

The Maritime Labour Convention 2006



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Overview

The Maritime Labour Convention 2006 (MLC) comes into force on 20 August 2013 and will clarify and consolidate existing international law regarding working conditions for seafarers. It is intended to become the fourth pillar of shipping regulation alongside the International Convention for the Safety of Life at Sea (SOLAS), 1974, the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1978 and the International Convention for the Prevention of Pollution from Ships (MARPOL). It will apply to all ships (with few exceptions) ordinarily engaged in commercial activities.

The MLC will be enforced through flag states that will be under an obligation to establish a system for inspection and certification of the MLC. Port State Controls will also be required to apply the convention to ensure that ships flagged in non-ratifying states will not escape its requirements.

The MLC addresses an array of issues such as the minimum seafarer age, working hours, entitlement to leave, accommodation and health protection, with the objective of ensuring all seafarers are subject to equal and acceptable conditions.

Inevitably, crew contracts and collective bargaining agreements are coming under scrutiny to ensure shipowners' compliance with the MLC's provisions. Of particular significance to P&I cover, the MLC requires that seafarers must be entitled to:

- Repatriation (including in cases of abandonment), for which financial security must be in place;
- Unemployment compensation resulting from a ship's loss or foundering for each day a seafarer remains unemployed, limited to two months' wages (shipwreck unemployment indemnity), and
- Compensation in the event of death or long-term disability due to an occupational injury, illness or hazard, for which financial security must be in place.

Injury, illness or death

Under the MLC, seafarers must be provided with material assistance and support from the shipowner with respect to the financial consequences of injury, illness or death occurring while they are under employment.

That material assistance includes:

- Access to prompt medical care (including medical treatment and board and lodging away from home) until the seafarer has recovered or until they have been assessed for permanent disability;
- Full wages as long as the sick or injured seafarer remains on board or until the seafarer has been repatriated where illness or injury results in incapacity to work;
- Sick wages (as per local law or a Conditional Bargaining Agreement (CBA)) from the time the seafarer is repatriated until their recovery or, if earlier, until they are entitled to cash benefits under the legislation of the country concerned;
- Financial security to assure compensation in the event of the death or long-term disability of seafarers due to an occupational injury, illness or hazard, as set out in national law, crew contracts or CBAs;

- Funeral expenses if death occurs on board or on shore during employment; and
- The costs of safeguarding property left on board a ship by sick, injured or deceased seafarers.

These liabilities will generally fall within the scope of normal P&I club cover.

The MLC allows crew contracts/CBAs to limit the period for which shipowners will be liable for medical care and wages as described above to a period of not less than 16 weeks from the date of injury or the date of commencement of illness.

Crew contracts/CBAs may exclude a shipowner's liability if the injury or illness was incurred whilst the seafarer was not in the service of the ship, was caused by wilful misconduct or was intentionally concealed on engagement.

Repatriation

Fundamentally, the objective of the MLC's repatriation provisions is to ensure that seafarers are able to return home. More specifically, Title 2 of the MLC provides that seafarers must be entitled to repatriation at no cost to themselves (except for cases where the seafarer has been found to be in serious breach of their employment obligations) and that shipowners must have financial security in place in this respect. Aside from the typical situation where repatriation occurs due to the seafarer's contract expiring whilst they are abroad, repatriation must also be provided in the event of:

1. The termination of the seafarer's contract;
2. Illness or injury requiring repatriation when medically fit to travel;
3. Shipwreck;
4. The shipowner's insolvency, the sale of the ship or a change in the ship's registration; or
5. The ship being bound for a war zone to which the seafarers does not consent to go.

Items 2 and 3 continue to fall within normal P&I cover. Historically, items 1, 4 and 5 have not fallen within normal P&I cover. However, the club's board has decided to extend cover in respect of the costs of repatriation.

However, members will be required to indemnify the club in relation to repatriation (apart from repatriation within 2 and 3 above). Amendments to the club's rules (to include the club's proposed indemnity wording) are being considered.

The MLC requires 'financial security' to be in place. The MLC does not define this and blue cards are not required. As mentioned earlier, it will be the responsibility of flag states to ensure that their flagged ships comply and this includes ensuring that financial security is in place. It is hoped that a club certificate of entry will be considered satisfactory security for repatriation costs.

Conclusion

The MLC represents a clarification of existing laws. Whilst it is broadly consistent with many current regimes, and thus it is not anticipated that significant amendments to shipowners' practices will be required, it is nevertheless recommended that shipowners assess their employment standards to avoid difficulties come August 2013.