian citizens, returning residents, and crew members with work permits. It applies only to crew members authorized to enter as temporary residents without work permits. Holders of work permits, whether discharged or not, must leave Canada on or before the expiry date indicated on the work permit.

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#### **8.7. Examinations at airports and land borders of persons seeking entry to join vessels as crew members**

Foreign nationals arriving at airports or land borders to seek entry to join vessels as crew members may be referred by CBSA for an immigration secondary examination. The majority of crew members are legitimate seamen whose entry should be facilitated. If the issuance of a visitor record is deemed necessary, a copy should be sent by facsimile to the maritime POE in order that an officer there may confirm that the person complied with conditions by joining the vessel.

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#### **8.8. Ship-joining letters**

Most seamen travel to Canada with employment letters containing ship-joining instructions. The letter is normally printed on the letterhead of a foreign shipping company and usually contains:

- the name, address and telephone number of the ship's agent in Canada;
- the crew member's name, date of birth, and citizenship;
- the number of the seaman's book or passport of the passenger;
- the name and location in Canada of the ship that the crew member is to join.

An officer should verify the information in a ship-joining letter if there is reason to suspect the intentions of the holder.

Before deciding whether to admit the holder of a ship-joining letter, an officer should obtain from the agent named in the letter confirmation that:

- the vessel is in or destined to Canada;
- the person has been recruited to join the vessel;
- the ship, if of foreign registry, is not engaged in the coasting trade; and

- the duties which the person intends to perform are those of a member of a crew as defined in the Regulations.

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**Note:** Ship-joining letters are very easily forged by smugglers as a way of convincing airlines to convey persons without temporary resident visas. Local shipping agents might even be named in fictitious instructions as a means of making the letter appear legitimate. Letters printed on letterhead appearing to be that of a Canadian shipping agent are probably fraudulent. Genuine employment letters are normally issued by foreign shipping companies, not by Canadian agents.

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### **8.9. Using port stamps**

An officer who authorizes entry to a crew member should make a port stamp impression in the passport or seaman's book. If the crew member is travelling with both documents, only the passport need be stamped. The officer should write the code letter C below the impression, denoting that the document holder must join a vessel as a crew member within 48 hours after entry if no expiry date is specified, or by midnight of the expiry date written after the code letter. The ship's name should be written immediately below the expiry date.

### **8.10. Temporary resident records**

Temporary resident records need not be issued routinely but only when an officer wishes to have an officer at the maritime POE verify that the seaman has complied with terms and conditions by joining the ship. Verification will always be necessary when a temporary resident's security deposit has been received. Issuing a temporary resident record may be warranted in other cases if it is used in conjunction with verification of compliance.

The lack of a passport in which to make a port stamp impression does not, in itself, warrant the issuing a Visitor Record form (IMM 1097 B).

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## **9. Procedure: Passengers arriving at a maritime POE**

Many shipboard passengers need not appear before an officer at a POE.

### **9.1. Requirement to appear for examination**

An officer may request cruise ship lines to provide passenger manifests. When a company's official provides such a list to CBSA, the company may, at an officer's discretion, be excused from its obligation to present each passenger. To expedite the entry of large numbers of passengers an officer may, for example, grant entry to Canadian citizens or returning residents and citizens or residents of the U.S.A. on the basis of information found on the passenger manifest. An officer should ensure that all passengers requiring temporary resident visas appear personally for examination by CBSA.

Passengers aboard cargo ships and pleasure craft are normally required to appear in person before an officer for examination.

### **9.2. Place of examination**

A shipping company should normally present passengers for examination on the ship itself. The master must provide shipboard facilities for this purpose, and must not allow passengers or crew to disembark until they have been examined and authorized to leave the vessel. Examples where passengers may be allowed to disembark before examination include when:

- facilities for examination are available at dockside;
- a medical or other emergency is reported; and

- CBSA is not physically present at the port and the distance involved makes travel to the ship unfeasible.

When passengers are permitted to disembark before examination, an officer must inform the company of the place where it must present passengers for examination. A shipping company that allows a passenger to elude examination may be prosecuted for the commission of an offence. The company is also liable for the payment of an administration fee pursuant to R279(1)(d) in respect of a passenger who eludes examination. In such a case, an officer must complete an SSI report.

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### **9.3. Referring passengers for secondary immigration examinations**

CBSA officers must automatically refer some passengers for immigration secondary examination, including:

- undocumented or improperly documented passengers;
- passengers presenting travel documents suspected of being altered or fraudulent;
- passengers who cannot be questioned without an interpreter, other than passengers accompanying a crew member on whom they are dependent; and
- stowaways.

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### **9.4. Examining stowaways on board vessels**

Vessels carrying stowaways should be boarded as soon as possible after docking. Vessels arriving after regular office hours or on weekends need not be boarded until the following business day. If the vessel cannot be boarded upon arrival, an officer should advise the agent of the master's obligation to hold the stowaway in custody until the stowaway is presented to an officer, or until the vessel has left Canada if the stowaway is not seeking entry.

As part of an examination respecting a stowaway an officer should:

- interview the master prior to examining the stowaway;
- take fingerprints and photographs of the stowaway;
- determine how long they have been on board, where they boarded, and where they were found;
- determine whether any travel or identity documents were found;
- determine whether there is any sign of injury or illness;
- determine whether the stowaway is aware they are in Canada and whether there were any other stowaways who may have disembarked prior to the ship's arrival in Canada;
- search the stowaway, their hiding place and the place aboard the ship where they are currently held;
- include the collection of descriptive data and a notation of any distinguishing marks such as scars or tattoos;
- caution the master that the stowaway must remain aboard the ship and that a security deposit will be required if the stowaway does not leave Canada with the ship.

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### **9.5. When to allow for repatriation by air**

A shipping company may request permission to repatriate a stowaway by air, particularly if the ship is not scheduled to return to the stowaway's country of embarkation or citizenship. An officer may grant permission to do so if the following conditions apply:

- the stowaway is in possession of a valid passport or travel document and any requisite transit visas;
- the shipping company has obtained a confirmed seat reservation for the stowaway on the first available flight to the country which issued the passport or travel document;
- the company agrees to provide any escorts which, in the opinion of an officer, may be required;
- the company arranges transportation to the airport from the ship; if a removal order has been made against the stowaway, transportation to the airport may be provided by CIC; and
- the officer is satisfied that the stowaway will depart Canada voluntarily.

If the officer grants permission for repatriation by air, the stowaway may be allowed to withdraw their application to enter Canada. In such cases the stowaway must be escorted to the airport and departure confirmed by an officer. The stowaway's departure must be recorded in FOSS on a certificate or a confirmation of departure screen. See also chapter [ENF 11](#), Verifying Departure.

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### **9.6. FOSS entries**

FOSS reports on stowaways should be accompanied by suppressed remarks which contain the following information:

- name;
- address and telephone number of the liable shipping company;
- name of ship;
- official receipt number for security deposit, if applicable.

This information is essential to any officers involved in the eventual removal of the stowaway and to NHQ officers responsible for deductions from and refunds of security.

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### **9.7. Use of Association of Characteristics (AOC) code for stowaways**

The use of AOC code 421 on all inadmissibility reports differentiates persons who arrived as stowaways from other inadmissible foreign nationals. Use of this code, therefore, permits the extraction from FOSS of data about stowaways.

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### **9.8. Inland interviews with persons claiming to have been stowaways**

Occasionally, stowaways disembark from ships at ports of entry without being presented to an officer for examination. Such persons elude examination either because they were not discovered during the voyage or because they were concealed and smuggled ashore by a crew member or passenger. When such persons report to inland offices, the officer who interviews them must try to determine which shipping company should be directed to deposit security and held liable for administration fees and removal costs. A suspected stowaway may or may not be able to identify the ship by name but should be able to specify the dates and ports of embarkation and disembarkation. If the name of a ship is provided, the officer must obtain confirmation that a ship

by that name arrived in Canada on the date and at the place stated. If the subject claims not to recall or never to have known the ship name, the officer should determine which ship, if any, arrived at and from the places stated and on the dates in question. Inquiries should be made while the person being interviewed is present and the alleged stowaway questioned immediately about any discrepancies.

Information about the arrival of ships can be obtained by calling the Canadian Coast Guard information service in Longueuil at 450-928-4544, in Dartmouth at 902-426-4956, or in Vancouver at 604-666-6011. If information provided by the person being interviewed is confirmed, the officer should obtain the name of the shipping agent and, while the alleged stowaway is present, immediately notify the agent by telephone of the allegation. Once reasonably certain of the identity of the ship, the officer should ask the alleged stowaway to provide the following details:

- method of embarking and description of hiding place;
- method of entry and description of container and its contents (if entry is by shipping container);
- method of disembarking from ship and of exiting container, if applicable;
- names and descriptions of any persons who assisted in embarking and/or disembarking;
- monies paid;
- general description of the vessel and of ports of embarkation and disembarkation;
- significant events or incidents during voyage (e.g., storm at sea, discovery).

At the conclusion of the interview, each stowaway should be asked to make a detailed written declaration on form IMM 5160B and to add a statement authorizing the release of information to the shipping company concerned. The officer should interview separately all stowaways claiming to have travelled together, including couples and adult members of the same family. Each of these persons should be asked to provide satisfactory explanations for any discrepancies in their statements.

If the information about the ship's itinerary has been confirmed and other statements appear plausible and consistent, the officer should transmit an SSI report to NHQ identifying the liable shipping company. If the officer is satisfied that the persons concerned were stowaways but is unable to determine the name of the ship on which they arrived, the SSI report should specify that the carrier is unknown. If the carrier has been identified, the report will trigger the assessment of an administration fee. If the shipping company contests the assessment by filing a submission, the officer may be asked to provide additional details, including the alleged stowaway's declaration. The officer's own declaration should be included if there is additional information in the interview notes pointing to the identity of the responsible transportation company.

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## 10. Procedure: SSI reports

SSI is the acronym for the Support System for Intelligence used in reporting details of transportation company violations to NHQ. There is a marine version of the system designed for reporting stowaways, crew members and other persons who arrive aboard ships. An SSI report normally triggers the assessment of an administration fee. If officers believe that an administration fee should not be assessed, they should indicate this in the remarks section of the report. Administration fees may be assessed pursuant to R279(1) in respect of foreign nationals who:

- fail to be in possession of required travel documents;

- the Minister instructed the transportation company not to carry;
- are exempt from passport or other travel document requirements but who fail to produce documentary evidence under the Regulations;
- elude examination; and
- remain in Canada without authorization after entering Canada as or to become crew members.
- Pursuant to R279(2), fees may not be assessed with respect to foreign nationals:
  - authorized to enter and remain in Canada on a temporary basis (other than those who entered as or to become crew members);
  - allowed to withdraw their application for entry and who leave Canada immediately;
  - who are subject to a removal order on their arrival at a POE and who leave Canada immediately;
  - who return as a result of a refusal by another country to allow them entry; and
  - who are in possession of refugee travel papers valid for return to Canada.

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## **11. Procedure: Collecting security deposits for payment of administration fees and other expenses**

An officer who determines that a shipping company may become liable to pay administration fees and removal costs should:

- issue a direction to the shipping company, usually the ship's agent (ship's master when there is no agent) for a cash security deposit to cover the fees and potential costs related to removal and medical treatment, provided that the company has not already deposited general security; in the absence of instructions to the contrary, the amount of the deposit should be a minimum of \$15,000 in all cases (the officer should direct the company to deposit a greater amount in instances where administration fees and costs may be expected to exceed \$15,000, e.g., undocumented African stowaways, stowaways requiring medical treatment);
- if the officer has any doubt about the company's intention to comply with the direction, consider detaining the vessel as described in [Section 8.4](#);
- issue an official receipt (form IMM 0410B) to the depositor upon receipt of security; if the security is paid by a company other than the shipping company to which the direction was issued (such as the ship-owner's insurance representative), the officer should write the name of the liable shipping company in brackets after the name of the depositor; and
- record the official receipt number and the amount of security received on a remarks screen or an NCB screen in FOSS.

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## **12. Procedure: Liability for removal**

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### **12.1. Initial notice of liability**

R276(1)(a) provides that when a foreign national seeking to enter Canada is made subject to a removal order, an officer is required to notify the transporter that it is or might be required to carry the foreign national from Canada. In cases of refugee claims, this would be a preliminary notification advising that the transporter may be liable in the future to carry the person from Canada. It is essential that this notification be given in order for CIC to get the transporter to accept liability at a later date.

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### **12.2. Failure to comply with acceptable removal arrangements**

If the transporter fails to make travel arrangements within the delay prescribed, makes travel arrangements which are unacceptable, fails to respond without delay or responds by informing an officer that it does not intend to provide transportation, removal arrangements will be made by the officer. Removal arrangements will also be made by the officer if the shipping company has previously advised that it is unable or unwilling to arrange for any foreign national to be conveyed from Canada.

R276(5) provides that travel arrangements proposed by a transporter are only acceptable if:

- the foreign national is not inadmissible to the country of destination and any countries of transit;
- the safety of the foreign national and other persons during the removal is assured; and
- the transporter complies with any request for escorts.

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### **12.3. Liability for removal costs**

Shipping companies are liable for any removal costs incurred by the Department R278. Consequently, immediately after the departure of a foreign national has been confirmed and any escort officers have returned to Canada, all applicable removal costs must be calculated and reported to the Transportation Unit, Enforcement Branch, 300 Slater Street, 8th Floor, Ottawa, Ontario, K1A 1L1. These costs will be automatically deducted from any cash security deposited by the company in respect of the foreign national removed or billed to the company in the absence of security or an adequate amount of security.

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**Note:** Unless removal costs are reported to NHQ, the expenses for which the shipping company is liable will not be recovered, nor will the company receive a refund for any portion of a security deposit to which it may be entitled.

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### **12.4. Breakdown of costs to be reported**

R278 lists the removal costs for which a transporter is liable. Removal costs reported to NHQ should be itemized as follows.

- airline tickets for the person removed or, if applicable, the cost of chartering an aircraft or of purchasing transportation by any other means of conveyance (including costs of transportation within Canada to the port of entry);
- transportation expenses for all escorts and any other person assigned to accompany the person removed, including RCMP, medical personnel and interpreters;
- transportation to and from airports in or outside Canada;

- the cost of obtaining a passport or travel document from a foreign embassy, high commission or consulate for the person removed;
- the cost of obtaining visas for any persons who accompanied the person removed;
- accommodation and meals purchased for the person removed;
- accommodation for all persons who escorted the person removed;
- the cost of meals, incidental expenses and other allowances for all persons who escorted the person removed;
- regular wages payable to any persons who escorted or accompanied the person removed from Canada or to the port of entry in Canada;
- overtime wages payable to any persons who escorted or accompanied the person removed from Canada or to the port of entry in Canada;
- fees paid to an interpreter during the course of removal proceedings;
- fees paid to medical personnel engaged to travel with the person removed and any medical costs not previously reported for which the transportation company is liable; and
- costs incurred to repair any damages caused by the foreign national during the removal.

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#### **12.5. Means of reporting costs**

A detailed breakdown of costs as outlined above may be reported to the Transportation Unit by the following means:

- an e-mail message to an officer of the Transportation Unit;
- a form IMM 0459B (Costs Payable by Transporters) completed by hand and mailed or sent by facsimile to the Transportation Unit, Enforcement Branch, NHQ; or
- an electronic version of form IMM 0459B transmitted to an officer of the Transportation Unit as an e-mail attachment in Word. (The electronic version is designed to be saved as a Word document, in which case the 8-digit FOSS ID number of the person removed is normally used as the file name. Upon request, a program officer will transmit a client-specific form by e-mail.)

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**Note:** The form IMM 0459B should only be used for reporting actual costs incurred. It should not be used for reporting nil amounts.

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It is not necessary to submit copies of receipts, invoices, travel expense claims and extra duty and shift-work authorizations [form PER 0007] when reporting removal costs to the Transportation Unit. However, copies of these should be kept on file and forwarded on request to the Transportation Unit in the event that they are needed to substantiate any invoices questioned by a transporter.

If the person removed was brought to Canada aboard a ship, a shipping agent was likely required to deposit security. If so, there should be an Official Receipt form IMM 0410B on the case file. The IMM 0410B serial number and the amount of the deposit should be notated on all reports of removal costs transmitted to the Transportation Unit. The Manager, Transportation Unit has been delegated to authorize the deduction of shipping company liabilities from security, if applicable.