



Association des Capitaines et Officiers de la Marine Marchande
& des Anciens Elèves de l'Ecole Nationale Supérieure Maritime



Welcome to :

IFSMA DELEGATES

5 - 6 June 2014

Sandefjord



MARITIME LABOUR CONVENTION 2006



ACOMM - AENSM PRESENTATION CONTENTS

- ✓ Background of the International Labour Organization
- ✓ Short overview of the MLC 2006
- ✓ List of Documents to handle
- ✓ Remarks and Comments
- ✓ Inspections and Detentions
- ✓ Conclusion





INTERNATIONAL LABOUR ORGANIZATION



Tripartite institution that brings together **Governments**, **Employers** and **Workers** of its Member States in common action to promote **decent work** throughout the world. Its headquarters are in Geneva.

The ILO was founded in 1919 under the auspices of the Treaty of Versailles, (end of the 1st world war). The creation of the ILO was in line with the reflection that **universal and lasting peace** can be established **only** on the basis of **social justice**. ▼





Internationale Labour Organization and the Maritime Labour Convention, 2006

In 1946, the ILO became a specialized agency of the United Nations. Member States of the ILO: **185** (2012).



The fundamental rights edicted by the ILO are :

- Freedom of Association and the effective recognition of the right to collective bargaining
- Elimination of all forms of forced or compulsory labour
- Effective abolition of child labour
- Elimination of discrimination in respect of employment and occupation.

(MLC 2006, Article III)

To date the ILO adopted **189** Conventions on Labour ▼





BASIC AIMS OF THE MLC, 2006

1. Every seafarer has the right to a **safe and secure workplace** that complies with safety standards
2. Every seafarer has a right to **fair terms of employment**.
3. Every seafarer has a right to **decent working and living conditions** on board ship.
4. Every seafarer has a right to **health protection, medical care, welfare** measures and other forms of **social protection**.

Moreover, MLC, 2006 aims to protect seafarers and shipowners from unfair competition on the part of substandard ships ▼





WHY A NEW CONVENTION?

Maritime Labour Convention was adopted on **23 February 2006**. It is a single, coherent instrument which defines the right of seafarers to **decent work conditions** and promotes the establishment of conditions for **fair competition between shipowners**.

This Convention consolidates and updates **36** recommendations or conventions existing, compiled in a single document, for a simpler application by all States.



The MLC 2006 is the result of a **tripartite** work between:

- **Governments** of the Member States,
- **Seafarers** Representatives (ITF),
- **Shipowners** Representatives (ISF). ▼





WHY A NEW CONVENTION?

The MLC 2006 is often referred to as the
«**fourth pillar**» of Maritimes
Conventions, after **IMO** Conventions :

- The International Convention for the safety of life at Sea 1974 (**SOLAS**),
- The International Convention on **S**tandards of **T**raining, **C**ertification and **W**atchkeeping for Seafarers (**STCW**),
- The International Convention for the Prevention of Pollution from Ships 1973 (**MARPOL**). ▼



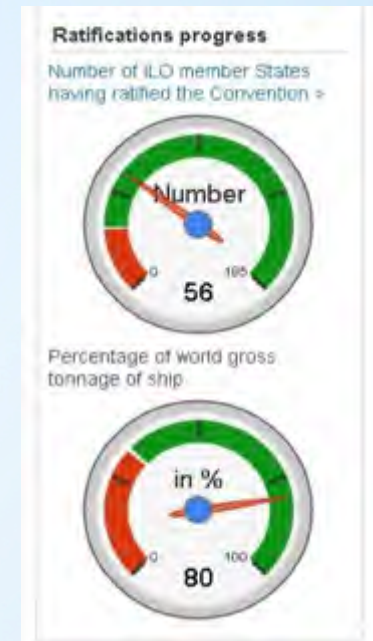


ENTRY INTO FORCE

To come into force, the MLC had to be ratified by at least **30** member States with a total share in the world gross tonnage of ships of **33** per cent. This milestone was reached on 20 August 2012. The MLC will thus come into force on **20 August 2013**.

The MLC, 2006 came into force on **August 20th 2013**.

So far, **56** countries have ratified the Convention representative **> 80%** of the gross tonnage of the world fleet





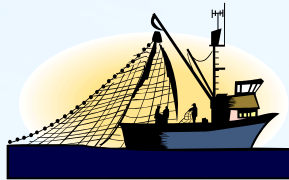
The MLC, 2006 APPLIES to (Art. II) :

ALL SEAFARERS,

ALL SHIPS, whether publicly or privately owned, ordinarily engaged in commercial activities, other than :

- Ships which navigates exclusively in **inland waters** or waters within, or closely adjacent to, **sheltered** waters or areas where **port regulations** apply

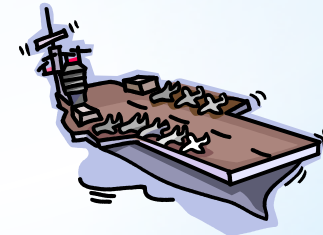
- Fishing vessels



- Ships of traditional build such as dhows and junks



- Warships or Naval auxiliaries. ▼





SPECIAL PROVISIONS

- The application of certain details of the Code can be alleviated for ships of less **200 not engaged in international voyages**
- **All vessels** to which the Convention extends its effects should be subject to a system of **inspection** established by the **flag State** but the **CERTIFICATION** scheme is **mandatory** for vessels of **500 or more**, assigned to a navigation **INTERNATIONAL** (or sailing between foreign ports).
- The **CERTIFICATION** system will attest that the vessel is operated in **compliance** with the requirements established by the Convention as defined in the laws or regulations of the **Flag State**. ▼





EFFECT OF ENTRY INTO FORCE

The ILO Maritime Labour Conventions currently in force will be **gradually abolished** as **Member** States of the ILO to ratify the MLC 2006 which will be the **single reference document**.

Each **Member** shall implement its responsibilities under this 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. (MLC Article V.7) ▼





SEAFARERS

Seafarer = any person who is employed or engaged or works in any capacity on board a ship to which this Convention applies (Article II)

The Convention aims to ensure universal coverage to all **seafarers**, category which covers today, believed to be more than **1.4 million** people in the world.

Now, the new Convention includes unambiguously in this category **any person used, occupied or works in any capacity on board** a ship falling within the scope of. ▼





STRUCTURE OF THE MLC :

The 2006 Maritime Labour Convention has been developed according to a structure identical to the **STCW** while improving **readability**:

- 1st Level **ARTICLES,**
- 2nd Level **TITLES**
- 3rd Level **REGULATIONS**
- 4th Level **CODE, divided in 2 parts :**



STANDARD A = provisions are **MANDATORY**

GUIDELINE B = provisions are **NOT MANDATORY** ▼





16 ARTICLES

GENERAL OBLIGATIONS, DEFINITIONS AND SCOPE OF APPLICATION,
FUNDAMENTAL RIGHTS AND PRINCIPLES, SEAFARERS'
EMPLOYMENT AND SOCIAL RIGHTS, IMPLEMENTATION AND
ENFORCEMENT, REGULATION AND PARTS A AND B OF THE CODE,
ENTRY INTO FORCE, DENUNCIATION, AMENDMENTS ...

5 TITLES

REGULATION

LOGEMENT, LOISIRS
ALIMENTATION ET
SERVICE DE TABLE

STANDARD

LOGEMENT, LOISIRS
ALIMENTATION ET
SERVICE DE TABLE

GUIDELINE

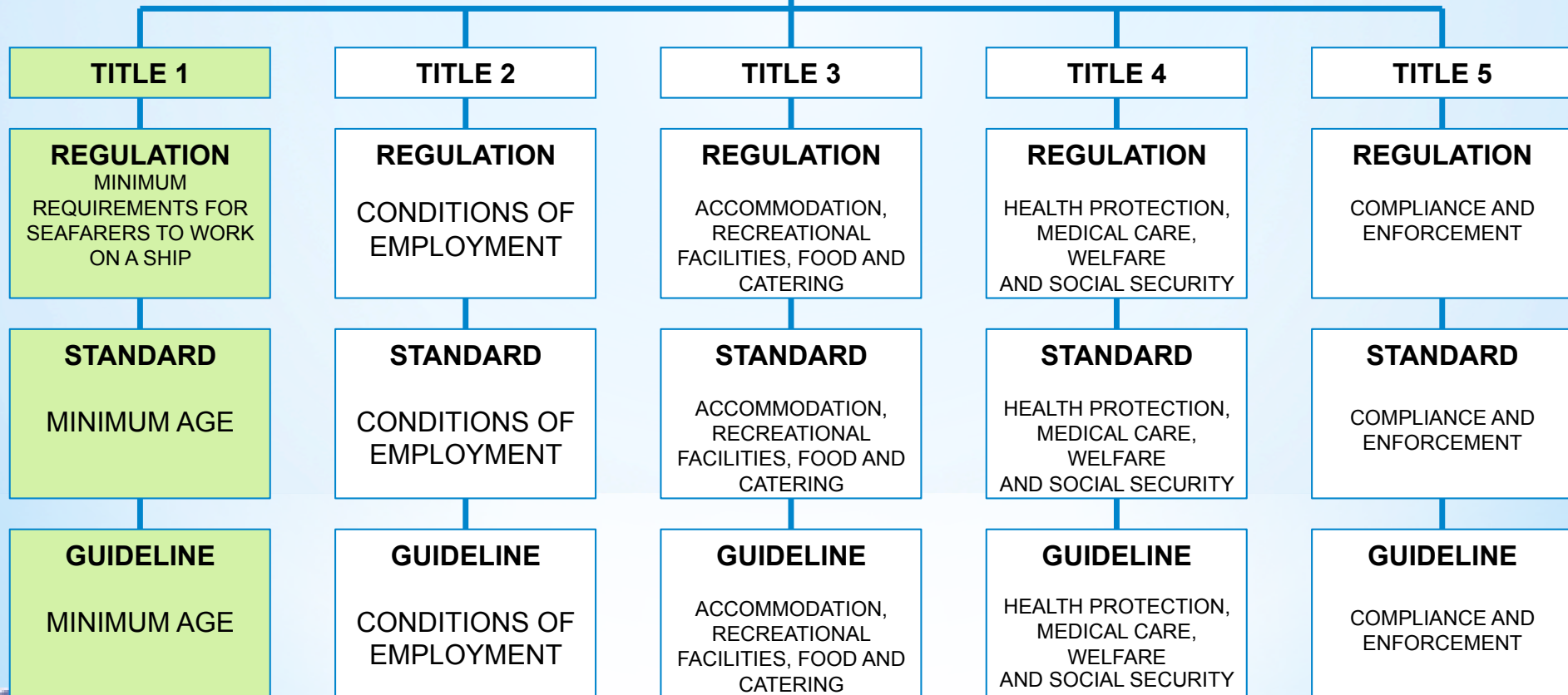
(guideline)
LOGEMENT, LOISIRS
ALIMENTATION ET
SERVICE DE TABLE





ARTICLES

GENERALES OBLIGATIONS, DEFINITIONS AND SCOPE OF APPLICATION,
FUNDAMENTAL RIGHTS AND PRINCIPLES, SEAFARERS' EMPLOYMENT AND
SOCIAL RIGHTS, IMPLEMENTATION AND ENFORCEMENT
RESPONSIBILITIES, REGULATION AND PARTS A AND B OF THE CODE,
ENTRY INTO FORCE, DENUNCIATION, AMENDMENTS ...





THE 5 TITLES

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.* ▼





EXAMPLE OF DEVELOPMENT OF A TITLE

TITLE 1

MINIMUM REQUIREMENTS FOR SEAFARERS TO WORK ON A SHIP

Regulation 1.1 Minimum age

Purpose: To ensure that no under-age persons work on a ship

Standard A1.1

Details provided above



Guideline B1.1

When regulating working and living conditions, Members should give special attention to the needs of young persons under the age of **18**. ▼





TITLE 1

Minimum Requirements for Seafarers to work on a ship

- Regulation 1.1 *Minimum Age*
- Regulation 1.2 *Medical Certificate*
- Regulation 1.3 *Training and Qualifications*
- Regulation 1.4 *Recruitment and Placement* ▼





TITRE 2

Conditions of Employment

Regulation 2.1 : *Seafarer's Employment Agreement*

Regulation 2.2 : *Wages*

Regulation 2.3 : *Hours of work and hours of rest*

Regulation 2.4 : *Entitlement to leave*

Regulation 2.5 : *Repatriation*

Regulation 2.6 : *Seafarer compensation for the ship's loss or foundering*

Regulation 2.7 : *Manning levels*

Regulation 2.8 : *Career and skill development and opportunities for seafarers' employment ▼*





TITLE 3

Accommodation, recreational facilities, food and catering

Regulation 3.1 : *Accommodation and recreational facilities*

Regulation 3.2 : *Food and catering* ▼





TITLE 4

Health protection, medical care, welfare and social security protection

Regulation 4.1 : *Medical care on board ship and ashore*

Regulation 4.2 : *Shipowners' liability*

Regulation 4.3 : *Health and safety protection and accident prevention*

Regulation 4.4 : *Access to shore-based welfare facilities*

Regulation 4.5 : *Social Security* ▼





TITLE 5

Compliance and enforcement

Regulation 5.1 : **Flag State responsibilities**

- | | |
|------------------|--|
| Regulation 5.1.1 | General Principles |
| Regulation 5.1.2 | Authorization of Recognized organizations |
| Regulation 5.1.3 | Maritime Labour Certificate and Declaration of Maritime Labour Compliance |
| Regulation 5.1.4 | Inspection and enforcement |
| Regulation 5.1.5 | On-board complaint procedures |
| Regulation 5.1.6 | Marine Casualties ▼ |





TITLE 5 suite

Compliance and enforcement

Regulation 5.2 : **Port State** responsibilities

Regulation 5.2.1 **Inspections** in port

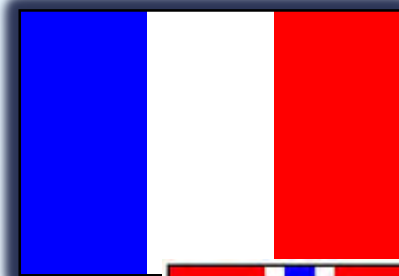
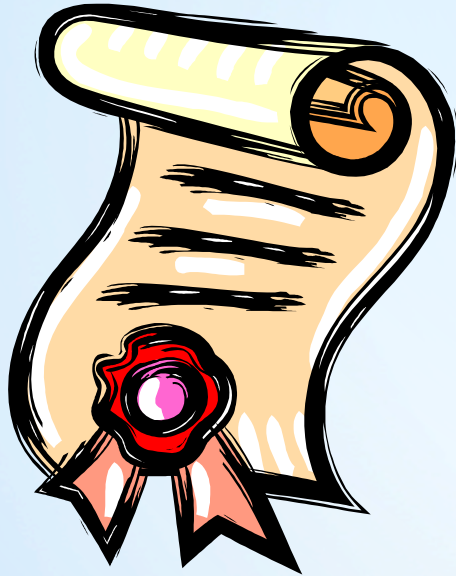
Regulation 5.2.2 Onshore seafarer complaint-
handling procedures

Regulation 5.3 : **Labour-supplying responsibilities** ▼





MARITIME LABOUR CERTIFICATE AND CERTIFICATION





Reg. A5.1.3 – Maritime Labour Certificate and Declaration of Maritime Labour Compliance

- 1) **This regulation** applies to ships of:
 - a) **500** gross tonnage or over, engaged in **international voyages***
 - b) **500** gross tonnage or over, flying the flag of a Member and operating from a port, or between ports, **in another country**

***International voyage** means a voyage from a country to a port outside such a country.

- 2) This Regulation also applies to any ship that flies the flag of a Member and is not covered by §1 of this Regulation, at the **request** of the shipowner to the **Member** concerned. ▼





DECLARATION OF MARITIME LABOUR COMPLIANCE

The DMLC shall have **two** parts:

1. Part 1, drawn up by the Flag State,

Identify the list of matters to be inspected (14 items, see after)

- Identify the **national requirements** embodying the relevant provisions of this Convention by providing a reference to the relevant national legal provisions
- Refer to ship-type specific requirements under national legislation
- Record any substantially equivalent provisions
- Clearly indicate any exemption granted by the competent authority

2. Part 2, drawn up by the shipowner:

- shall identify the measures **adopted** to ensure **ongoing compliance** with the MLC 2006 and the national requirements between inspections and measures to ensure a continuous improvement ▼





ANNEXE A5-I

The working and living conditions of seafarers that must be **inspected** and approved by the **Flag State before certifying** a ships :

- 1) Minimum age, Reg. 1.1
- 2) Medical certification, Reg. 1.2
- 3) Qualifications of seafarers, Reg. 1.3
- 4) Seafarers' employment agreements, Reg. 2.1
- 5) Use of any licensed or certified or regulated private recruitment and placement service, Reg. 1.4
- 6) Hours of work or rest, Reg. 2.3
- 7) Manning levels for a ship, Reg. 2.7 ▼





ANNEXE A5-I SUITE

- 8) Accommodation, Reg. 3.1
- 9) On-board recreational facilities, Reg. 3.1
- 10) Food and catering, Reg. 3.2
- 11) Health and safety and accident prevention, Reg. 4.3
- 12) On-board medical care, Reg. 4.1
- 13) On-board complaint procedure, Reg. 5.1.5
- 14) Payment of wages, Reg. 2.2 ▼





LIST OF DOCUMENTS TO HANDLE (1)

Certification & Inspection:

- Maritime Labour Convention, 2006
- Maritime Labour Certificate
- Declaration of Maritime Labour Compliance, Part I (Flag State)
- Declaration of Maritime Labour Compliance, Part II (Shipowner)
- List of relevant documents & procedures attached to the DMLC, Part 2.





LIST OF DOCUMENTS TO HANDLE (2)

- 1.2 Medical Certificate
- 1.3 STCW CoC & Endorsement
- 2.1 Seafarer Employment Agreement
- 2.1 Collective Bargaining Agreement
- 2.1 Seafarer's Record of Employment
- 2.2 Monthly payslip
- 2.3 Table of Shipboard working arrangement
- 2.3 Records of seafarers' daily worked hours
- 2.5 Evidence of financial security for seafarers repatriation
- 2.7 Minimum safe manning certificate
- 4.1 International Medical guide for ships
- 5.1.5 Onboard Complaint Procedure ▼





REMARKS AND COMMENTS

Regulation 1.1 – Minimum age

Several Captains report that they do not wish to have on board young people aged less than 18 because of their responsibilities, especially when young seafarers go ashore.

This is confirmed by shipowners, several of them banning the recruitment and the boarding of youth under 18 (Company internal procedures).





REMARKS AND COMMENTS

Regulation 1.2 – Medical certificate

It looks better and mandatory that the control of the medical certificates are carried out **by the shipowner before seafarers to join the ship**. Crew dept (or manning agent) use a seafarer's database to monitor the validity of certificates, licenses and other documents.

Some Company procedures prohibit the seafarers to join a vessel if their certificate does not cover **all the expected length** of their time onboard (excluding emergency allowed by the standard A1.2§8). ▼





REMARKS AND COMMENTS

Regulation 1.2 – Medical certificate

Another question is the recognition by the ship flag State of **medical visits abroad** or certificates issued by a "qualified medical practitioner" from another State.

Some countries (but France) have posted a list of doctors abroad **approved** to carry out medical examinations of seafarers (eg Norway) ▼





REMARKS AND COMMENTS

Regulation 1.3 – Training and qualifications

As for medical fitness, controls of the qualifications should be carried out by the **shipowners** or the manning agent before seafarers to join the vessel. The Master should not be held responsible if a seafarer embarks with expired certificates or non compliance with the STCW requirements.

In addition, each seafarer **MUST** check, update and **be responsible** for his own documents. ▼





REMARKS AND COMMENTS

Regulation 2.1 – Seafarers' Employment Agreements

To date, several ships were detained during Port State Controls due to **SEA** and **CBA** missing.

The Master to verify that seafarers **contracts** are compliant with the requirements of the MLC 2006 and that the relevant **C**ollective **B**argaining **A**greements shall be available on board **for all nationalities**.

Moreover, a copy of the standard contract agreement are to be available in English (ship engaged in international voyages) ▼





REMARKS AND COMMENTS

Regulation 2.1 – Seafarers' Employment Agreements

It shall also be ensured that, at the end of their employment, seafarers are given a document containing **a record of their employment** on board the ship. This document does not contain any statement as to the quality of the seafarers' work or as their wages.

This is part of the shipowner obligations but the Master must be able to answer any request of inspectors (Flag & Port). ▼





REMARKS AND COMMENTS

Regulation 1.4 – Recruitment and placement

The Master shall ensure that the **manning agreement** signed between the shipowner and the manning agent is available on board.

It may, by **interview**, be confirmed that seafarers were able to **review** and **understand** their contracts before signing them and that they have not paid any money to obtain that contract. ▼





REMARKS AND COMMENTS

Regulation 2.3 – Hours of work and hours of rest

Wide topic which raises lot of questions among seafarers. If the rule is well understood by all of them, all underline the difficulty to fully comply with its requirements.

Several aspects are to be considered:

- ❖ Seafarers must duly record their work/rest hours that will be validated by the heads of department and also by the Captain.
- ❖ These records should be performed through an efficient software that will calculate **"in any 24 hours"** (see Ocimf document), such as ISF Watchkeeper or WRH from SpectralAsia.net. ▼





REMARKS AND COMMENTS

Regulation 2.3 – Hours of work and hours of rest

Several aspects are to be considered:

- ❖ These records should be **consistent** with other onboard various documents such as vessel logbook, statement of paid overtimes, shipboard working arrangement etc.), controlled by the inspectors.

Be aware that a frequent and regular violation of regulation 2.3 could lead to the revision of the vessel **minimum safe manning certificate** by Flag State Authority.

Regulation 2.7 – Manning levels

To be linked with above Regulation 2.3 ▼





REMARKS AND COMMENTS

Regulation 3.1 – Accommodation and onboard recreational facilities

The requirements of this regulation (Accommodations) apply only to ships constructed on or **after the date when this Convention comes into force** for the Member concerned.

All shipowners must maintain decent accommodations and recreational facilities for seafarers working or living on board.

The Master shall ensure frequent and regular inspections and good maintenance of crew accommodations. ▼





REMARKS AND COMMENTS

Regulation 3.2 – Food and catering

Main comments on:

- quality of the food and the drinking water (preference for bottled water instead of onboard fresh water),
- Chief cook age (>18) and qualifications.

The Master shall ensure frequent documented inspections of the galley and other equipment for the storage, preparation and service of meals . ▼





REMARKS AND COMMENTS

Regulation 4.3 – Health and safety protection and accident prevention

Measures in place with respect of the **ISM Code** fully meet the requirements of the Code. Seafarers have to understand that they **must** use PPE in all circumstances.

The shipowner remains responsible for adequate training.

A safety committee shall be established on board a ship on which there are **five or more** seafarers (French Arrêté not yet published). ▼





REMARKS AND COMMENTS

Regulation 4.1 – Medical care on board ship and ashore

Frequently asked questions

Masters report some difficulties for seafarers to access to medical care ashore because of:

- ❖ ISPS Code
- ❖ Local regulations
- ❖ Even cost involved

On board medical cares are fully managed through **Flag Reg**, as well as free access to medical advice by radio.

Shipowners must monitor the **qualification** of the **officers in charge of medical cares** on Board (STCW).

Medical reports to be duly filled in onboard. ▼





REMARKS AND COMMENTS

Regulation 5.1.5 – On-board complaint procedures

While signing his own contract, each seafarer shall receive a copy of the **on-board complaint procedure**.

- ❖ This formalization may make the process a little bit more complicated.
- ❖ The Master shall register the complaint and issue a receipt to the seafarer. Another extra paperwork...
- ❖ The Master to have a full knowledge of the relevant procedure.

Question at national level: shall a foreign seafarer be the representative of the French ones? ▼





REMARKS AND COMMENTS

Regulation 2.2 – Wages

The Master should have available on board all documents relating to the payments due to seafarers. This includes:

- ❖ monthly salary slip
- ❖ any regular deductions on wages (social security, provident fund)...
- ❖ proof of the remittance of monthly allowance by the manning agent.

How many shipowners are or will be able to provide these items in due time? ▼





INSPECTIONS and RETENTIONS

Paris MoU, Results first month Maritime Labour Convention:
7 ships detained for MLC-related deficiencies

Detentions imposed by 4 different port States:

- Canada (2 ships)
- Denmark
- Russian Federation
- Spain (3 ships)

Detained **ships** were flying the **flag** of

- Cyprus (2 ships)
- Liberia
- Netherlands
- Panama (2 ships)
- Tanzania. ▼





INSPECTIONS and RETENTIONS

Top 10 most frequently deficiencies

1. Name & Address of “Shipowner” included on Maritime Labour Certificate and also on the DMLC-Part II are not according to the correct definition of “Shipowner” established by Article II 1.(j) of MLC, 2006
2. Medical Certificates issued by medical personnel not **recognized** by the Panama Maritime Authority (Standard A1.2.4 and MMC-261)
3. SRPS **without License** or Certificate to operate (Standard A1.4.2; A1.4.3)
4. SEA **not signed** between seafarer and shipowner (Standard A2.1.1)
5. Manning agreement between the shipowner and the representative of the shipowner (where the SEA is signed by a representative of the shipowner) **not available on-board** (Standard A2.1.1 (a)) .../... ▼





Top 10 most frequently deficiencies

6. SEA not available in **English** language (Standard A2.1.2)
7. Records of daily hours of rest for use on board the ship **not properly completed** (Standard A2.3.12)
8. Documented evidence of shipowners' **financial security** to assure compensation in case of seafarer's death or long-term disability due to an occupational injury, illness or hazard not found on-board (Standard A4.2.1(b))
9. Documented evidence of shipowners' financial security for **repatriation** of seafarers not found on-board (Regulation 2.5.2)
- 10. Complaint procedures** not found on-board

***10 most frequently deficiencies observed by ICS Class inspectors, by Frank H.

Marmol, ILO certified training of trainers and Maritime Labour Inspector for MLC, 2006. ▼





REMARKS AND COMMENTS

Last but not Least...

In order to answer all questions raised by the Maritime Labour Convention 2006, it appears essential that all Masters and Officers in charge of its application on board **have received a detailed training** on its contents.

All the documents to be checked during vessel inspection must be easily **available at any time** on board as well as the relevant **procedures** and **instructions** established by the **Company**. ▼





Thanks for your kind attention

To know and not to use
Is not to know...

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