

	<b>Maritime and Coastguard Agency</b> <b>SURVEYOR ADVICE NOTE</b>	<b>Document number:</b> <b>SAN 73</b>
<b>Revision:</b> 04	<b>MLC, 2006 – SHIPOWNER LIABILITY FOR WAGES AFTER REPATRIATION</b>	<b>Date:</b> 19 May 2017
<b>Target document:</b>		
<b>Distribution</b>	<b>Marine Offices</b>	
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## Introduction

1. Maritime Labour Convention, 2006 (MLC) Standard A4.2.3(b) requires a shipowner:

*“to pay wages in whole or in part as prescribed by national laws or regulations or as provided for in collective agreements from the time when the seafarers are repatriated or landed until their recovery or, if earlier, until they are entitled to cash benefits under the legislation of the Member concerned.”*

2. The Standard has been transposed into UK legislation by Regulation 50 of the Merchant Shipping (Maritime Labour Convention) (Minimum Requirements for Seafarers etc.) Regulations 2014 (SI 2014/1613) implementing Standard A4.2.3(b) of the Maritime Labour Convention, 2006 (MLC). This requires that the seafarer is paid their full basic wage after repatriation or landing for up to 16 weeks from the date the incapacity began. Wages paid by the shipowner may be rebated by the amount of any cash benefits which the seafarer receives during that period.

## Issue

3. A case has arisen where a pre-existing Collective Bargaining Agreement (CBA) prescribed for remuneration terms less favourable to the seafarer than those described above. In law, contractual terms do not override statutory minimum requirements, and the CBA in question had not been revised to bring it in line with the new minimum requirements of the MLC transposing legislation. The surveyor scrutinising the arrangements onboard therefore correctly recorded the situation as an MLC deficiency.

4. However, the MCA has agreed with shipowners’ representatives to review the position on this issue, and has agreed not to enforce the payment of full basic wages, until such time as the issue is resolved, for the period between repatriation and the end of the 16 week period if there is a CBA which specifies a different arrangement. Consultation has been held, however further progress on updating regulations has been delayed due to the General Election purdah. The amended regulations will be published later this year.

5. Failure to comply with Regulation 50 should still be recorded as a deficiency.

6. In cases which relate to the payment of full basic wages after repatriation or landing, and in which there exists a CBA which contains less favourable terms to the seafarer, the shipowner should be given a period of 6 months to rectify the deficiency, by which time the issue should have been resolved between the MCA and other parties.

6. If no CBA exists outlining less favourable terms, Regulation 50 should be enforced as normal. Also, non-compliances with other aspects of Regulation 50, ie., those which do not pertain to payment of wages after repatriation or landing, should also be enforced in the normal way.

7. This SAN will remain valid until **31 March 2018**, or until replaced, whichever is sooner.

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