

Circular 174/2018

To: Owners, Managers, Surveyors and Deputy Registrars

Subject: MLC On-Board Complaints Procedure

Date: 14th May 2018

Summary

This circular revoke 68/2013

Ships are required, by Regulation 5.1.5, paragraph 1, to have on-board procedures for the fair, effective and expeditious handling of seafarer complaints alleging breaches of the requirements of this Convention (including seafarers' rights). The requirement relating to these procedures is one of the matters in the 16 areas that must be **inspected and certified**.

Scope of the MLC Complaint:

Under the MLC, 2006 seafarers have to be properly informed of their rights and of the remedies available in case of alleged non-compliance with the requirements of the Convention and whose **right to make complaints**, both on board ship and ashore, is recognized in the Convention.

Those that own or operate MLC ships, are required to develop and carry out plans for ensuring that the applicable national laws, regulations or other measures to implement the MLC, 2006 are actually being complied with.

Flag State Responsibilities:

The obligation (under Standard A5.1.5, paragraph 2, of the MLC, 2006) is on countries to adopt laws or regulations to ensure that appropriate on-board complaint procedures are in place.

Guideline B5.1.5, paragraph 1, recommends subject to any relevant provisions of an applicable collective agreement, that a **model for those procedures should be developed by the competent authority** in close consultation with shipowners' and seafarers' organizations.

Master responsibility:

The masters of MLC ships are responsible for carrying out the MLC shipowners' stated plans, and for keeping proper records to evidence implementation of the requirements of the MLC Convention.

Minimum content of Complaint Procedure:

Every Cook Islands flagged vessel shall provide seafarers with a copy of the **On-Board Complaints procedure** applicable. The On-Board Complaints procedure shall include:

- the competent authority contacts information in the flag state (mlc@maritimcookislands.com)
- **each seafarers' country of residence authority**, if different from the Flag State
 - o *"Information about the national competent authority for countries that have ratified the MLC, 2006 along with other national information can be found on ILO MLC 2006 website under the link MLC, 2006 database. The competent authority should be able to provide the information regarding complaints."*
- the name of one or more persons on board the ship who can, on a confidential basis, provide seafarers with impartial advice on their complaints and also assistance regarding the procedure for the processing of complaints available on board the ship.

Aim and language of MLC Complaint procedure:

The MLC, 2006 does not contain a model, but sets out some **basic principles** in Regulation 5.1.5 and Standard A5.1.5. These principles include the aim to resolve complaints at the **lowest possible level**, but to allow a right to appeal directly to the master or appropriate external authorities, as well as the right for the seafarer to be accompanied or represented, and to receive impartial advice, and **safeguards against victimization for filing complaints**.

The purpose of this circular is to inform users of the Cook Islands Registry that as per the On-Board

Complaints procedure established by the Maritime Labour Convention, 2006 (MLC, 2006), all

Cook Islands vessels must keep on board the procedure for the fair, effective and expeditious handling of seafarer complaints alleging breaches of the provisions of the Maritime Labour Convention, 2006 (MLC, 2006) (including seafarers' rights) and also **a copy shall be kept in English** and the onboard official language.

Each vessel or MLC Shipowner shall develop the **On-Board Complaints procedures** for the processing of complaints on-board.

Timing of the MLC Complaint:

Complaints should be sought to be resolved at the lowest level possible; and only when the matter cannot be resolved to the satisfaction of both parties, shall it be elevated to the next level.

The complainant seafarer shall submit his/her complaint **in writing within 7 days** of the occurrence, or according to the circumstances to:

- Superior officer
- Head of department
- Master

If, within the period of seven (7) days, the complaint on board has not been resolved, then the period shall be extended for seven (7) more additional days, with the sole purpose to find a favourable solution, which shall be recorded on the registries of the ship and be available to the competent authorities.

The shipowner and the seafarer concerned shall have a period of fourteen (14) days there from to solve the matter.

If after 14 days, the complaint has not been solved, then either party **shall have a 7-day period to bring the matter to the Maritime Cook Islands Administration.**

Seafarers have the right to complain directly to the master and where they consider it necessary, to the **Maritime Cook Islands, MLC, 2006 Contact Point** or to appropriate external authorities (Standard A5.1.5, paragraph 2) to mlc@maritimecookislands.com

The Complaint should be submitted **no more that 21 days after the Complaint Form issuance date.**

Who can make a Complaint?

Standard A5.2.1, paragraph 3, provides that a “complaint” means information submitted by:

- a seafarer
- a professional body
- an association
- a trade union or,
- generally, **any person with an interest** in the safety of the ship, including an interest in safety or health hazards to seafarers on board.

Seafarer’s rights:

The complainant seafarer **shall not be victimized.**

All complaints and decisions on them shall be recorded and a copy provided to the complainant seafarer.

Under Regulation 5.2.2 of the MLC, 2006 a complaint by a seafarer alleging a breach of the requirements of the MLC, 2006 (including seafarers’ rights) may be made to an authorized officer in the port at which the seafarer’s ship has called in accordance with Standard A5.2.2.

Appropriate steps must be taken to safeguard the **confidentiality of these complaints** (Standard A5.2.2, paragraph 7) and the receipt of the complaint should be recorded by the authorized officer and, in the event that matters are not resolved at the ship-board level, and it is not a matter for a more detailed inspection by a PSCO then the flag State's competent authority must be contacted for advice and a corrective plan of action.

In cases where there is no reply from the flag State and the matter is not resolved, then the port State is required to send a copy to the ILO Director-General and to the appropriate shipowners' and seafarer's organizations in the port.

Port State Control:

Port State Control Officers (PSCOs) may also be entrusted with handling and investigating complaints made by seafarers on ships visiting their ports.

If complaint handling is not part of their functions, they should be able to direct seafarers to the competent official for handling complaints or to receive complaints for transmittal to the competent official.

The inspection in ports must be limited to a review of the certificate and declaration except in the following four cases:

- (a) the required documents are not produced or maintained or are falsely maintained or the documents produced do not contain the information required by the Convention or are otherwise invalid; or
- (b) there are clear grounds for believing that the working and living conditions on the ship do not conform to the requirements of the Convention; or
- (c) there are reasonable grounds to believe that the ship has changed flag for the purpose of avoiding compliance with the Convention; or
- (d) there is a complaint alleging that specific working and living conditions on the ship do not conform to the requirements of this Convention.

In any of those cases a more detailed inspection may be carried out to ascertain the working and living conditions on board the ship.

Such inspection must in any case be carried out where the working and living conditions believed or alleged to be defective could constitute a **clear hazard to the safety, health or security of seafarers** or where the authorized officer has grounds to believe that any deficiencies constitute a serious breach of the requirements of this Convention (including seafarers' rights).

MCI additional requirements:

Copy of the present circular should be posted onboard in all the relevant locations, together with copy of:



- MLC Handling Complaint Procedure
- MLC Complaint Form

MLC Onboard Complaint form:

Seafarers may use the **On-Board Complaints Form** for complaints related to any matter that is alleged to constitute a breach of the provisions of the Maritime Labour Convention, 2006 (MLC, 2006).

If you have any queries, please contact mlc@maritimecookislands.com



COOK ISLANDS ON BOARD COMPLAINT FORM

Ship
Registration
FORM 92
v.3

This form is a model provided by Maritime Cook Islands – to be used at the discretion of the MLC Shipowner.

Vessel details

Name	Type of vessel	IMO Number
Port of Registry	Gross Tonnage	Call Sign

Company's MLC 2006 Designated Person's* contact details

Name:	
Position:	
Telephone number:	
Email Address :	

*or other person appointed by the Company

Details of the Sender

Name:	
Position (if any):	
Telephone number:	
Email Address :	

Details of the Seafarer

Name:	
Position:	
Nationality:	
Embarkation Date:	
MCI COC n. (if any)	
Telephone number:	
Email Address :	

Contract Details

Employer:	
Employee:	
Type of Contract <i>(defined, undefined, voyage contract)</i>	
Salary:	
Starting Date:	
Termination date:	

Competent authority in the seafarer's country of residence (if applicable)

MCI MLC 2006 Contact Point
Technical Department
mlc@maritimecookislands.com

Name of authority:	
Contact person:	
Position:	
Telephone number:	
Email Address :	

Name of person(s) on board authorised to assist complainants

Name:	
Position:	
Telephone number:	
Email Address :	

Name:	
Position:	
Telephone number:	
Email Address :	

Protection & Indemnity policy details (if available)

P&I Name:	
Policy Number:	
Expiry Date:	
Email Address :	

Briefly describe your compliant
(Attach additional pages / evidence if required)

Signature: _____

Print Name: _____

Date: _____