



Ship Type: All Trade Area: Canada

## Bulletin 510 - 02/07 - The Canadian Criminal Code - Canada

**Members should be aware that under the Canadian Criminal Code there may be a requirement to provide security for the cost of repatriating crewmembers should they be charged with offences, and this may also involve the detention of the ship.**

Recently, Immigration Canada required a shipowner, whose ship had just completed loading a bulk cargo, to provide security for the anticipated future costs of repatriating two Philippine crewmembers arrested and charged with offences under the Criminal Code of Canada. Immigration Canada took the position that owners were obliged to pay up to \$50,000 as cash security (\$25,000 per crewmember) pursuant to the Immigration and Refugee Protection Act and Immigration and Refugee Protection Regulations.



The security was requested to cover administrative charges of \$3,200 per crewmember and the potential costs of flying the crewmembers back to the Philippines with escorts. The shipowner was advised by Immigration Canada that if security was not provided the ship would be detained.

Foreign crewmembers occasionally violate the Canadian legal system - for example, there have been a series of recent arrests of crew in Vancouver and Prince Rupert for possession of child pornography which have resulted in criminal charges and detention. In those cases customs' searches of crew quarters turned up child pornography on laptop computers and resulted in charges being laid. Arrests are also possible for other Criminal Code offences including importation of illicit substances (drugs) or weapons which crewmembers carry to Canada in their personal effects. In addition, crewmembers have been known to get involved in the occasional bar room brawl, which could result in assault charges.

In other situations where security is requested under the Act for cost of repatriation - for example, for stowaways who arrive in Canada and subsequently claim refugee status or for crew who fail to return to their ships prior to sailing (deserters) - the amount of security requested varies with the individual's country of origin. At this time Immigration Canada typically requests security of approximately \$25,000 for an individual who they consider to be of low risk during repatriation. Security as high as \$90,000 may be requested for costs of repatriating each individual from, for example, the Middle East or Africa, who Immigration Canada considers present a higher security risk during repatriation - that is, where repatriation by commercial jet is not advisable. Immigration Canada takes the position that this high level security is necessary to cover possible costs which may include, for example, chartering a private jet to repatriate these potentially high risk individuals. In the context of crew arrested and detained in Canada and depending on the number of crewmembers involved and their countries of origin the amount of cash security required could be significant.

Members are encouraged to inform the Club as soon as possible should one of their ships experience such an incident, in order to minimize any delay to the ship sailing.

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