

Maritime Labour Convention, 2006

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- **Contents in brief**
- **Frequently Asked Questions**
- **When will it take effect?**
- **What should shipping companies do?**



- **Articles – definitions and legal basis**
- **Title 1 – Minimum Requirements for seafarers to work on a ship**
- **Title 2 – Conditions of Employment**
- **Title 3 – Accommodation, recreational facilities, food and catering**
- **Title 4 – Health protection, medical care, welfare and social security protection**
- **Title 5 – Compliance and enforcement**
- **Annexes – Certificate templates**



Key articles

- Article II – Definitions and “event of doubt” clause
- Article III – Fundamental rights
- Article IV – “Seafarers’ Bill of Rights”
- Article V – No more favourable treatment



Article VI

- Regulations and Part A are mandatory
- Part B not mandatory – but “due account” must be taken
- Part A provisions may be implemented with “substantially equivalent” measures



More key articles

- **Article VIII – entry into force provisions**
- **Article XIII – Special Tripartite Committee**
- **Article XV – simplified amendment procedure**



Title 1

Minimum Requirements for seafarers to work on a ship



How does the MLC protect young seafarers?

- **Mandatory minimum age – 16 years**
- **Night work for under 18s prohibited**
- **Exceptions related to training**
- **Take account of specific risks to young seafarers**



Medical certification

- **ALL seafarers require medical certificates**
- **Max 2-year validity**
- **STCW medical certificates acceptable for MLC**
- **OGUK medical – substantial equivalent**
- **Dispensations available when certificates expire**



Training and Qualifications

- All seafarers must be trained or certified as competent or qualified
- All seafarers must complete safety training
- STCW training recognised
- Non-marine crew?



Recruitment and Placement Agencies (1)

- Come under jurisdiction of states in which they are located
- Covers agencies whose primary purpose is to place seafarers or which place a significant number of seafarers
- Must be licensed, certificated or otherwise regulated



Recruitment and Placement Agencies (2)

- No charges to seafarers
- Ban on blacklists
- Agencies must maintain register of seafarers they place
- Ensure seafarers are able to examine employment terms before accepting work



Recruitment and Placement Agencies (3)

- Check seafarers are qualified
- Check SEAs comply with applicable laws
- Check that shipowner has means to protect against abandonment
- Take out insurance against default by shipowner or agency – joint and several liability



If agency is located in a non-ratifying state . . .

- Shipowner must check, as far as practicable, that agency complies with MLC
- Has state ratified ILO 179?
- Independent auditing of agencies



Title 2

Conditions of employment



The Seafarers' Employment Agreement

- Written agreement, signed by seafarer and shipowner or shipowner's representative
- Seafarer must have opportunity to review terms before signing
- Where seafarer is not an employee – evidence of contractual or similar arrangements
- Training agreements



What SEA must contain

- Name, date of birth/age, birthplace
- Shipowner name & address
- Date & place where agreement made
- Capacity in which seafarer will work
- Amount of wages & paid annual leave
- Notice period
- Benefits provided by shipowner
- Repatriation arrangements



Who is the employer?

- **SEA must be signed by shipowner or representative**
- **If employer is a separate organisation?**
- **SEA may be entered into by employer**
- **BUT shipowner is responsible for MLC rights**
- **Chain of indemnity needed**
- **Name employer on DMLC Part II**



What about contract staff?

- Normal place of employment may be ashore
- Written particulars of employment – not dissimilar to SEA
- SEA need not be single document
- Supplementary statement on repatriation can be provided



Payment of wages

- SEA must specify amount or formula for calculating wages
- Must be paid at least monthly
- Must allow for allotments
- Where national laws provide for minimum wage levels for seafarers – take note of Part B
- ILO recommended minimum wage



Hours of work and rest

- No changes to ILO 180
- Minimum rest: 10 hours in any 24-hour period, 77 hours in any 7-day period
- Minimum 6 hours' continuous rest in any 24-hour period
- 10-hour minimum rest may be divided into no more than two periods
- Maximum continuous period of work is 14 hours



Exceptions and STCW

- MLC allows exceptions under national laws or collective agreements
- Manila amendments to STCW have tightly constrained exceptions
- But STCW allows general exception for “overriding operational conditions”
- National laws will need to take account of both regimes



Manning levels

- Crewing level must be sufficient to comply with Safe Manning Document
- Mandatory to take account of IMO Principles of Safe Manning
- Manning level must also take account of MLC requirements as to food and catering



Paid Annual Leave

- **Minimum 2.5 days per calendar month of employment**
- **Not necessary to work a full month in order to accrue 2.5 days' leave**
- **Part B Guidance on what should not be classed as annual leave**
- **Shore leave must also be granted**



Repatriation

- Seafarers are entitled to repatriation free of charge
- Shipowners must provide financial security to ensure repatriation
- Port & flag states must ensure seafarers are repatriated & can then claim from shipowners



Title 3

**Accommodation,
recreational
facilities, food and
catering**



Scope of application

- Ships whose keel is laid after MLC enters into force for flag state must comply with MLC
- Existing ships remain subject to current specifications
- Future amendments to MLC



Specifications

- **Minimum headroom: 203cm**
- **Minimum floor space, desks, chairs, private storage in cabins**
- **MLC silent on “wet” spaces – minimum floor area may include bathroom**



Single cabins?

- **Non-passenger ships >3000GT**
– **single cabins for all seafarers**
- **Trainees – we have proposed a substantial equivalent to allow doubling up**
- **Riding gangs? Security guards?**



Recreational facilities

- **“Appropriate” facilities, amenities and services**
- **Take account of seafarers living and working on board**
- **One of items that must be inspected for issuance of ML Certificate and DMLC!**



Food and catering

- **Good quality food and drinking water – free of charge**
- **Take account of cultural and religious backgrounds of seafarers**
- **Ship's cooks required on all ships with >9 seafarers**



Title 4

**Health protection,
medical care,
welfare and social
security protection**



Free medical care

- Comparable to protection and care available ashore
- Medicine chest on board
- Crew of >15, voyage >3 days: hospital accommodation
- Health promotion and education



Shipowner Liability

- **Costs arising from sickness and injury during – or arising from – employment**
- **Financial security to assure compensation for death or long-term disability**
- **16-week limitation**



Health and Safety

- **General duties on employers**
- **In general – less specific than existing UK and EU laws**
- **New requirement to report occupational diseases**
- **Duties on competent authority to collect statistics**



Title 5

Compliance and enforcement



Flag state control

- Flag state will issue ML Certificate and DMLC to confirm compliance
- Must inspect 14 items listed on DMLC but may inspect for any other requirement
- ML Certificate valid for max 5 years
- Interim inspection 2-3 years after issuance



DMLC Parts I and II

- **Part I completed by flag state – sets out national laws and any exceptions/substantial equivalents**
- **Part II completed by shipowner – sets out procedures for ensuring ongoing compliance and continuous improvement**
- **Can refer to company SMS**



On-board complaint procedures

- **Fair, effective and expeditious**
- **Seek resolution at lowest level**
- **Must provide right to complain directly to Master**
- **Victimisation prohibited**
- **Named advisor needed**



Port State Control

- If port state has ratified – it is entitled to inspect ANY ship
- ML Certificate and DMLC = prima facie evidence of compliance.
- Most inspections limited to review of ML Certificate and DMLC
- Specific circumstances justify more detailed inspection



Port State powers

- More detailed inspection limited to 14 items listed in DMLC
- Inspection arising from a complaint limited to matters within scope of complaint
- Detention allowed where there are clear hazards to safety, health or security, or serious/repeated breach of requirements of MLC (including seafarers' rights)
- Shipowner entitled to compensation for undue detention or delays



Onshore complaint procedures

- Seafarers can complain directly to Port State authorities
- Officials must seek to promote resolution at shipboard level
- If not possible – flag state must be notified and asked for advice and corrective action



When will it come into force?

- 30 states – 33% of world GT
- Tonnage threshold passed
- 20 states have ratified so far
- 12 months after 30th ratification
- UK expects to ratify in 3rd quarter of 2012



What shipowners will need to do

- Pick a ratifying flag state
- Undertake gap analysis
- Complete Declaration of Maritime Labour Compliance Part II based on contents of Part I
- Set out procedures for ensuring and demonstrating ongoing compliance
- Apply for substantial equivalents/ exceptions



Demonstrating compliance

- **Make documentation clear and easy to follow**
- **Enable inspectors to visit shore offices**
- **Provide facilities on-board for crew members to be interviewed**
- **Establish effective on-board complaint procedures**



What documents will ships need to carry?

- Copy of the Convention
- Maritime Labour Certificate
- Declaration of Maritime Labour Compliance
- Seafarer Employment Agreements
- On-board complaint procedures
- ISM documentation



What concerns do shipowners have?

- **“Gold-plating”**
- Failure to utilise flexibility
- Unclear instructions
- Excessive bureaucracy
- Over-zealous inspections
- Unfounded complaints and wrongful detentions



How to overcome the difficulties

- Remember the joint ownership of MLC
- Alert flag state to problems
- Take action early
- Aim is to guarantee minimum standards



How the Chamber can help



We were there!



How the Chamber can help

- Involved in MCA Tripartite Working Group on UK Implementation
- Involved in training for surveyors
- Providing regular information for members individually and collectively
- Representations to MCA and other REG registers



Conclusion

- **Guarantor of decent work for seafarers**
- **Chamber believes in promoting compliance**
- **Not a stick for beating good operators**
- **If it works well – everybody can benefit**



**THANK YOU
FOR
LISTENING!**

