

## Proinde Circular 18-02-2023: ILO C108 seafarer's identity document no longer accepted

### Brazilian immigration authority indicated that after April 2023, only SIDs issued under the ILO C185 will be recognised as valid travel documents for seafarers

The Seafarer's Identity Documents Convention No. 185 (C185), adopted by the ILO in 2003, was ratified by Brazil in 2010 when the outdated ILO Convention 108 (C108) of 1958 was denounced. The revised version of C185 was enacted in 2015 and came into full force after its regulation in 2019. However, the Brazilian immigration authority (Federal Police) continued to accept the seafarer's identity document (SID), colloquially referred to as the "seaman's book", issued under the C108 even though this convention has long been revoked.

### Background

In 2020, the Federal Police eventually tightened immigration controls on seafarers, requiring ILO C185 SIDs as a condition for allowing short stays of foreign crewmembers. At the height of the COVID-19 pandemic later that year, in response to an ILO resolution on maritime labour issues, the immigration authority relaxed the rules and granted successive grace periods for SIDs issued under the repealed convention, the last extension valid until 30 April 2023.

With the deadline approaching, the General Coordinator of Immigration of the Federal Police in Brasília anticipated to the local union of shipping agencies that there will be no further extension from 1 May 2023. Therefore, only seafarers carrying an ILO C185 SID will be allowed entry; alternatively, they will have to present a valid passport and, depending on their nationality and length of stay, a visa to enter the country or disembark for repatriation.

### Seafarer's immigration controls

#### Entry requirements

The documentary requirements for the entry and transfer of foreign seafarers working as crewmembers signing on or off cargo vessels, cruise ships or platforms in Brazilian waters can be summarised as follows:

#### a) When holding a valid C185 SID:

- Temporary Work Visa type 'V' (VITEM V) for stays longer than 180 days aboard foreign ships or platforms
- VITEM V visa for working onboard Brazilian-flagged vessels or platforms, regardless of the term of employment

#### b) When NOT holding a valid C-185 SID:

- Visitor Business Visa (VIVIS) for stays up to 90 days per migratory year, non-extendable
- VITEM V visa for working onboard Brazilian-flagged ships or platforms, regardless of the term of employment
- VITEM V visa for stays exceeding 180 days aboard foreign cargo vessels and cruise ships
- VITEM V visa for stays exceeding 90 days per year on platforms and vessels other than cargo and cruise ships

The list of countries whose seafarers without a valid C185 SID need a visa can be found on the [Ministry of Foreign Affairs website](#).

**c) No visa will be required of:**

- Crewmembers and other foreign professionals on board whose nationality exempts them from a VIVIS visa for stays up to 90 days per migratory year upon presentation of a passport valid for the entire length of stay
- Crewmembers holding a valid C185 SID for a maximum stay of 180 days per migratory year, provided they enter the country by sea or demonstrate that the purpose of entry is to embark on a platform, a cargo vessel on an ocean-going voyage or a cruise ship sailing along the Brazilian coast
- Foreign seafarers carrying a SID not complying with ILO C185 standards may eventually remain on board the vessel, at the discretion of the Federal Police, but will not be able to disembark, with owners subject to a fine for each crewmember in breach of the regulation

Due to Brazil's bilateral trade agreements with some nations, the Federal Police may allow, under certain conditions, the landing of crew members whose nationality requires a visa or whose country has not signed ILO C185.

The Federal Police may allow entry of seafarers who do not meet the requirements for admission, provided that the carrier or its shipping agent undertakes the expenses incurred with their stay, welfare and repatriation. This liability is without prejudice to other liabilities arising from the 2006 ILO Maritime Labour Convention (MLC 2006), effective in Brazil since 2021.

### **Length of stay**

Regardless of whether the seafarer holds an ILO C-185 SID or a passport, the Federal Police may require proof of the seafarer's legitimacy and intention in the country and financial capacity. The immigration authority may also discretionarily limit the length of stay.

The maximum period of stay allowed for the seafarer in the country without a visa begins to count from the date of immigration clearance in the first Brazilian port. It ends when the vessel leaves the last Brazilian port – or the seafarer is repatriated. The length of stay is counted from the arrival (or departure) at the first (or last) immigration checkpoint.

Daily fines may be applied to seafarers who overstay.

## **Penalties**

### **Immigration fines**

The Brazilian Migration Law establishes fines against travellers (from BRL 100 to BRL 10,000) and carriers (from BRL 1,000 to BRL 1 million) for violating regulations. The penalty can be increased exponentially in case of recidivism.

Fines for bringing travellers (crews, passengers and stowaways) with irregular documents are usually set at the lower scale of the table (BRL 1,000 per person). However, the Federal Police may exercise discretion and raise the amount of the fine in the face of aggravating circumstances.

The shipowner is legally responsible for the crew, passengers and stowaways carried on board; the only exclusion of liability is where the offence occurred as a direct consequence of force majeure or an Act of God.

Apart from fines, the authority may order the repatriation or deportation of foreign travellers in breach of immigration rules.

## Defences and safeguards

Penalties can be challenged administratively or judicially, with full rights of defence being ensured to the offender under the adversarial system with the right to appeal.

Immigration fines are subject to a five-year time bar from the date of the alleged violation. In the case of permanent or continuous infringement, the time bar will count from when the infraction has ceased.

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