



SHIPOWNERS

MLC 2006

P&I Perspectives

13 October 2022

Surani de Mel

Head of Claims – Singapore Branch

Maritime Labour Convention 2006 (MLC)

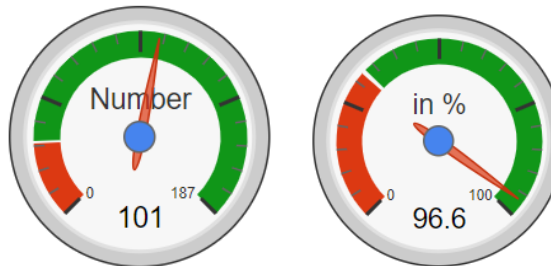
Attempts to set out minimum working conditions and living standards for seafarers where MLC applies

Application is two-pronged – ‘ratified’ vessel flag + trading in ‘ratified’ ports

Organised under 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

Status – 101 countries (96.6% of world GT)



Adopted by the ILO as the “fourth pillar of shipping regulations”

In force - 20 Aug 2013

2014 Amendments – 18 Jan 2017
2016 Amendments – 08 Jan 2019
2018 Amendments – 26 Dec 2020
2022 Amendments - Dec 2024*

Liabilities and obligations on the ship owner under MLC that concern P&I

In the event of illness or injury, costs of medical treatment and sick wages are payable to the seafarer

- Minimum of 16 weeks from the date of illness/injury
- Repatriation of the seafarer to his home

Death and disability compensation is paid to the seafarer or his next of kin

- The amount due is as set out under national law, employment agreement or CBA
- Liability for burial expenses in case of death

Compensation is payable to the seafarer when the ship is lost

- Can be limited to two months wages under MLC



The 2014 Amendments were introduced to deal with abandoned seafarers

Some background...

- Article 2.5 provided that ship owners have an obligation to repatriate seafarer at no cost to the seafarer
- Regulation 2.2 provided that ship owners must pay wages regularly... usually monthly
- Standard A3.2 provided that ship owners should ensure that the vessel had a suitable quantity of food and water on board

However, a number of incidents evidenced that these guidelines were not being met. Often it was because owners were experiencing financial difficulty...

... it was then suggested that these obligations could be supported by financial security



**Financial Security
(MLC Certificate)**

MLC 2014 Amendments (in force 18 Jan 2017)

What did the 2014 amendment set out:

Ships are required to display two certificates issued by the insurer or other financial security provider confirming insurance or security in place for:

- Contractual payments for death or long-term disability due to occupational injury, illness or hazard, as set out in the employment agreement or collective agreement

(Regulation 4.2, Standard A4.2.1)



- Repatriation of crew, with their essential needs, and up to four months outstanding wages and entitlement in the event of abandonment

(Regulation 2.5.2, Standard A2.5.2)



**Financial Security
(MLC Certificate)**

What are the liabilities in the event of an abandonment?

A seafarer is entitled to make a direct claim against the financial security provider for:

- Up to four months of outstanding wages and other entitlements due under the employment agreement
- Expenses reasonably incurred by the seafarer until arrival at home

But this posed a dilemma because it sits technically outside of standard P&I cover...

Introduction of: the MLC Extension Clause under the Certificate

- Clubs will discharge and pay claims made by seafarers pursuant to MLC Certificates issued by them
- Imposes an obligation on Members to reimburse the Club if the claim paid by the Club falls outside cover



**Financial Security
(MLC Certificate)**

Practical guide to handling MLC abandonment claims

Notification and verification

- We are usually contacted by the abandoned seafarer(s) or a concerned party (ITF / local authority)
- Look at whether the vessel is entered and whether MLC Certificates are issued by us
- Consider whether the “seafarer” is a person employed or working in any capacity on board a ship to which the Convention applies
- Consider whether the seafarer is “abandoned”, which is usually where the owner:
 - Fails to cover the cost of the seafarer’s repatriation; or
 - Has left the seafarer without the necessary maintenance or support; or
 - Has unilaterally severed ties with the seafarer, including failure to pay contractual wages for at least 2 months

Urgently liaise with Members and their brokers as sometimes they do step in to deal with the matter

Notification

Practical guide to handling MLC abandonment claims

Investigation

Appoint a local Correspondent (or other party) to obtain information, including on:

- The current situation onboard
- Available provisions
- Details of the crew and breakdown of owed wages
- Travel documentation in preparation for repatriation

MLC claims are emotional and concern abandoned seafarers who are often in difficult situations

Notification

Investigate

Practical guide to handling MLC abandonment claims

There can be a dilemma between waiting for Members to respond and the Club stepping in

The International Group has guidelines for all Group Clubs in dealing with MLC abandonment claims...
... which requires expeditious assistance.

The key is to move quickly!

Take steps to prepare for repatriation

- Consider options for travel arrangements
- Local correspondents will liaise with the local authorities to ensure there is no hiccups with facilitating the repatriation

Notification

Investigate

Decisions...

Practical guide to handling MLC abandonment claims

Obtain legal advice on appropriate steps to protect the Club's right to make a recovery from the owner:

- Whether a 'Receipt & Subrogation' required for seafarers who receive payments... and does it need to be worded in a certain way?
- Will an Assignment of rights from the seafarer to the Club for the unpaid wages be recognized... and does it need to be signed before remittance of unpaid wages?
- Does the Club have the same rights as a Maritime Lien for unpaid wages... and is this a statutory right or are there any steps to taken?
- Does that jurisdiction require any other extra steps to be taken... such as leave from the Court or obtaining POAs from the seafarer?
- Are there any other ongoing proceedings to be aware of... against the vessel or the owner?

Often, the answers will be different, in different parts of the world ... and it changes frequently!



Practical guide to handling MLC abandonment claims

Repatriation

... sit tight and hope all your plans go smoothly!



What's next?

and that's a wrap, any questions?