

GIBRALTAR MARITIME ADMINISTRATION
(Ministry of Maritime & Shipping Services)



Watergate House
2/8 Casemates Square
Gibraltar

Tel (+350) 200 46862 / 47771 / 50424

e-mail: maritime.survey@gibraltar.gov.gi
maritime.registry@gibraltar.gov.gi

Maritime Labour Notice (MLN) – 040

To: Ship Owners, Operators, Masters, Officers and Classification Societies

MLC Standard A2.1, Standard A2.2, Guideline B2.5.1
Amendments to MLC entering into force on 26 December 2020

This MLN provides guidance on compliance with the 2018 amendments to MLC coming into force 26 December 2020. Implementation of these guidelines will be taken as evidence of compliance with the Gibraltar regulations.

The guidelines do not preclude the ship-owner from demonstrating an equivalent or higher standard as an "alternative method" of evidence of compliance.

References:

Maritime Labour Convention 2006 (MLC)

Maritime Labour Convention Amendments 2018

Gibraltar Merchant Shipping (Maritime Labour Convention) Regulations 2012, as amended

Gibraltar Maritime Administration website: www.gibraltarship.com

Background

The Maritime Labour Convention (MLC) entered into force on 20 August 2013. In June 2018 the International Labour Organisation (ILO) agreed the 2018 amendments to the MLC. These amendments will enter into force on 26 December 2020.

Requirements:

Ships that are subject to compliance with the MLC will, after 26 December 2020, be required to have in place within Seafarer Employment Agreements (SEA), provision to ensure that SEA's continue to have effect while a seafarer is held captive on or off the ship as a result of acts of piracy or armed robbery against ships, regardless of whether the date fixed for its expiry has passed or either party has given notice to suspend or terminate it.

Furthermore, provision to ensure where a seafarer is held captive on or off the ship as a result of acts of piracy or armed robbery against ships, wages and other entitlements under the seafarers' employment agreement, relevant collective bargaining agreement or applicable national laws, including the remittance of any allotments, shall continue to be paid during the entire period of captivity and until the seafarer is released and duly repatriated, or, where the seafarer dies while in captivity, until the date of death as determined in accordance with applicable national laws or regulations.

Additionally, amended guidelines now include that the entitlement to repatriation may lapse if the seafarers concerned do not claim it within a reasonable period of time to be defined by national laws or regulations or collective agreements, except where they are held captive on or off the ship as a result of acts of piracy or armed robbery against ships.

Text of 2018 amendments:

Amendment to the Code of the MLC, 2006, relating to Regulation 2.1

Standard A2.1 – Seafarers' employment agreements

Insert a new paragraph 7:

7. Each Member shall require that a seafarer's employment agreement shall continue to have effect while a seafarer is held captive on or off the ship as a result of acts of piracy or armed robbery against ships, regardless of whether the date fixed for its expiry has passed or either party has given notice to suspend or terminate it. For the purpose of this paragraph, the term:

(a) piracy shall have the same meaning as in the United Nations Convention on the Law of the Sea, 1982;

(b) armed robbery against ships means any illegal act of violence or detention or any act of depredation, or threat thereof, other than an act of piracy, committed for private ends and directed against a ship or against persons or property on board such a ship, within a State's internal waters, archipelagic waters and territorial sea, or any act of inciting or of intentionally facilitating an act described above.

Amendment to the Code of the MLC, 2006, relating to Regulation 2.2

Standard A2.2 – Wages

Insert a new paragraph 7:

7. Where a seafarer is held captive on or off the ship as a result of acts of piracy or armed robbery against ships, wages and other entitlements under the seafarers' employment agreement, relevant collective bargaining agreement or applicable national laws, including the remittance of any allotments as provided in paragraph 4 of this Standard, shall continue to be paid during the entire period of captivity and until the seafarer is released and duly repatriated in accordance with Standard A2.5.1 or, where the seafarer dies while in captivity, until the date of death as determined in accordance with applicable national laws or regulations. The terms piracy and armed robbery against ships shall have the same meaning as in Standard A2.1, paragraph 7.

Amendment to the Code of the MLC, 2006, relating to Regulation 2.5

Guideline B2.5.1 – Entitlement

Replace paragraph 8 by the following:

8. The entitlement to repatriation may lapse if the seafarers concerned do not claim it within a reasonable period of time to be defined by national laws or regulations or collective agreements, except where they are held captive on or off the ship as a result of acts of piracy or armed robbery against ships. The terms piracy and armed robbery against ships shall have the same meaning as in Standard A2.1, paragraph 7.

Declaration of Maritime Labour Compliance (DMLC) and Maritime Labour Convention Certificate (MLC)

The amendments do not immediately affect the validity of MLC Certificates, nor DMLC Part 1 already issued. Existing MLC certificates and DMLC will remain valid until first initial/renewal inspection after 26 December 2020, at which time the new provisions will be verified.

No immediate changes will be required to the DMLC or MLC Certificate.

Documentary evidence will be accepted as verification of compliance with the new amendments.

Revised DMLC Part 1 shall be required to be issued or renewed not later than the date of the first initial/renewal inspection after 26 December 2020.

New DMLC Part 1 & Part 2

As a result of the 2018 amendments the new DMLC Part 1 will include the applicable requirements.

Prior to the initial/renewal inspection, ship-owners should request the Administration for a new DMLC Part 1, complete a new DMLC Part II and submit it for approval to the Administration or to an RO delegated to undertake the review and approval on behalf of the Administration.

The amended DMLC Part II will need to reflect compliance with the 2018 amendments.

Ship-owners are advised this should be done at the earliest opportunity, but no later three months prior to the first MLC initial/renewal inspection due after 26 December 2020.

Steve Gomez

Chief Surveyor (Ag)

Issue date: August 2020

All notices are available through www.gibraltarship.com This copy of the Administrative Instruction has been sent electronically and does not carry a signature or official stamp. A sign and stamped copy will be available upon request

