

7 FAM 740 DESERTION, FAILURE TO REJOIN SHIP, ARREST OF SEAMEN

*(CT:CON-111; 09-15-2005)
(Office of Origin: CA/OCS/PRI)*

7 FAM 741 WHEN DESERTION OCCURS

(CT:CON-111; 09-15-2005)

a. Desertion occurs when:

- (1) When a seaman without leave quits the service of a vessel and does not intend to return to duty; or
- (2) When a seaman signs shipping articles, agrees to join a vessel waiting in port and then fails to do so, unless the failure was beyond his/her control.

b. See 46 U.S.C. 11104, 46 U.S.C. 11106, 46 U.S.C. 10309, 46 U.S.C. 11051, and 46 U.S.C. 11503.

7 FAM 742 DESERTION DOES NOT OCCUR

(CT:CON-111; 09-15-2005)

Desertion **does not occur** when:

- (1) When a mariner is absent without leave or overstays leave time, but has not refused or neglected to comply with an order to return and had no intention to sever connection with the vessel;
- (2) When a seaman goes ashore without permission, but intends to return;
- (3) When a seaman openly leaves the ship with the consent of the master or leaves under circumstances showing the master's desire or intention to terminate the seaman's services; and
- (4) When the seaman leaves the ship because of cruel or oppressive treatment, for want of sufficient provisions in port when they can be

procured by the master, or when the voyage is altered in the articles without.

The master is obliged to report desertions in a foreign port where they occur if we have consular representation there or to the first port he enters having consular representation.

7 FAM 743 WHAT IS THE ROLE OF THE CONSULAR OFFICER?

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- a. You must investigate alleged desertions. You may have to go to the vessel and consult more than one source, i.e., the master and the union representative.
- b. You should immediately communicate with the post having jurisdiction (port of desertion) for details concerning the seaman's absence from the vessel.
- c. A master's desertion statement should not be certified by you until you are satisfied that the desertion was not consented to or abetted by the master or justified by conduct on the part of the master or other officers toward the seaman and that the claim of the master is factual. If you are not so satisfied, you should simply notarize the statement.
- d. If it is subsequently determined that a seaman was not a deserter, inform CA/OCS/PRI of the circumstances and identify the vessel's next port so the appropriate action may be taken.
- e. See 46 U.S.C.11503.

7 FAM 744 ARREST OF DESERTERS

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The La Follette Seamen's Act of March 4, 1915 forbids the imprisonment of merchant seamen charged with desertion. However, deserters are subject to the local laws and may be detained as unlawfully admitted immigrants. You should offer appropriate assistance to United States seamen who are charged with desertion. (See 7 FAM 400).

7 FAM 745 THROUGH 749 UNASSIGNED