

Circular 57 / 2012

To: Vessel Managers, Masters, Officers, Deputy Registrars, Surveyors and Other Interested Parties

Subject: Maritime Labour Convention

Date: 17 May 2013

Summary

The convention: A brief overview

The Maritime Labour Convention 2006, sponsored by the International Labour Organization (ILO) and better known as MLC 2006, will enter into force on August 20, 2013.

The MLC 2006 consolidates most of the existing ILO maritime labour conventions into one coordinated document. It establishes minimum standards for such things as conditions of employment, hours of work and rest, accommodations, recreational facilities, food and catering, health protection, medical care, welfare, and social security protection.

The convention applies to all ships, whether publicly or privately owned, ordinarily engaged in commercial activities other than:

- (i) ships which navigate exclusively in inland waters or waters within, or closely adjacent to, sheltered waters or areas where port regulations apply;
- (ii) ships engaged in fishing or similar pursuits;
- (iii) ships of traditional build such as dhows and junks; and,
- (iv) warships or naval auxiliaries.

Maritime Cook Islands (MCI) considers a vessel engaged in trade or commerce or on charter for hire as being engaged in commercial activity.

A commercial vessel of 500 gross tons (ITC) and above engaging on an international voyage and calling in a port of a State party to MLC 2006 is required to be in compliance with the Convention and to have on board certification that the vessel has undergone examination by MCI or a Recognised Organisation (RO) and found by MCI or the RO to be in compliance with applicable provisions of the Convention.

A commercial vessel under 500 gross tons (ITC) engaging on an international voyage and calling in a port of a State party to MLC 2006 is required to be in compliance with the Convention, but is not required to have on board any particular certification of such compliance. Certification for these smaller vessels is recommended, as it will reduce the likelihood that the vessel will be subjected to a detailed port state control compliance examination.

MLC Ratification and Cook Islands

MLC 2006 has been ratified by 39 States. A list of the countries can be found at http://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO::P11300_INSTRUMENT_ID:312331 or alternative check the ILO official site. Ship-owners should continue to check the ILO website for the most up to date list of ratifying nations to understand what ports will be inspecting vessels for MLC compliance.

Cook Islands has not ratified the MLC 2006, despite this, Cook Islands flagged vessels to which the convention applies are obliged to bring their vessels into compliance with the convention requirements.

Under the no more favourable treatment clause - Article V paragraph 7 provides that Member States are obligated to implement the Convention “in such a way as to ensure that the ships that fly the flag of any State that has not ratified this Convention do not receive more favourable treatment than the ships that fly the flag of any State that has ratified it.” As a result, CI flagged vessels will be subject to port state control inspections for MLC 2006 compliance when calling in the port of a State that is party to the Convention.

Areas of Inspection

The MLC contains fourteen areas that are subject to a mandatory compliance for “certification” and the issuance of compliance certificates. The specific sections of the MLC that must be inspected for compliance prior to MLC certification are:

- (1) Minimum age (Regulation 1.1)
- (2) Medical certification (Regulation 1.2)
- (3) Qualifications of seafarers (Regulation 1.3)
- (4) Use of any licensed or certified or regulated private recruitment and placement services (Regulation 1.4)
- (5) Seafarers’ employment agreements (Regulation 2.1)
- (6) Payment of wages (Regulation 2.2)
- (7) Hours of work and rest (Regulation 2.3)
- (8) Manning levels for the ship (Regulation 2.7)
- (9) Accommodation (Regulation 3.1)
- (10) On-board recreation facilities (Regulation 3.1)
- (11) Food and catering (Regulation 3.2)
- (12) On-board medical care (Regulation 4.1)
- (13) Health and safety and accident prevention (Regulation 4.3)
- (14) On-board complaint procedures (Regulation 5.1.5)

Cook Islands Flagged Vessels: Statements of Compliance

Cook Islands will issue a MLC Statement of Compliance (MLC-SOC) to vessels that demonstrate compliance with MLC. Foreign Port State Authorities are not obligated to accept the MLC-SOC as proof of compliance. However Statements of Compliance are in common use by many Flag States for a number of international conventions; therefore it is highly likely that MLC Member States will accept the MLC-SOC recognizing the vessel as being “certified” to the standards of the MLC. CI vessels not able to demonstrate compliance with the MLC may be subject to Port State Control actions when engaged on international voyages to countries that have ratified the MLC.

The possession of a MLC-SOC provides proof the vessel is in compliance with the MLC. The format of the MLC–SOC certificates shall remain consistent with the sample MLC certificates provided in the Code and will be supplemented with Declaration of Maritime Labour Compliance Statement of Compliance (DMLC-SOC), also maintaining the format prescribed by the Code. The DMLC-SOC is a unique two-part form that must be completed by Maritime Cook Islands or RO and the vessel owner/operator. Once issued, the MLC-SOC and DMLC-SOC are required, by the MLC, to be posted on the vessel in a conspicuous place available to the seafarers.

The DMLC-SOC Part I

DMLC-SOC Part I, is prepared by MCI and references current legislation giving effect to the MLC requirements. MCI and RO MLC Surveyors should make reference these provisions and the MLC when preparing SOC certificates.

The DMLC-SOC Part II

DMLC – SOC Part II is prepared by the vessels owner/operator. It should document measures owner/operators have put in place to ensure continuous improvement and on-going compliance. Owners/ Operators may refer to the attached DMLC- SOC Part II below. Once prepared a MCI or RO MLC surveyor will review and inspect the measures the owner / operator has identified in the DMLCSOC Part II. After a successful inspection Part II will be endorsed and a MLC SOC Certificate (Interim / full term) issued.

Vessels 500GT and over on international voyages

CI flagged commercial vessels 500GT and over engaged on international voyages to ports of MLC member States should be in compliance and certified, and must hold on board MLC-SOC and DMLC-SOC.

Vessels under 500GT on international voyages

CI flagged commercial vessels under 500GT engaged on international voyages to ports of MLC member States are not required by the convention to carry MLC-SOC or DMLC-SOC, but the vessels must have been inspected and found to comply. A copy of the inspection report must be kept on board. It is recommended that such vessels voluntarily complete the DMLC-SOC and request MLC-SOC, as it will reduce the likelihood that the vessel will be subjected to a detailed port state control compliance examination.

Getting Certified

CI flagged vessels to which the MLC applies and that are operating in port States which are MLC members are invited to contact an MCI Fleet Manager, Deputy Registrar or their Recognised Organization to arrange compliance and verification prior to 1 August 2013; CI flagged vessels that are not operating in ports of Member States enforcing MLC compliance are requested to make arrangements for compliance and verification for their next normal inspection. The following Recognised Organisations have been fully authorised to survey and certify CI vessels for MLC 2006;

- American Bureau of Shipping (ABS)
- Bureau Veritas (BV)
- Det Norske Veritas (DNV)
- Germanischer Lloyd (GL)
- International Naval Surveys Bureau (INSB)
- Korean Register of Shipping (KR)
- Lloyd's Register (LR)
- Nippon Kaiji Kyokai (ClassNK)
- Polski Rejestr Statkow (PRS)
- Registro Italiano Navale (RINA)
- Russian Maritime Register of Shipping (RS)
- Phoenix Register of Shipping S.A. (PH.R.S.)

For further information – Frequently Asked Questions or a copy of the MLC full text please visit <http://www.ilo.org/global/standards/maritime-labour-convention/lang--it/index.htm>; alternatively the responsible Deputy Registrar of the Cook Island flagged vessel or Registrar of Ships may be contacted for further information and clarification

Please ensure this has been forwarded to interested parties.



COOK ISLANDS
DECLARATION OF MARITIME LABOUR COMPLIANCE
PART II
(Statement of Compliance)

Issued under the provisions of the Cook Islands Ship Registration Act 2007 and
 In accordance with the Maritime Labour Convention 2006

Under the authority of the Government of
COOK ISLANDS

By **THE REGISTRAR OF SHIPS**

Vessel particulars

| Name of Ship | Distinctive Number or letters | Gross Tonnage | Port of Registry |
|--------------|----------------------------------|---------------|------------------|
| | | | |

Measures adopted to ensure on going compliance between inspections

The following measures have been drawn up by the shipowner, named in the Maritime Labour Certificate to which this Declaration is attached, to ensure on going compliance between inspections:

(State below or attach to this document the measures drawn up
 to ensure compliance with each of the items in Part I)

| No. | Item | Maritime Labour Convention | Verified |
|-----|---|-------------------------------|--------------------------|
| 1. | Minimum age | Regulation 1.1 | <input type="checkbox"/> |
| 2. | Medical certification | Regulation 1.2 | <input type="checkbox"/> |
| 3. | Qualifications of seafarers | Regulation 1.3 | <input type="checkbox"/> |
| 4. | Seafarers' employment agreements | Regulation 2.1 | <input type="checkbox"/> |
| 5. | Use of any licensed or certified or regulated private recruitment and placement service | Regulation 1.4 | <input type="checkbox"/> |
| 6. | Hours of work or rest | Regulation 2.3 | <input type="checkbox"/> |
| 7. | Manning levels for the ship | Regulation 2.7 | <input type="checkbox"/> |
| 8. | Accommodation | Regulation 3.1 | <input type="checkbox"/> |
| 9. | On-board recreational facilities | Regulation 3.1 | <input type="checkbox"/> |
| 10. | Food and catering | Regulation 3.2 | <input type="checkbox"/> |
| 11. | Health and safety and accident prevention | Regulation 4.3 | <input type="checkbox"/> |
| 12. | On-board medical care | Regulation 4.1 | <input type="checkbox"/> |
| 13. | On-board complaint procedures () | Regulation 5.1.5 | <input type="checkbox"/> |

| | | | |
|------------|---|-----------------------------------|--------------------------|
| 14. | Payment of wages | Regulation 2.2 | <input type="checkbox"/> |
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| 12. | On-board medical care | Regulation 4.1 | |
| 13. | On-board complaint procedures | Regulation 5.1.5 | |
| 14. | Payment of wages | Regulation 2.2 | |

I hereby certify that the above measures have been drawn up to ensure on going compliance, between inspections, with the requirements listed in Part I.

| | |
|----------------------------------|--|
| Name of Shipowner ¹ : | |
| Company Address: | |
| Name of Authorised Signatory: | |
| Title: | |

Date

Signature & Seal

The above measures have been reviewed by Maritime Cook Islands and following inspection of the ship, have been determined as meeting the purposes set out under Standard A5.1.3, paragraph 10(b), regarding measures to ensure initial and on-going compliance with the requirements set out in Part I of this Declaration.

| | |
|----------|--|
| Name: | |
| Title: | |
| Address: | |

Place

Signature & Seal

CERT. 90 v. 1

Date

ⁱ *Shipowner* means the owner of the ship or another organization or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on shipowners in accordance with this Convention, regardless of whether any other organizations or persons fulfil certain of the duties or responsibilities on behalf of the shipowner. See Article II(1)(j) of the Convention.