

Circular 137 / 2015

To: Seafarers, Masters, Crewing Agents, Managers, and Owners

Subject: Paris MoU MLC Concentrated Inspection Campaign

Date: 5 August 2016

Reference Documents

- Cook Islands Maritime (MLC) Rule
- PMOU News Letter
- PMOU Check List

Summary:

All vessels calling at Paris MoU ports will be tested to prove they meet the Maritime Labour Convention (MLC).

To help the Master explain the Cook Islands way of dealing with the MLC we have also attached the Cook Islands Maritime (MLC) Rule 2014.

To help the Master with the PSC Inspector we have attached the PMOU News Letter and a copy of the checklist.

Actions Required of All Commercial vessels regardless of Trade / area:

- The DR is to send this Circular to the Owners/Managers.
- The Owner is to send this Circular to the Master of their vessels.
- The Owner or their manager is to confirm to the DR that the Circular has been received, and understood by the Master
- The Master must complete the Checklist and send to the DR
- The Master must have the completed checklist available for the PSC inspector.
- The DR is to forward all completed check lists to the FM.
- Where the managers have no procedures in place, this circular must be complied with in full, including the recommended procedures below.

Our recommendation is to produce a file containing the following

- Copy of the Cook Islands Legislation.
- Copy of the completed Checklist
- Copy of the STCW working/rest hours records
- Copy of the wage advice signed by the seafarer
- Copy of the signed Sea Farers Employment Agreements
- A copy of the complaints procedure signed by all the Seafarers on board
- A document detailing the time served on board
- No seafarer should serve more than eleven (11) months on board. If there are seafarers on board who have served more than 11 months arrangements for their repatriation are to be made.

- If the PSC Inspector has a problem with anything regarding the Cook Islands MLC position please refer him to our regulations and if still having a problem ask him/her to call any of the following Maritime Cook Islands Managers;
 - The Deputy Registrar.
 - The Technical Director. Duncan Findlay +682 76352 or +385 9573 87407
 - The Technical Manager. William Hastings + 357 96623758

For Further information please contact the Technical Department for assistance df@maritimecookislands.com or william@maritimecookislands.com



**MARITIME (MARITIME LABOUR CONVENTION - MLC) RULES,
2014 NO.1**

155/14

18 December 2014

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1 Title and Commencement

- (1) These Rules may be cited as the Maritime (MLC) Rules.
- (2) These Rules will come into force on the day after notice of their making is given in the Gazette.

2 Interpretation – In these rules, -

“Act” means the Maritime Transport Act 2008;

“Competent Authority” for the purposes of Flag State matters means the Administrator appointed under the Ship Registration Act 2007 for the time being and for the purposes of Port and Coastal state matters means the Ministry of Transport or such other entity of the Cook Islands Government that has competency;

“Convention” means, the Maritime Labour Convention 2006;

“Registrar” means the Registrar of Ships appointed under section 11 of the Ship Registration Act, 2007;

“Seafarer Recruitment and Placement Service” has the same meaning as prescribed in the Convention



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“Vessel” means a vessel registered pursuant to the Ship Registration Act, 2007 and includes a vessel within the Cook Islands’ territorial sea to which the Convention applies;

3 Purpose – The purpose of these Rules is to –

- (1) Implement Flag State obligations under the Convention as if the Cook Islands were a State Party;
- (2) Enforce compliance with those obligations and standards by way of investigation and enforcement under the Act.

4 Convention incorporated by reference – The Convention is incorporated into and forms part of these Rules.

5 Application – These Rules shall apply to a Seafarer Recruitment and Placement Service, a vessel and the vessels owner and master to the extent that the Convention applies to any of them.

6 Compliance with Convention obligations –

- (1) Where the Convention imposes obligations upon a Flag State and the discharge of the obligations requires compliance by a Seafarer Recruitment and Placement Service, vessel, owner or the master then, the Seafarer Recruitment and Placement Service, vessel, owner or the master, as the case may be, must comply to the extent that the obligations apply to them so that the obligations are discharged.
- (2) If the Convention does not provide for or there is uncertainty about the manner in which flag state obligations are to be discharged then, Seafarer Recruitment and Placement Service, vessel, owner or the master (as the case may be), will comply in the manner directed by the Registrar.
- (3) Where the Convention imposes obligations on a Flag State and the discharge of the obligation does not require compliance under subclause (1), these obligations will be discharged by the Competent Authority in the manner prescribed by the Convention.

7 Non-Compliance – A person who fails to comply with either of Rules 6 (1) or 6 (2) commits an offence against the Act, and is liable to prosecution under the Act.



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8 Matters required to be specified by the Convention

- (1) Minimum Notice -
 - a) Minimum Notice Period as required by Standard A2.1 (5) of the Convention shall not be less than 7 days.

 - b) Minimum Notice Period may be reduced to less than 7 days in the case of serious misconduct or other urgent reasons by the seafarer or shipowner.
- (2) The manner in which the length of service is calculated for the purpose of calculating annual leave shall be specified in the employment agreement between the shipowner and the seafarer.
- (3) Shipowners shall provide financial security to a level that will satisfy their obligations under the Convention including repatriation as required by Standard A2.5 and Shipowners Liability as set out in Standard A4.2. This financial security can be in the form of a certificate of entry issued by an International Group P&I Club Member or other Competent Authority approved insurer.
- (4) Shipowners may limit their liability to the extent permitted under Standard A4.2.
- (5) Seafarer employment agreements must contain a disputes settlement clause that includes the jurisdiction under which any dispute will be adjudicated and must include the following stages -
 - a) The parties in the first instance shall try to resolve the dispute between them.
 - b) Where the parties cannot resolve the dispute themselves, the parties shall refer the dispute to mediation. The parties shall mutually agree to the mediator, and any mediation guidelines.
 - c) Where a resolution is not reached, the parties may take additional action in the mutually agreed jurisdiction.

9 Amendments to Convention



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- (1) Except as provided by subclause (2) all amendments and modifications to the Convention and all instruments made through the Convention from time to time are incorporated into these Rules;
 - (2) The Minister may by notice in the Gazette exclude from these Rules any instrument amendment or modification which but for the notice would be incorporated into these Rules under subclause (1).
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28 July 2016

LAUNCH OF CONCENTRATED INSPECTION CAMPAIGN ON MLC,2006

The Paris Memorandum of Understanding (MoU) on Port State Control will launch a Concentrated Inspection Campaign (CIC) on the Maritime Labour Convention, 2006 (MLC,2006). The aim of the CIC is to verify that the minimum standards for working and living conditions have been implemented on board. This inspection campaign will be held for a period of three months, commencing from 1 September 2016 and ending 30 November 2016.

The ship's procedures and measures that are in place with respect to MLC,2006 will be checked in detail for compliance with the requirements during a regular Port State Control inspection.

Secretary General Richard Schiferli stated: "Working and living conditions on board have always been a prime area of attention. With the introduction of the MLC enforcement opportunities have greatly improved. Three years after the entry into force, the time is right to focus on the MLC during a concentrated inspection campaign".

Port State Control Officers (PSCOs) will use a list of 12 selected questions to ensure that the required certificates and documentation are present, in particular those related to the seafarers on board. Additionally there are questions aimed at verification of records of the inspections of the accommodation, food and catering, and whether a safety committee has been established.

When deficiencies are found, actions by the port State may vary from recording a deficiency and instructing the master to rectify it within a certain period of time to detaining the ship until serious deficiencies have been rectified. In the case of detention, publication in the monthly detention lists of the Paris MoU web sites will take place.

It is expected that the Paris MoU will carry out approximately 4,500 inspections during the CIC.

The results of the campaign will be analyzed and findings will be presented to the Port State Control Committee. The CIC questionnaire on MLC, 2006 is also published on the Paris MoU website (<http://www.parismou.org/>)

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Notes to editors:

Regional Port State Control was initiated in 1982 when fourteen European countries agreed to coordinate their port State inspection effort under a voluntary agreement known as the Paris Memorandum of Understanding on Port State Control (Paris MOU). Currently 27 countries are member of the Paris MOU. The European Commission, although not a signatory to the Paris MOU, is also a member of the Committee.

The Paris MoU is supported by a central database THETIS hosted and operated by the European Maritime Safety Agency in Lisbon. Inspection results are available for search and daily updating by MoU Members. Inspection results can be consulted on the Paris MoU public website and are published on the Equasis website.

The Secretariat of the MoU is provided by the Netherlands Ministry of Infrastructure and the Environment and located in The Hague.

Port State Control is a check on visiting foreign ships to verify their compliance with international rules on safety, pollution prevention and seafarers living and working conditions. It is a means of enforcing compliance in cases where the owner and flag State have failed in their responsibility to implement or ensure compliance. The port State can require defects to be put right, and detain the ship for this purpose if necessary. It is therefore also a port State's defence against visiting substandard shipping.

Questionnaire for the Concentrated Inspection Campaign (CIC) on Maritime Labour Convention, 2006

Ship's name	
IMO Nr	
Date of inspection	

N°	QUESTIONS	YES	NO	N/A
1*	Are seafarers under the age of 18 excluded from tasks that are likely to jeopardize their safety or health? Standards A 1.1. para. 4			
2*	Are all seafarers holding valid certificate(s) attesting medical fitness? Standard A 1.2. para. 1			
3**	Have all seafarers successfully completed their training for personal safety on board? Regulation 1.3. para. 2			
4.1**	Do all seafarers have a copy of their seafarers' employment agreement? Standards A 2.1. para 1 (a)			
4.2**	Are the seafarers' employment agreements in compliance with minimum standard required by MLC? Standards A 2.1. para 4			
5	If private recruitment and placement service has been used, does it meet the requirements of the MLC, 2006? Standard A 1.4. para. 2 and para 9			
6	Are records of inspections of seafarer accommodations carried out by the master (or another designated person) available for review? Standard A 3.1. para. 18			
7	Are frequent inspections carried out by or under the authority of the master, with respect to supplies of food and drinking water, all spaces and equipment used for the storage and handling of food and drinking water, and galley and other equipment for the preparation and service of meals documented? Standard A 3.2 para. 7			
8	Has a ships safety committee been established on board regarding ships on which there are five or more seafarers? Standard A 4.3. para. 2d			
9*	For a ship not being required to carry a medical doctor, is there on board at least one seafarer, holder of a certificate of training in medical first aid or in medical care that meets the requirements of STCW? Standard A.4.1. para. 4c			
10**	Are all seafarers provided with a copy of on-board complaint procedures applicable on the ship ? Standard A 5.1.5 para.4			
11**	Have all seafarers received monthly accounts of their payments due and amounts paid? Standard A2.2, para. 2			
12	Was the ship detained as result of the CIC?			

*Note: Questions 1 to 11 answered with a "NO" MUST be accompanied by a relevant deficiency on the Report of Inspection.
If the box "No" is ticked off for questions marked with an "**", the ship may be considered for detention.
If the box "No" is ticked off for questions marked with an "***", and if the deficiency found is repeated (occure more than 1 time), the ship may be considered for detention.*