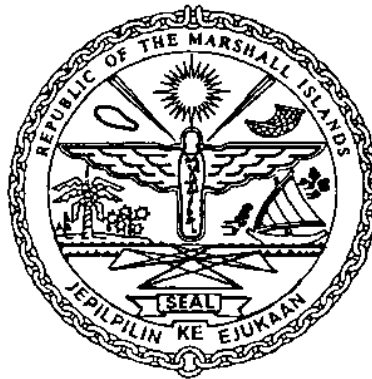


**REPUBLIC OF
THE MARSHALL ISLANDS**



**Maritime Labour Convention, 2006
Inspection and Certification Program**

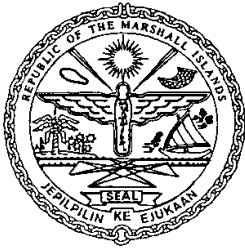
MARITIME ADMINISTRATOR

Oct/2018

MN-2-011-33

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**REPUBLIC OF
THE MARSHALL ISLANDS**
MARITIME ADMINISTRATOR

Marine Notice

No. 2-011-33

Rev. Oct/2018

**TO: ALL SHIPOWNERS, OPERATORS, MASTERS AND OFFICERS OF
MERCHANT SHIPS, YACHTS AND RECOGNIZED ORGANIZATIONS**

SUBJECT: Maritime Labour Convention, 2006 Inspection and Certification Program

- References:**
- (a) [MLC, 2006](#), *Maritime Labour Convention, 2006*, as amended
 - (b) [MLC, 2006 Resolution VII](#), *Resolution Concerning Information on Occupational Groups – 94th (Maritime) Session of the International Labour Conference*, adopted 22 February 2006
 - (c) Guidelines for Flag State Inspections under the Maritime Labour Convention, 2006
 - (d) **RMI Marine Notice 2-011-13**, *International Safety Management Code*
 - (e) **RMI Marine Guideline 2-11-15**, *Organizations Acting on Behalf of the Republic of the Marshall Islands Maritime Administrator*

PURPOSE

The Republic of the Marshall Islands (RMI) ratified the Maritime Labour Convention, 2006 (MLC, 2006) on 25 September 2007. This Notice establishes the RMI Maritime Administrator's (the "Administrator") Inspection and Certification Program to implement the MLC, 2006, which governs maritime labor conditions and sets minimum standards for the working and living conditions of seafarers aboard ships, as applicable. The Inspection and Certification Program authorizes certain Recognized Organizations (ROs), as established under separate written agreement, to carry out inspections and issue certificates under the MLC, 2006 on behalf of the Administrator, and provides supplementary details regarding the scope of this authorization not covered within the individual agreements.

This Notice provides the Administrator's policy on the application of the MLC, 2006 to the offshore sector, to yachts and persons excepted from the definition of seafarers. It also clarifies the Maritime Labour (ML) Certificate record keeping required by ROs. Please note that further modifications to this Notice should be expected as experience in implementing and enforcing the MLC, 2006 is gained.

This Notice supersedes Rev. Dec/16 and is renumbered. It incorporates the 2016 MLC, 2006 amendments that enter into force 8 January 2019. It also clarifies, in §5.2 of this Notice, the applicability of ILO Conventions No. 92 and 133 (C.92 and C.133).

APPLICABILITY

This Notice applies to all RMI-flagged ships, yachts and their seafarers, to which the [MLC, 2006](#) applies in accordance with Article II of the MLC, 2006 as from its entry into force on 20 August 2013. Refer to §1.0 of this Notice, *Application of the MLC, 2006*. Please also refer to the designated [webpage](#) on MLC, 2006, under Maritime Services, for RMI requirements on MLC, 2006 compliance.

Terms used in this Notice must carry the same meaning as those defined in the Convention.

BACKGROUND

The Maritime Labour Convention, 2006 was adopted on 23 February 2006 by the International Labour Organization (ILO) as a single international instrument setting forth a minimum set of requirements governing the working and living conditions for seafarers. The MLC, 2006 was drafted to compliment other international conventions on ship and crew safety, security and quality, competency and environmental protection – often referred to as the “fourth pillar” of international maritime regulation alongside the International Convention for the Safety of Life at Sea (SOLAS), the International Convention for the Prevention of Pollution from Ships (MARPOL), and the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW). It is also referred to as the “Bill of Rights” for seafarers.

The MLC, 2006 builds on the existing ILO Convention 147, and a consolidation of 70 ILO instruments, including 37 existing maritime ILO Conventions and 33 Recommendations.¹ The maritime labor standards embodied within these 70 ILO instruments have been amalgamated into the MLC, 2006 with the intention of updating standards where necessary, simplifying complex or overlapping provisions into a single instrument, streamlining amendment procedures, and establishing universal application and enforcement.

Some novel aspects of the MLC, 2006 relate to its structure and provisions established within its Articles. Firstly, the provisions of the MLC, 2006 must be given effect through national laws and regulations – mainly to allow a more effective implementation method by the flag State through flexibilities allowed in the MLC, 2006. Therefore, the flag State is primarily responsible for the enforcement of and compliance with the MLC, 2006. Also, the certification system of the MLC, 2006 is designed to be more in line with other international conventions developed under the International Maritime Organization (IMO). Lastly, the “no more favorable treatment” clause ensures that Member States establish a level playing field by treating all ships equally irrespective of whether or not the flag State of a ship has ratified the MLC, 2006.

¹ The existing ILO Conventions on seafarers’ identity documents (C108, C185), seafarers’ pensions (C71) and minimum age (C15) were the only conventions not included in the MLC, 2006.

REQUIREMENTS

1.0 Application of the Maritime Labour Convention, 2006

- 1.1 The [MLC, 2006](#) applies to all ships, irrespective of tonnage, whether publicly or privately owned, which are “ordinarily engaged in commercial activity.” The Administrator considers “commercial activity” to be any endeavor undertaken for the primary purpose of generating revenue which includes, but is not limited to, activities such as commerce/trade, chartering, towing, salvage, offshore supply/support, entertainment, marketing, research, accommodation, transit, etc.
- 1.2 The RMI does not have laws or regulations which extend the application of the MLC, 2006 to registered ships engaged in fishing or in similar pursuits, ships of traditional build (such as dhows and junks), or ships which navigate exclusively in inland waters, waters within or closely adjacent to sheltered waters, or areas where port regulations apply.
- 1.3 All ships of 500 gross tons or more to which the MLC, 2006 applies, engaged in international voyages or operating from a port, or between ports, in another country must be certified for compliance with the 16 areas of the MLC, 2006 which are subject to mandatory inspection. The working and living conditions of seafarers must be inspected and approved by the flag State before certifying a ship in accordance with Standard A5.1.3, paragraph 1. The 16 areas are set out in Appendix A5-I of the MLC, 2006. Further details regarding certification are provided in §7.0 of this Notice.
- 1.4 The Administrator considers units engaged in exploration, exploitation, and/or processing of sea-bed mineral resources, including production, storage and offloading, maintenance, construction or accommodation units, when on location for the purpose of conducting or supporting operations subject to the jurisdiction of a host coastal State, to be installations and not ships. Units flagged and certified in accordance with the RMI Mobile Offshore Unit Standards ([MI-293](#)) and/or other relevant applicable national laws and regulatory requirements where the subject matter is dealt with differently are considered to substantially meet the requirements of the MLC, 2006 and thus are not subject to certification under the Convention in these circumstances.

These units also are deemed to be substantially compliant with MLC, 2006 when underway for purposes of relocation or drydocking, and therefore are not subject to certification in these circumstances. Unit operators are encouraged, however, to voluntarily seek inspection and certification under the provisions of the Convention, to the extent practicable, in accordance with procedures established by the Administrator under §7.0 of this Notice.
- 1.5 The Administrator has determined that commercial yachts, that is, yachts ordinarily engaged in chartering, regardless of tonnage shall be considered ships for the purpose of applying the requirements of the MLC, 2006. Private yachts of any size not ordinarily engaged in commercial activities such as chartering, are not to be considered ships for the purpose of applying the requirements of the MLC, 2006.

- 1.6 All ships to which the [MLC, 2006](#) applies, but which are not required to be certified (those under 500 gross tons; not engaged in international voyages; not operating from a port, or between ports, in another country; or considered to be installations and not ships), must still be subject to full inspection against the same requirements as for certified ships to the extent reasonable and practical. Further details with regard to the identification of inspection requirements, and record keeping for such non-certified vessels are provided in §8.0 and §12.0 of this Notice.
- 1.7 A copy of the MLC, 2006 must be maintained on board the ship and made available to all seafarers.

2.0 Shipowner

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, by written agreement, to take over the duties and responsibilities imposed on shipowners in accordance with this Convention, regardless of whether any other organization or persons fulfil certain of the duties or responsibilities on behalf of the shipowner. The Administrator considers this organization or person to be the certified International Safety Management (ISM) Code Company.

3.0 Seafarers

- 3.1 The MLC, 2006 applies to all seafarers, including the Master, on all ships to which the MLC, 2006 applies. For this purpose, as defined in Article II, paragraph 1(f) of the MLC, 2006, a “seafarer means any person who is employed or engaged or works in any capacity on board a ship to which the MLC, 2006 applies.”
- 3.2 The MLC, 2006 recognizes in Article II, paragraph 3, that there may be doubts whether a particular category or categories of persons who may perform work on board a ship covered by the MLC, 2006 should be regarded as seafarers for the purposes of the MLC, 2006.
- 3.3 In considering how to resolve such doubts, the Administrator, in consultation with the shipowners’ and seafarers’ organizations, will take into account information as provided under [Resolution VII](#) adopted by 94th (Maritime) session of the International Labour Conference.
- 3.4 Thus, in accordance with Resolution VII, the Administrator considers any person engaged or working in any capacity on board a ship and whose normal place of work is on board for the business of that ship who is **contractually** provided with social protections by either the shipowner/operator or third party that are equivalent to or are greater than those required by the MLC, 2006 to have been provided with social protections that substantially meet the Convention requirements. In all cases, the burden of proof must rest with the shipowner/operator who must show through documentation during the inspection process that these requirements have been met.
- 3.5 Notwithstanding, the Administrator must make determinations under Resolution VII on a ship-by-ship basis (See Annex I of this Notice). Therefore, shipowners seeking such

exclusions must follow the procedures outlined in §5.0 below, paying particular attention to Step 2 – contacting the Administrator at an early stage and prior to issuance of a [Declaration of Maritime Labour Compliance \(DMLC\) Part I](#).

4.0 Recognized Organizations

- 4.1 The Administrator has delegated, under a separate written agreement, its inspection and certification functions under the [MLC, 2006](#). The Classification Societies and Appointed Representatives (the “ROs”) to which the Administrator has delegated such functions are provided in RMI Marine Guideline [2-11-15](#).
- 4.2 Shipowners and yacht owners may choose from the list of ROs as provided in RMI Marine Guideline 2-11-15 to conduct review, inspection, and issuance of the ML Certificate. By way of guidance, the chosen entity should be part of the RO currently certifying the ship under the ISM Code so that the audits, inspections and certification of both may be harmonized.
- 4.3 Once an RO is chosen, the Administrator will expect the ship or yacht owner to maintain continuity in the process by having the RO perform the entire review, approval, inspection and certification of the vessel’s compliance with the MLC, 2006. Any deviation from this will require prior Administrator approval.

5.0 Procedure for Shipowner to Obtain Certification

5.1 Newbuildings

- 5.1.1 The following are the step-by-step procedures for obtaining certification under the MLC, 2006. To ensure that the vessel is compliant with ILO industry standards and/or MLC, 2006 requirements, it is important that the Administrator receive all pertinent information.

Step 1: Perform a gap analysis of ship and Company policies against the RMI National provisions, outlined in the pro forma [DMLC Part I](#).

Step 2: Any areas of concern are to be brought to the attention of the Administrator for evaluation by email at: regulatoryaffairs@register-iri.com. This includes any probable need for a determination of categories of persons to be excluded under the definition of “seafarer” in accordance with [Resolution VII](#) (see Annex I of this Notice), any substantial equivalencies, or any exemptions under Title 3, such as an exemption for the construction and equipment requirements. If it is determined by the gap analysis performed in Step 1 above that exemptions need to be required, provide the following information:

- a. Date of Keel Laying: This date is essential in order to determine the regulations and requirements against which the vessel will be compared.
- b. An electronic (PDF) copy of the General Arrangement (GA) plan for review.

- c. An electronic (PDF) copy of an Accommodations Furnishings Plan (or equivalent documentation), showing all furnishings and miscellaneous outfit provided for the personal use of each occupant, as well as:
 - i. Minimum headroom in each space;
 - ii. Overall dimensions and total floor area of each sleeping room;
 - iii. Dimensions of clear floor area, not covered by furniture (for yachts only);
 - iv. Berth dimensions; and
 - v. Volume of lockers and/or storage spaces.
- d. Is the mess room sufficient for the number of persons likely to use it at any one time?
- e. Room assignments if not already shown on the GA or Accommodations Furnishings Plan.
- f. Any other relevant information that may have been issued by the Classification Society or other entities (shipyard, nautical architects, etc.).

Step 3: A formal request for issuance of the DMLC Part I is to be prepared and sent to the Administrator by email at regulatoryaffairs@register-iri.com detailing the following information for each vessel:

- a. Vessel name;
- b. IMO number;
- c. Gross Tonnage (GT) from the International Tonnage Certificate (ITC) or an Attestation of Tonnage from the RO; and
- d. The information contained in Step 2 above for determining exemptions, if applicable².

Step 4: The Administrator will then issue the DMLC Part I as a PDF copy by email to the requestor, sending the original by courier to the requestor's designated addressee.

Step 5: Upon issuance of the DMLC Part I, the [DMLC Part II](#) is to be prepared by the shipowner (in consultation with the selected RO or AR, if deemed necessary) and submitted for certification by the RO or AR.

Step 6: Upon completion of the DMLC (Part I and Part II) and issuance to the

² Please note that in some cases, the Administrator may request the information listed in Step 2 above even if no request for exemptions has been made.

shipowner, the vessel inspection process for issuance of the ML Certificate is to be arranged between the shipowner and the RO which may include any preparatory documentation review ashore prior to the onboard inspection.

- 5.1.2 The Administrator has found that if an ITC or an Attestation of Tonnage has not yet been issued, an estimation of the GT seldom matches the GT shown on the above-mentioned documentation. This leads to the DMLC Part I having to be re-issued to correct the error.

The Administrator understands that vessels need the DMLC Part I for the inspection process, so, if the ITC or Attestation has not been issued to the vessel, only an electronic (PDF) copy of the DMLC Part I will be issued by the Administrator with “To Be Determined (TBD)” in the Gross Tonnage section. This will allow the RO to note whether or not any substantial equivalencies and/or exemptions have been granted.

Once the ITC or Attestation for the vessel has been issued, the ship operator is requested to send an electronic (PDF) copy to Regulatoryaffairs@register-iri.com so that the original DMLC Part I may be issued with the correct GT and couriered out to be placed on board.

5.2 Existing Vessels – Change of Flag

- 5.2.1 All RMI-flagged vessels, and those transferring into the RMI, must meet, provide, and maintain minimum standards on RMI-flagged vessels in accordance with the MLC, 2006, or C.92 and C.133 as applicable.
- 5.2.2 Vessels that are currently certified under MLC, 2006, are not required to have or renew certification for C.92 and C.133. Because MLC, 2006 consolidated these Conventions, and many others, maintaining or renewing certification for C.92 and C.133 is voluntary.
- 5.2.3 For vessels that are not required to be MLC, 2006 certified, the Administrator recognizes C.92 and C.133 as industry standards, to the extent reasonable and practical. In this Notice, see also §1.6, §8.0, and §12.0. Additional information about how C.92 and C.133 may be used in meeting the requirements for certification is contained in RMI Marine Notice [MN-7-044-1](#), and for procedures for obtaining ILO documents of compliance, refer to the RMI [Technical Circular 2](#).
- 5.2.4 To ensure a vessel is fully compliant with MLC, 2006 requirements³, the Administrator must receive the following information to facilitate issuing the DMLC Part I:
- .1 Vessel name;
 - .2 IMO number;
 - .3 Gross tonnage;
 - .4 An electronic (PDF) copy of the previously issued DMLC Part I;

³ The Administrator will take the C.92 and C.133 standards into consideration if the ship’s keel was laid prior to the entry into force of the MLC, 2006 (20 August 2013).

- .5 An electronic (PDF) copy of any certificates or statements of compliance in accordance with C.92 and C.133, which may have been issued on behalf of the previous flag State. This is only applicable to ships that do not have an existing Maritime Labour Certificate as set out in §5.2.2, above.
- .6 Since the vessel is not within the RMI Long Range Identification and Tracking (LRIT) system, the current location of the vessel, or position if at sea (latitude and longitude), at the time of request.

6.0 Inspections

6.1 General

- 6.1.1 All inspections must be carried out in accordance with the ILO document, *Guidelines for Flag State Inspections under the Maritime Labour Convention, 2006*.
- 6.1.2 When an inspection is conducted or when measures are taken under the MLC, 2006, the RO, or other authorized inspector, must make all reasonable efforts to avoid a ship being unreasonably detained or delayed.
- 6.1.3 An inspector is authorized to carry out any examination, test, or inquiry considered necessary to determine that the standards of the MLC, 2006 are being strictly observed.
- 6.1.4 All persons inspecting under the MLC, 2006 must have appropriate knowledge of ship operations, including:
 - .1 Minimum requirements for seafarers to work on a ship;
 - .2 Conditions of employment;
 - .3 Accommodation;
 - .4 Recreational facilities;
 - .5 Food and catering;
 - .6 Accident prevention;
 - .7 Health protection;
 - .8 Medical care; and
 - .9 Welfare and social security protection.

6.2 Initial Inspections

- 6.2.1 Initial inspections must be conducted to ensure full compliance with RMI national requirements implementing the [MLC, 2006](#) as outlined in the DMLC Part I. Ships must

undergo an initial inspection and receive a valid ML Certificate as specified under the Applicability section at the beginning of this Notice.

6.2.2 To verify that RMI national requirements are being complied with and that the shipowner's measures have been correctly implemented and are being followed, an inspector must obtain supporting objective evidence by:

- .1 inspecting the relevant areas of the ship;
- .2 examining further documentation such as passports or other official documents, medical certificates, training records, crew lists and payroll records, seafarer employment agreements, safe manning documents and work and rest schedules; and
- .3 interviewing, in private, a representative number of seafarers, taking account of the need to preserve confidentiality and of the seafarers' work and rest schedules.

6.3 Intermediate Inspections

6.3.1 Intermediate inspections must be conducted to ensure continuing compliance with RMI national requirements implementing the MLC, 2006. An intermediate inspection must be conducted between the second and third anniversary dates⁴ of the ML Certificate.

6.3.2 The scope and depth of the intermediate inspection must be equal to an inspection for renewal of the ML Certificate.

6.3.3 The ML Certificate must be endorsed by the RO following satisfactory intermediate inspection.

6.4 Renewal Inspections

6.4.1 Renewal inspections must encompass inspections for all requirements (as per initial inspection) and be completed as follows:

6.4.2 When the renewal inspection is completed within three (3) months before the expiry of the existing ML Certificate, the new ML Certificate must be valid for a period not exceeding five (5) years from the date of expiry of the existing ML Certificate.

6.4.3 When the renewal inspection is completed more than three (3) months before the expiry date of the existing ML Certificate, the new ML Certificate must be valid for a period not exceeding five (5) years starting from the date of completion of the renewal inspection.

6.4.4 An extension of up to five (5) months on the validity of the ML Certificate may be allowed when a ship has satisfactorily completed its renewal inspection, but

⁴ Anniversary date means the day and month of each year which will correspond to the date of expiry of the ML Certificate.

where a new certificate cannot be issued and made available on board immediately.

6.5 Change of Flag

6.5.1 When a vessel changes flag into the RMI, a ML Certificate with a validity for the period remaining on the certificate that is being replaced may be issued by the RO upon the vessel undergoing an inspection where the following conditions exist:

- .1 the vessel has a valid ML Certificate;
- .2 the vessel has no MLC, 2006-related deficiencies;
- .3 the vessel is changing flag within the Company's managed fleet;
- .4 the vessel holds a full-term RMI Safety Management Certificate (SMC);
- .5 the Owner remains the same;
- .6 the (MLC) RO remains the same;
- .7 a RMI DMLC Part I has been issued and the DMLC Part II has been reviewed to the satisfaction of the RO;
- .8 the onboard complaint procedure has been amended, as necessary;
- .9 the certificates or other documentary evidence of financial security have been amended, as necessary, and copies have been provided to the Administrator; and
- .1 the seafarers' employment agreements have been amended as necessary.

If any of these listed conditions cannot be met, the RO must approach the Administrator for guidance.

7.0 Certification

7.1 Maritime Labour Certificate

7.1.1 The Maritime Labour (ML) Certificate, issued by the relevant RO attests that seafarer working and living conditions aboard a ship meet all RMI laws and regulations that govern the implementation of the [MLC, 2006](#).

7.1.2 An RO must issue or renew an ML Certificate to a ship after completion of a satisfactory inspection of RMI national requirements for the 16 areas listed as follows for implementing the MLC, 2006 in the manner as detailed in the DMLC.

- .1 Minimum age
- .2 Medical certification

- .3 Qualifications of seafarers
 - .4 Seafarers' employment agreements
 - .5 Use of any licensed or certified or regulated private recruitment and placement service
 - .6 Hours of work or rest
 - .7 Manning levels for the ship
 - .8 Accommodation
 - .9 On-board recreational facilities
 - .10 Food and catering
 - .11 Health and safety and accident prevention
 - .12 On-board medical care
 - .13 On-board complaint procedures
 - .14 Payment of wages
 - .15 Financial security for repatriation
 - .16 Financial security relating to shipowners' liability
- 7.1.3 An ML Certificate must have attached to it a DMLC as well as any record of inspection as detailed in §7.2, below.
- 7.2 Declaration of Maritime Labour Compliance
- 7.2.1 This document outlines the national laws or provisions that give effect to the 16 areas of the MLC, 2006 that are subject to inspection for certification and the measures put in place by the ship owner/operator to ensure compliance with these inspection items.
- 7.2.2 The DMLC consists of two (2) parts (see the [DMLC Part I](#) and the [DMLC Part II](#)):
- Part I:** the statement drawn up and signed by the Administrator that references or describes RMI national laws, regulations, or provisions with respect to the 16 areas of the MLC, 2006 that are subject to inspection for certification. The DMLC Part I also records any flexibility, substantial equivalencies or exemptions which may be applied to the ship after consultation with the relevant seafarers' organization and the shipowner.

Part II: the statement drawn up by the ship owner/operator identifying the measures adopted to ensure ongoing compliance with RMI national requirements detailed in the DMLC Part I, and enabling continuous improvement between inspections. It should indicate:

- a. when ongoing compliance must be verified;
- b. persons responsible for verification;
- c. records to be taken;
- d. procedures to be followed when non-compliance is noted;
- e. to ensure ongoing compliance, the DMLC Part II also should include general international requirements concerning advances in technology and scientific findings concerning the workplace; and
- f. must be signed by an authorized official of the ISM Code Company.

7.2.3 Concerning the signing of the DMLC Part II by the ISM Code Company:

- .1 The Administrator recognizes, and it must be understood, that ROs typically do not have a contractual relationship with the registered shipowner where the registered shipowner is not an ISM Code certified entity operating the ship. For inspection and certification purposes, therefore, the Administrator expects the RO in every instance to look to the ISM Code Company which has assumed responsibility for the operation of the ship from the shipowner to stand in not only for itself but also for and on behalf of the shipowner as its agent when there are shared responsibilities between the parties within a Shipmanagement contract. It is the Company's Safety Management System for which the RO has issued a Document of Compliance (DOC) that governs a ship's operational management and control. See §2.0 and §11.0 of this Notice, and RMI Marine Notice MN [2-011-13](#).
- .2 This applies to the signing of the DMLC Part II. The Convention recognizes that documents may be signed by a party on behalf of the shipowner and simply requires that such party is able to produce documentation showing that it is authorized to represent the shipowner. The relevant documentation in this case would be either the shipmanagement contract or a Power of Attorney clearly stating the authority of the Company to sign the DMLC Part II "as agent for and on behalf of the shipowner in accordance with the terms and conditions provided in that certain Shipmanagement contract dated '____'."

7.2.4 The DMLC Part II must be certified compliant by the relevant RO prior to issuing the ML Certificate to the shipowner.

7.3 Interim Maritime Labour Certificate

7.3.1 An Interim Maritime Labour Certificate (IMLC) may be issued:

- .1 to new ships on delivery;
- .2 when a ship changes flag; or
- .3 when a shipowner assumes responsibility for the operation of a ship which is new to that shipowner.

7.3.2 An IMLC may only be issued following verification that:

- .1 the ship has been inspected, as far as reasonable and practicable, for items listed in §7.1.2, above;
- .2 the shipowner has demonstrated to the RO that the ship has adequate procedures to comply with the [MLC, 2006](#);
- .3 the Master is familiar with the MLC, 2006 and the responsibilities for implementation;
- .4 relevant information has been submitted to the RO to produce a DMLC; and
- .5 A DMLC need not be issued for the period of validity of the IMLC.

7.3.3 An IMLC must be endorsed by the RO.

7.4 Certificate Formats

7.4.1 The ROs must develop templates for the ML Certificate and IMLC which conform to the model prescribed by the MLC, 2006.⁵

7.4.2 The RO must submit certificates issued and supporting inspection reports to the Administrator for its records.

7.4.3 A copy of these documents must be posted in a conspicuous place on board the ship to be available to the seafarers onboard.

7.4.4 If the DMLC and ML Certificate are not in English, an English-language translation of these documents must accompany the originals for a ship engaged in an international voyage.

⁵ A complete DMLC consists of two (2) parts: 1) DMLC Part 1, which is drawn up by the Administrator; and 2) DMLC Part II, which is drawn up by the shipowner/operator and certified by the RO. Both of these Parts must be supplied to the RO so that they can be combined for issuance of the DMLC (containing Parts I & II), in conjunction with issuance of the ML Certificate to which the DMLC must be attached.

8.0 Non-Certified Ships

- 8.1 All ships to which the MLC, 2006 applies, regardless of whether they are required to carry an ML Certificate, must comply with RMI national laws and provisions specified in the DMLC Part I, and must be subject to inspection by the Administrator verifying that this requirement is met. Such ships may request voluntary certification subject to the satisfactory completion of all requirements necessary for certification. This will simplify matters involving port State control inspections.
- 8.2 Any other ship to which the MLC, 2006 does not apply, may request voluntary certification subject to the satisfactory completion of all reasonable and practical requirements necessary for certification.

9.0 Certificate Validity

9.1 Maritime Labour Certificate

An ML Certificate must be issued for a period which must not exceed five (5) years and which validity will be subject to an intermediate inspection. If only one (1) intermediate inspection is carried out and the period of validity is five (5) years, it must take place between the second and third anniversary dates of the ML Certificate.

9.2 Interim Maritime Labour Certificate

An IMLC may be issued for a period not to exceed six (6) months. An inspection in accordance with §7.1.2, above must be carried out after at least two (2) months of satisfactory implementation onboard and before the expiry of the IMLC. No further IMLC may be issued following this initial six (6) months.

9.3 Causes for Invalidation

An ML Certificate or IMLC must cease to be valid in any of the following cases:

- .1 the relevant inspections are not completed within the specified time periods;
- .2 the ML Certificate is not endorsed by the RO;
- .3 when a ship changes flag;
- .4 when a shipowner ceases to assume the responsibility for the operation of a ship;
and
- .5 when substantial changes have been made to the structure or equipment covered in Title 3 of the [MLC, 2006](#), “*Accommodation, Recreational Facilities, Food and Catering.*”

10.0 Deficiencies and Certificate Withdrawal

- 10.1 An RO, or other authorized inspector, must require the rectification of deficiencies in seafarers' working and living conditions that have been identified as the result of an inspection and must carry out inspections in this regard at the request of a port State control authority. Where there are grounds to believe that deficiencies constitute a serious breach of the MLC, 2006 (including seafarers' rights), or represent a significant danger to seafarers' safety, health or security, an inspector must, with the authorization of the Administrator, prohibit a ship from leaving port until necessary corrective actions are taken.
- 10.2 An ML Certificate or IMLC must be withdrawn by the Administrator, or RO with the authorization of the Administrator, if there is evidence that a ship does not fully comply with the requirements of the [MLC, 2006](#) and that the required corrective actions have not been taken. When considering the withdrawal of an ML Certificate, the seriousness and frequency of the deficiencies must be considered.
- 10.3 Where there is no clear breach of the requirements that endangers the safety, health or security of the seafarers and where there is no prior history of similar breaches, an RO must have the discretion to give advice and ensure that action is taken to remedy the deficiencies found instead of instituting or recommending withdrawal of an ML Certificate.
- 10.4 If the Administrator receives a complaint that is not manifestly unfounded or obtains evidence that a ship that flies its flag does not conform to the requirements of the MLC, 2006 or that there are serious deficiencies in the implementation of measures set out in the DMLC, the Administrator, or RO with the authorization of the Administrator, must undertake to investigate the matter and ensure that action is taken to remedy the deficiencies found.

11.0 International Safety Management (ISM) Code

- 11.1 The Administrator considers elements of the MLC, 2006 to be an extension of the ISM Code and an essential part of meeting the Code's objectives of maintaining compliance with international conventions through the Company's Safety Management System.
- 11.2 Failure of an applicable RMI-flagged vessel to comply with the MLC, 2006 may be considered a non-conformity as defined in the ISM Code, resulting in the possible withdrawal of the vessel's Safety Management Certificate (SMC) and also possibly the Company's DOC.
- 11.3 In the event of certification withdrawal, reinstatement of certification must not occur until the vessel's RO and, if the situation warrants, the competent authority of the Member State under whose jurisdiction the vessel is located are able to advise the Administrator that they are satisfied with the Company and vessel's compliance with the MLC, 2006.

12.0 Record Keeping

12.1 Maritime Labour Certificates

ROs must maintain publicly available records of ML Certificates issued and provide the Administrator with an electronic file copy in the form of a scanned PDF of each ML Certificate issued.

12.2 Inspection Reports

RO inspectors must submit a report of each inspection to the Administrator. The RO must supply one copy of the report in English, and, if necessary, one in the working language of the ship to the master of the ship. The ship's master must post a copy set on the ship's notice board for the crew.

12.3 Inspection Records

A record of inspections must be kept by the Master with any significant deficiencies found during the inspection noted and their date of remedy recorded. This record, if not in English, must be accompanied by an English-language translation and appended to the DMLC so that it is available to seafarers, flag State inspectors, authorized officers in port States and shipowners' and seafarers' representatives.

12.4 Investigation Report

In the case of an investigation pursuant to a major incident, an RO or other authorized inspector must submit a report to the Administrator as soon as practicable, but not later than one (1) month following the conclusion of the investigation.

12.5 Change of Flag after 20 August 2012

If a ship leaves the RMI flag and the gaining flag State concerned has ratified the [MLC, 2006](#), the RO on behalf of and upon notification of the Administrator, must transmit to the competent authority of the other Member copies of the ML Certificate and DMLC carried by the ship before the change of flag and, if applicable, copies of the relevant inspection reports if the gaining flag State competent authority requests them within three (3) months after the change of flag has taken place. Likewise, for a ship entering the RMI flag, the Administrator will expect the same information to be provided to it when requested of the previous flag State.

12.6 Annual Report

12.6.1 The Administrator must maintain records of inspections and must publish an annual report on inspection activities in accordance with Standard A5.1.4.13 of the MLC, 2006 within a reasonable time, not exceeding six (6) months after the end of the calendar year. The Annual Report must contain:

- .1 A list or relevant laws and regulations, as amended, relevant to seafarers' working and living conditions;

- .2 Details of the Administrator's system of inspection;
- .3 Statistics of ships subject to inspection;
- .4 Statistics on seafarers subject to national laws and regulations;
- .5 Statistics and information on violations of legislation, penalties imposed and cases of MLC, 2006 detention of ships; and
- .6 Statistics on reported occupational injuries and diseases affecting seafarers.

12.6.2 ROs must assist the Administrator in meeting this requirement by providing statistics on inspections and other information required to produce this Annual Report in accordance with RMI [Technical Circular 19](#).

13.0 Seafarer Complaints

- 13.1 Each shipowner must provide for on-board procedures for the fair, effective and expeditious handling of seafarer complaints alleging breaches of the requirements of the [MLC, 2006](#), including seafarers' rights.
- 13.2 Reference must be made to RMI Marine Notice [7-053-1](#), *On-Board Complaint Procedures*.

14.0 Confidentiality

- 14.1 All inspectors must treat as confidential the source of any grievance or complaint alleging a danger or deficiency in relation to seafarers' working and living conditions or a violation of laws and regulations and give no intimation to the shipowner, the shipowner's representative or the operator of the ship that an inspection was made as a consequence of such a grievance or complaint.

ANNEX I – ADMINISTRATOR’S CRITERIA AND DETERMINATIONS

Administrator’s Criteria

While the Administrator reviews every situation individually when issuing a DMLC Part I, to better understand how [Resolution VII](#) is applied in practice, the following questions (addressing duration, frequency, location, purpose and protections) should be considered.

- **Is the normal place of work on board the ship?** If not, then these persons would not be considered seafarers. Such persons would be considered supernumeraries.
- **Is the person’s principle place of employment ashore and not part of the routine business of the ship?** If so, then these persons would not be considered seafarers.
- **Is the person’s work aboard the vessel on an occasional and short-term basis?** If so, these persons would not be considered seafarers.
- **Is the person contractually provided with social protections that are equal to or greater than those required by MLC for seafarers?** If yes, then these persons would be deemed by the Administrator as having substantially equivalent protections.

Administrator’s Determinations

- Privately Contracted Armed Security Personnel (PCASPs) are considered supernumeraries by the Administrator. However, all guidelines for the engagement of PCASP must be followed and suitable accommodations provided.
- Other supernumeraries not considered seafarers shall include harbour pilots; North Sea/Canal pilots; Amazon River pilots; short sail attendance of service engineer and repair technicians; ship inspectors; auditors; superintendents; cargo supervisors as well as specialist staff such as scientists, researchers, guest entertainers, and lecturers.
- Riding gang members, tank cleaning crews and port workers are not considered seafarers. This would include someone who is not a documented seafarer and who does not perform watchstanding, automated engine room duty watch, or personnel safety functions; or cargo handling functions, including any activity relating to the loading or unloading of cargo, the operation of cargo-related equipment (whether or not integral to the vessel); does not serve as part of the crew complement; and is not a member of the catering/mess crew.
- Cadets are seafarers for which suitable accommodation onboard ships must be made available while undergoing mandatory shipboard training. Cadets enrolled in a National or other training program that requires onboard experience may hold a training agreement in lieu of a seafarers employment agreement, so long as the training agreement provides contractual arrangements to ensure that a cadet has the substantially equivalent information and protections as afforded by a seafarers’ employment agreement.

- Cruise ship personnel such as hotel staff, restaurant and galley staff, shopkeepers, resident entertainers, spa personnel, hairdressers, casino operators and others who are directly employed by the cruise operator or are employed by an outsourced franchise company are seafarers.
- Personnel under the employ or contract of the charterer of a yacht are not considered seafarers and must be the responsibility of the charterer. Nevertheless, such personnel must not be brought on board unless suitable accommodation and safety equipment can be provided.
- Industrial personnel engaged on vessels doing pipe laying, cables laying, ROV, surveys, subsea operations with construction crews; ranks such as riggers, riggers foreman, offshore construction managers, surveyors, divers, technicians, medics etc. who are working onboard the vessel for extended periods as part of the normal working complement, while not considered seafarers, and whether employed by the vessel operator or not, will be expected to have at least the same level of social protection as the marine crew.