

Title: Implementation of Regulation 2.4.2 of the International Labour Organization (ILO) Maritime Labour Convention, 2006 (MLC) on shore leave for seafarer IA No: Lead department or agency: Maritime Coastguard Agency Other departments or agencies:	Impact Assessment (IA)	
	Date: 24/04/2013	
	Stage: Consultation	
	Source of intervention: International	
	Type of measure: Secondary legislation	
	Contact for enquiries: Julie Carlton 023 8032 9216	
Summary: Intervention and Options		RPC: RPC Opinion Status

Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, One-Out?	Measure qualifies as
£0	£0	£0	No	NA

What is the problem under consideration? Why is government intervention necessary?

Employment conditions for seafarers vary across the world, with some seafarers working under unacceptable conditions and ship operators which operate substandard ships gaining a competitive advantage. Effective international standards are therefore needed to address these issues. The Maritime Labour Convention 2006 (MLC) aims to provide minimum living and working conditions for seafarers that are globally applicable and uniformly enforced, including granting seafarers shore leave. Achieving this aim requires the MLC to be ratified by governments, which requires a package of new legislation in the UK. Ratifying the MLC in the UK would also avoid the costs of non-ratification.

What are the policy objectives and the intended effects?

The policy objective is to promote the health and well-being of seafarers, as part of the UK's implementation of the MLC, and to promote an international level playing field by a) introducing a requirement for shore leave for seafarers on UK ships in line with the minimum global standards provided for in the MLC; and b) (once the entire package is in place) enabling UK ratification of the MLC, which would enable the MCA to issue MLC certification to UK-flagged ships, reducing potential delays at ports in ratifying countries; and to enforce these minimum global standards on non-UK registered ships that call at UK ports. Specific objectives for shore leave can be found in the Evidence Base.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

Doing nothing is not considered to be an appropriate course of action, as new legislation is required to enable the UK to ratify the MLC, and the British Chamber of Shipping and the seafarers' Trades Unions support ratification of the MLC. Failure to ratify the MLC would limit its effectiveness at addressing the issues on seafarer living and working conditions discussed above and would result in UK ships not being able to obtain MLC certification. The preferred policy option is therefore to make the minimum changes to existing legislation to implement the provisions of the MLC on shore leave (Policy Option 1). No further measures have been deemed necessary and so only one Policy Option has been considered in this impact assessment.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: 08/2018

Does implementation go beyond minimum EU requirements?			No		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro Yes	< 20 Yes	Small Yes	Medium Yes	Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded: N/A		Non-traded: N/A

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

Date: _____

Summary: Analysis & Evidence

Policy Option 1

Description: Make the minimum changes to existing legislation to implement the provisions of the MLC on shore leave.

FULL ECONOMIC ASSESSMENT

Price Base Year N/A	PV Base Year N/A	Time Period Years N/A	Net Benefit (Present Value (PV)) (£m)		
			Low: N/A	High: N/A	Best Estimate: N/A

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	£0	£0	£0
High	£0	£0	£0
Best Estimate	£0	£0	£0

Description and scale of key monetised costs by 'main affected groups'

It has not been possible to monetise any of the potential costs that have been identified.

Other key non-monetised costs by 'main affected groups'

1.) MCA considers that granting shore leave is an accepted part of ship operation on UK ships. Therefore, MCA does not expect that implementing the provisions of the MLC on shore leave would result in any additional costs to UK businesses (see Section 6.1). 2.) MCA considers that familiarisation costs are too small to quantify for this element of the UK's implementation of the MLC alone (see Section 6.2).

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	£0	£0	£0
High	£0	£0	£0
Best Estimate	£0	£0	£0

Description and scale of key monetised benefits by 'main affected groups'

It has not been possible to monetise any of the potential benefits that have been identified.

Other key non-monetised benefits by 'main affected groups'

There may be benefits to shipowners and seafarers in providing greater clarity regarding the entitlement for shore leave, including the limitations on this. However, MCA understands that the provisions of the MLC on shore leave reflect current industry practice. So, these potential benefits are not expected to be significant. Therefore, the key benefit of Option 1 is that it will contribute, as part of the package of new legislation, to allowing the UK to ratify the MLC, which would provide additional benefits as discussed in Annex 3.

Key assumptions/sensitivities/risks

Discount rate (%)

N/A

It is assumed that the views expressed by the MLC Tripartite Working Group that shore leave is already an accepted part of the operation of a ship, is representative of UK industry as a whole.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: £0	Benefits: £0	Net: £0	No	NA

Evidence Base (for summary sheets)

1. TITLE

Implementation of Regulation 2.4.2 of the International Labour Organization (ILO) Maritime Labour Convention, 2006 (MLC) on shore leave for seafarer

2. PROBLEM UNDER CONSIDERATION:

It is considered that all seafarers should have acceptable employment conditions, including the right to shore leave in ports of call, to benefit their health and well-being, where compatible with their operational duties. However, employment conditions for seafarers vary across the world, with some seafarers working under unacceptable conditions and shipowners operating substandard ships, thus gaining a competitive advantage. In particular, ILO (2012) suggests that “seafarers often have to work under unacceptable conditions, to the detriment of their well-being, health and safety and the safety of the ships on which they work.” In addition, ILO (2012) suggests that flag States and shipowners which provide seafarers with decent conditions of work “face unfair competition in that they pay the price of being undercut by shipowners which operate substandard ships.”

The specific problem under consideration which the provisions of the MLC on shore leave directly address is that seafarers are sometimes confined to the ship for many months, with limited access to communication with family and friends, and limited opportunities for social contact. Shore leave during port calls provides seafarers with the opportunity to visit seafarer welfare centres, which offer recreational and other facilities, and importantly often internet and telephone access, as well as a change of scenery and company. This can relieve stress and isolation, and is important for the seafarers' health and well-being.

Seafarer and shipowner organisations negotiating the Maritime Labour Convention considered that this was an important issue and should be included as an entitlement for seafarers.

3. RATIONALE FOR INTERVENTION:

Given the international nature of the shipping industry, it is considered that effective international standards are needed to address the issues and risks that have been raised in Section 2, and to provide decent working conditions and a level playing field for ships of different flags. This is why the MLC has been developed in the ILO by government, employer and seafarer representatives as a global instrument to address these. The MLC aims to provide minimum rights for all seafarers that are globally applicable and uniformly enforced, including on shore leave. It was adopted in the ILO by a record vote of 314 in favour and none against (two countries abstained for reasons unrelated to the substance of the MLC). The ratification criteria to bring the Convention into force internationally were met on 20 August 2012, and the MLC will therefore come into force internationally on 20 August 2013. It is expected to be widely ratified. The Government's social partners, the shipping industry and the seafarer's Trades Unions, strongly support ratification of the MLC in the UK.

Ratification of the MLC in the UK requires a package of new legislation to be introduced to implement some of the provisions of the MLC in UK law, including the provision of the MLC regarding shore leave for all seafarers. Doing nothing is therefore not considered to be an appropriate course of action.

Widespread ratification of the MLC, including the provisions on shore leave, and the improved enforcement mechanisms introduced by the MLC, could improve the consistency of health and safety standards between ships of different flags, and could help to ensure that seafarers – including UK nationals - have a reasonable expectation of decent working conditions on ships of any flag where they work. The proposed Regulations would bring existing legislation for UK registered vessels into line with this minimum global standard as regards shore leave provided for in the MLC. In addition, once the UK

has ratified the MLC, the proposed Regulations would allow the UK to enforce the minimum global standards for shore leave on non-UK registered vessels visiting UK ports on a “no more favourable treatment” basis.

Furthermore, UK ratification of the MLC would avoid the costs of not ratifying the MLC. In particular, regardless of whether the UK ratifies the MLC, UK registered vessels would still be subject to the provisions of the MLC on a “no more favourable treatment” basis when operating in foreign ports in countries that have ratified the MLC. This could result in UK registered vessels being delayed due to inspections to check their compliance with the MLC. By enabling the UK ratify the MLC once the entire package of legislation is in place, the proposed Regulations would enable UK registered vessels to benefit from the system of MLC certification, avoiding or reducing the likelihood of delays related to inspections in foreign ports in countries that have ratified the MLC.

Although the primary reason for UK ratification of the MLC is the benefits it will bring to UK shipping, and to avoid the risks of not ratifying, it should also be noted that there is a European Social Partners Agreement which seeks to implement the MLC. Council Directive 2009/13/EC annexes the Agreement between the European Community Shipowners' Association (ECSA) and European Transport Workers' Federation (ETF) on the Maritime Labour Convention, 2006 and the agreement on amendments to the Agreement on the Organisation of Working Time of Seafarers dated 30 September 1998 (set out at Annex A to the Annex). When it is in force, Member States will be required by virtue of Directive 2009/13/EC to implement the European social partners' agreement on the MLC. The provision of Regulation 2.4.2 is transposed in full into the Annex to the agreement. The Directive will come into force on the date on which the MLC comes into force, which will be 20 August 2013. At that point the UK will have a duty to implement the social partners' agreement, which in practice will mean that the UK is under a European law requirement to implement some (but not all) MLC provisions in UK law. The transposition deadline is 12 months from the coming into force date i.e. 20 August 2014. However, as explained above, to support the UK shipping industry there is a need for the UK to ratify the MLC when it comes into force internationally, which is earlier than the transposition deadline for the European Directive. Implementation of the minimum changes required to bring UK legislation fully into line with Regulation 2.4.2 of the MLC on health and safety will also fully implement the provisions on shore leave in Directive 2009/13/EC. The Directive is not therefore considered further in this IA.

Further details of the requirements for and benefits of UK ratification of the MLC are provided in Annex 3.

4. POLICY OBJECTIVE;

The purpose of implementing the provisions of the MLC on shore leave in UK law is to bring existing UK legislation into line with the requirements of the MLC related to shore leave and enable the UK to ratify the MLC in order to:

- Secure decent working and living conditions for seafarers on UK registered ships and globally, including on shore leave.
- Promote a more level competitive playing field for international shipping by enforcing these standards on non-UK registered vessels that call at UK ports.
- Enable the MCA to issue MLC certification to UK registered vessels, reducing the potential for UK flagged vessels to experience delays in foreign ports in countries that have ratified the MLC.
- Comply with the UK's European legislative obligations in relation to the provisions in the MLC covered by Directive 2009/13/EC), thus avoiding the risk of infraction proceedings being taken against the UK.

In particular, the proposal would require the Company and the master to grant shore leave to seafarers on UK ships “where reasonable and taking into account the associated benefits to the health and well-being of the seafarers and the operational requirements of their positions”, bringing UK legislation into line with Regulation 2.4.2 of the MLC.

In order to ensure a level playing field the MLC provides that a country which has ratified the MLC may

enforce the same standards for health and safety on ships of other flags calling at its ports, since the Convention provides that ships of non-ratifying countries should have “no more favourable treatment” in the ports of ratifying countries. Implementing the provisions of the MLC on shore leave in UK law would give the UK this power. This would remove the competitive advantage to shipowners operating into UK ports of flagging with a non-ratifying country.

5. DESCRIPTION OF OPTIONS CONSIDERED:

Do nothing

Existing UK legislation is not fully in compliance with the MLC in respect of shore leave. A 'Do nothing' Option would not achieve the policy objectives that are outlined above, and is not therefore considered to be an appropriate course of action as the UK government's social partners, the shipping industry and the seafarer's Trades Unions, support ratification of the MLC by the UK. The risks of not ratifying the Convention are summarised at the end of Annex 3.

One policy option has been considered in this IA.

Policy Option 1: To implement only the minimum mandatory requirements of the Maritime Labour Convention, 2006 in respect of the requirement to grant shore leave to seafarers.

Policy Option 1 is to include an additional provision for the Merchant Shipping (Maritime Labour Convention) (Hours of Work) (Amendment) Regulations 2013, requiring seafarers to be granted shore leave, taking into account the associated benefits to the health and well-being of the seafarers and the operational requirements of their positions. This would implement regulation 2.4.2 of the MLC.

6. COSTS AND BENEFITS OF OPTION 1:

Following the consultation, we will review our assessment of the costs and benefits of the Option 1 in light of any additional evidence that is provided by consultees. **Consultees are therefore invited to submit additional evidence on the costs and benefits of Option 1.** Any additional evidence that is submitted will be taken into account when the impact assessment is updated after the consultation.

Comparison with 'Do Nothing' scenario

The 'Do Nothing' scenario represents what would happen if the Government does not take any action. Under the 'Do Nothing' scenario, the MLC will come into force in August internationally regardless of whether the UK is ready or not.

A large number of nations have already ratified and more are expected to have done so by the time that the MLC comes into force in August 2013. Being a Convention with worldwide application, and given that any UK ships visiting ports in ratifying countries (which are expected to be most countries within a fairly short timescale) will have to be compliant, its effects will be virtually impossible to escape for ships wishing to trade internationally.

Therefore, MCA expects that a proportion of any additional costs of complying with the minimum mandatory requirements of the MLC would be incurred under the 'Do Nothing' scenario. As this proportion is uncertain, we do not know the extent to which any costs of complying with the minimum mandatory requirements of the MLC are truly additional costs of introducing UK legislation or whether they would have occurred anyway under the Do Nothing scenario.

Given these uncertainties, this IA assesses whether there would be any additional costs to business of complying with the minimum mandatory requirements of the MLC on shore leave relative to the requirements of existing UK legislation or existing industry practice as applicable. The IA concludes that there would not be any additional costs to UK businesses of complying with the minimum mandatory requirements of the MLC on shore leave. This is explained in Section 6.1 below.

6.1 Costs to business of complying with the minimum mandatory requirements of the MLC in respect of shore leave

6.1.1 Range of impact:

The MLC applies to all ships operating commercially except fishing vessels and ships of traditional build. Pleasure vessels, warships and naval auxiliaries are also excluded.

The UK fleet consists of around 1,020 ships on the UK shipping register (merchant ships), and about 5,500 small commercial vessels¹, a large number of which are not registered. The MCA does not have accurate figures for the number of people working on the UK fleet, but it is estimated that around 89,000 seafarers are working on UK registered ships (merchant ships)².

There would be no absolute duty to give seafarers shore leave, but where such leave is compatible with the seafarer's operational duties, and where it benefits their health and well-being, shore leave should be provided. (Example of why it may not benefit their health and well-being would be port security restrictions and safety risks.) "Consistent with operational duties" is taken to mean that seafarers may have shore leave either when they are scheduled to be off duty, or when they are scheduled to be on duty but circumstances are such that they may be given additional time off to go ashore without adversely affecting the operation of the ship.

(The International Convention on the Facilitation of Maritime Traffic 1965, as amended (known as the FAL Convention) places duties on the port state as regards permitting seafarers to go ashore for shore leave provided that the appropriate formalities.)

6.1.2 Costs

The potential costs to a shipowner in allowing a seafarer to go ashore in a port are discussed below. However, as MCA considers that granting shore leave is an accepted part of ship operation on UK ships, MCA does not expect that implementing the provisions of the MLC on shore leave would result in any additional costs to UK businesses.

Consultees are invited to submit any additional evidence of whether there would be any additional costs associated with a new duty to grant shore leave to seafarers to benefit their health and well-being and where compatible with their operation duties.

6.1.2.1. Visa costs

Under the MLC, the shipowner is responsible for any visa costs for seafarers on their ships. However, in most countries, a seafarer identity document is accepted in lieu of a visa, and seafarers are allowed ashore for shore leave without further documentation, provided they are rejoining the ship when it leaves; where a visa is required, this is not exclusive to shore leave but might be needed for other reasons (e.g. to enter the country for repatriation).

6.1.2.2 Local port costs

An example of local costs is transport to seafarer welfare centres. In some cases this is provided by local welfare organisations but in other cases the port may provide transport and make a charge to cover their costs. While there is no obligation on the employer or shipowner to meet these costs, many would do so as good practice.

6.1.2.3 Administrative costs of monitoring seafarers' departure and return to the vessel

This is required to ensure that the master has information about who is on board the ship in the event of fire or another emergency. However, systems to record persons joining and leaving the ship are required

¹ Source: MCA database of Coded vessels Jan 2013

² Source: Estimated using administrative data from the MCA Seafarer documentation system and from an industry survey undertaken by the Chamber of Shipping

for a many other purposes – for example, inspections by statutory authorities or others; welfare visitors; owners agents etc. – so there are not considered to be any additional costs as a result of shore leave.

Since the duty only applies where operational duties allow (i.e. if the seafarer has duties to perform while the ship is in port, they are not entitled to shore leave during that time), there are not considered to be any costs for the seafarer's time while ashore.

6.2 Familiarisation Costs

MCA will publish information about the proposed changes. The Agency has consulted widely with seafarer and shipowner representatives on the Tripartite Working Group on the MLC, the National Maritime Occupational Health and Safety Committee for the merchant fleet, and the Domestic Passenger Ship Steering Group, and there have been a number of events publicising the changes resulting from the MLC as a whole. These actions will minimise the costs for shipowners, seafarers and the fishing industry of becoming familiar with the new requirements, which are considered to be too small to quantify for this element alone.

6.3 Costs to Non-UK ships

Ratification of the MLC would enable the UK to enforce the minimum rights for seafarers provided for by the MLC on non-UK registered ships that call at UK ports on a 'no more favourable treatment' basis, meaning that non-UK registered ships that call at UK ports would be required to comply with the standards of the MLC. This could potentially lead to additional costs for the owners and operators of non-UK registered ships in terms of the costs of complying with the MLC and the potential to face delays when calling at UK ports. However, for the reasons discussed above in relation to UK ships, the extent that implementing the provisions of the MLC on shore leave in UK law would contribute to such costs is uncertain. Furthermore, such costs would only represent a cost to the UK if they fall on UK entities (e.g. UK businesses or consumers). The extent that this would be case is uncertain. The costs for non-UK registered ships are discussed in detail in the impact assessment for the 'Merchant Shipping (Maritime Labour Convention) (Survey and Certification) Regulations'.

6.4 Benefits

The benefits of shore leave are stated in the MLC provision itself – shore leave will benefit the seafarer's health and well-being, by providing opportunities to contact family and friends using the facilities provided by port welfare organisations, to meet different people socially, for example in seafarer centres run by welfare organisations, and to make use of other recreational facilities ashore.

As stated above, the proposals reflect current practice. However, there may be some benefit to both shipowners and seafarers in providing greater clarity as regards both the entitlement and the limitations on it. These benefits are not however considered significant and cannot be monetised.

6.5 Benefits of UK Ratification of the MLC

Although on UK ships the changes are considered minor, they are necessary in order for the UK to be in a position to ratify the MLC. Ratification will enable the MCA to inspect non-UK flagged vessels calling at UK ports against the minimum standards of the MLC on a "no more favourable treatment" basis. The benefits of the UK ratifying the MLC are considered in Annex 3. However, it is not possible to determine the precise contribution of Option 1 to realising these benefits.

Consultees are invited to submit any additional evidence of the benefits of UK Ratification of the MLC.

6.6 Monitoring and Enforcement

The requirements contained in the proposed Regulations would be monitored and enforced by the Maritime and Coastguard Agency in the UK, and other maritime safety administrations when UK ships visit ports in other countries, as part of their maritime labour inspections. The Survey and Certification costs apply across all requirements of the MLC and are investigated in the Impact Assessment for the 'Merchant Shipping (Maritime Labour Convention) (Survey and Certification) Regulations'.

7. RATIONALE AND EVIDENCE THAT JUSTIFY THE LEVEL OF ANALYSIS USED IN THE IA

The MLC was developed on a tripartite basis and is strongly supported by UK shipowner and seafarer representative organisations, which also support the ratification of the MLC. Discussions on the MLC provisions for shore leave at the MLC Tripartite Working Group were non-controversial, with both sides of industry stating that they reflect current good practice. Further evidence on specific impacts will be sought through the consultation exercise. Further analysis of the impacts at this stage is not therefore considered necessary.

8. RISKS AND ASSUMPTIONS:

The minimum mandatory requirements of the MLC in respect of shore leave need to be implemented in UK law in order to allow the UK to ratify the Maritime Labour Convention, 2006. The risks of ratifying the Convention, and of not ratifying the Convention, are explored in Annex 3.

9. SPECIFIC IMPACT TESTS

9.1. Equalities Assessment

The MLC provisions in respect of shore leave would be applicable to all seafarers working on UK sea-going vessels to which the Regulations apply, irrespective of their age, ethnic origin, gender, nationality, race, sexual orientation or disability. The Maritime Labour Convention, 2006 is based on the fundamental rights and principles of workers (Article III):

- (a) freedom of association and the effective recognition of the right to collective bargaining;
- (b) the elimination of all forms of forced or compulsory labour;
- (c) the effective abolition of child labour; and
- (d) the elimination of discrimination in respect of employment and occupation.

These proposals are therefore considered to have no adverse impact as regards statutory equality duties.

9.2 Competition Assessment

Option 1 would bring existing UK legislation into line with the requirements of the (MLC). The MLC aims to provide a benchmark for the decent employment of seafarers globally. A high threshold was set for bringing the MLC into force internationally and this has been met, and it is expected that the MLC will be very widely implemented internationally.

By introducing a set of minimum standards that apply internationally, the MLC should promote a more level playing field internationally and reduce the ability of ship operators to gain a competitive advantage through poor treatment of seafarers.

It is likely that this would reduce the competitiveness of ship operators that are currently less compliant with the requirements of the MLC and improve the competitiveness of ship operators that are currently more compliant with the requirement of the MLC. The MLC is expected to bring competitive benefits to UK and other European flagged ships. However, the magnitude of this impact is uncertain.

By enabling the ratification of the MLC in the UK, it is possible that Option 1 could have an impact on competition. The precise impact would depend on how Option 1 affect relative costs.

Cost increases introduced through new Regulations that change costs of some suppliers relative to others have the potential to impact competition (for example) if they thereby limit the range of suppliers. However, industry sources have indicated an expectation that Option 1 would not cause additional costs for UK flagged vessels.

Ratification of the convention will allow the MCA to issue MLC certification, which will ensure that UK flagged vessels are not subject to unnecessary delays when visiting ships in ports of ratifying states. This should ensure that UK flagged vessels do not suffer a competitive disadvantage as a result of the

introduction of the MLC globally.

Consultees are invited to offer any additional evidence on the potential for Option 1 to impact on competition.

9.3. Small Firms Impact Test

It is appropriate that the working conditions for all seafarers should be underpinned by common minimum standards regardless of the size of the company for which they work. Any costs arising from these proposals will inevitably have the greatest impact on small firms with a small turnover. As the Convention sets minimum standards for “decent work”, it does not generally make concessions in those standards. The UK is making use of any flexibility in the Convention designed for smaller vessels or likely to apply to small companies.

The UK is making use of any flexibility in the MLC designed for smaller vessels or likely to apply to small companies. The MCA has discussed the implications of the MLC with the Domestic Passenger Ship Steering Group and representatives of the Small Commercial Vessel sector, who represent the majority of small firms operating vessels affected by the Regulations. A significant proportion of the ships referred to above actually operate on domestic voyages within 60 miles of a safe haven in the UK and will not therefore be covered by some aspects of the UK’s implementation of the MLC. The requirement to grant shore leave is unlikely to be relevant to such vessels.

During the public consultation exercise on the draft regulations, consultees will include micro, small, medium and large businesses, and in particular, a meeting is planned to discuss the implications of these proposals with operators of small commercial vessels.

Consultees are invited to provide any additional evidence on the potential impacts of Option 1 on small firms.

9.4 Health Impact Assessment

The objective of the Maritime Labour Convention is to provide all seafarers with decent employment by setting minimum global standards for living and working conditions, providing an effective regime to ensure that those standards are enforced, and a framework for continuous improvement. The requirement for shore leave is explicitly intended to benefit seafarer’s health and well-being as described in Section 2.

9.5 Human Rights

Option 1 would implement provisions of the International Labour Organization’s Maritime Labour Convention, 2006 which requires respect for the following fundamental rights and principles of workers (Article III):

- (a) freedom of association and the effective recognition of the right to collective bargaining;
- (b) the elimination of all forms of forced or compulsory labour;
- (c) the effective abolition of child labour; and
- (d) the elimination of discrimination in respect of employment and occupation.

There are no Human Rights compatibility issues arising from Option 1.

9.6 Justice System

The main enforcement mechanism for the MLC provisions on shore leave will be through the inspection and certification of UK ships under the MLC by MCA surveyors. There are however also offences and penalties laid down in the existing Regulations amended by these proposals. In the current proposals those will remain unaltered. MCA will review these offences and penalties with the Ministry of Justice to ensure a consistent approach in all sets of regulations implementing the MLC, and as far as appropriate with similar offences and penalties in the equivalent legislation applying to shore-based workers.

10. REDUCING REGULATION POLICY

10.1 Direct costs and benefits to business calculations (following OITO methodology)

As these requirements are international in origin, and the proposals do not gold plate the requirement (i.e. not going beyond the minimum necessary), the measure is outside the scope of OITO.

10.2 Copy out

In preparing the regulation, Government policy on “copy out” has been applied as a means of transposing international legal requirements wherever possible. However, the Convention was not always drafted in a manner which facilitates this approach, and further elaboration is required in some cases. Particular difficulties are:

- Requirements which are set by reference to existing “national laws, regulations and other measures”, and
- Provisions which require the Member to determine a particular standard in consultation with shipowner and seafarer representative organisations.

In addition, where existing UK legislation is considered to meet Convention standards, changes to adopt the language of the Convention have not always been made to avoid costs to business from dealing with unnecessary changes.

10.3 Alternatives to regulations

Introducing the requirements without recourse to legislation has been considered. However, as one of the key objectives is to enable the UK to ratify the MLC, UK legislation must be brought fully into line with the MLC, and the Convention explicitly requires ratifying States to take action to deliver the measures. Therefore no satisfactory alternative mechanism has been identified at this stage.

10.4 Review clauses

The proposed Regulations include a clause which requires a Ministerial review five years after they are made, and every five years thereafter in line with the “review policy” on introducing international obligations.

The basis of this review will be the “Article 22 report” required by the International Labour Organisation (ILO). Parties to the Maritime Labour Convention, 2006 will be required to submit a report to the ILO, under Article 22 of the ILO Constitution, providing evidence of effective implementation of the Convention. Preparing for this review will enable the UK to establish the effectiveness of the policy (enforcement action taken) and identify any necessary amendments to UK legislation or to the Convention.

The review will examine UK MLC inspection reports and any enforcement action taken under the regulations, and the port state control record of UK ships in non-UK ports. In addition, complaints from seafarers on UK Ships to the UK as a flag state, and from seafarers in non-UK ships in UK ports, and the results of MCA investigations will be analysed.

A continuously reducing number of serious breaches and deficiencies in UK MLC inspections and Port State inspections, and complaints to MCA would demonstrate that the regulations were improving the standards on ships.

Successful resolution of complaints would also demonstrate that the regulations were having a positive impact.

11. SUMMARY AND PREFERRED OPTION

The proposal will implement in legislation the minimum changes required to ensure that the requirement to grant shore leave to seafarers on UK ships complies fully with Regulation 2.4.2 and of the MLC.

Although this new duty will have a very minor impact on UK ships, it will contribute to allowing the UK to ratify the MLC, which in turn will enable the UK to enforce the same health and safety standards on all ships calling at UK ports, whether or not they fly the flag of a country which has ratified the MLC.

12. IMPLEMENTATION PLAN

The proposal is part of a package of Regulations that are required to allow the UK to ratify the MLC. There are two criteria for the MLC to come into force internationally: ratification by flag states representing 33% of the world's tonnage; and ratification by 30 member states. Both criteria have already been met, and the MLC will come into force 12 months after both thresholds were passed, on 20 August 2013.

The provisions of the MLC on shore leave will be incorporated in the Merchant Shipping (Maritime Labour Convention) (Hours of Work)(Amendment) Regulations, 2013. The supporting merchant shipping notice accompanying the Regulations would explain the provisions and give guidance on their practical interpretation. Information would also be available on the MCA website.

The primary enforcement mechanism for these regulations on UK ships would be through Flag State inspections for issue or renewal of a Maritime Labour Certificate. MCA surveyors would check the provisions shore leave in the shipowners' declaration of maritime labour compliance (DMLC) Part II as part of the inspection of UK ships.

Furthermore, shipowners must have published procedures to deal with seafarers' complaints about their working and living conditions, including shore leave, and seafarers will also have the right to complain to an MCA surveyor in the UK or to any port state control officer in other countries, if they are not receiving their entitlements.

Both the inspection of the DMLC Part II and the requirement for a complaints procedure will be implemented in UK law by the draft 'Merchant Shipping (Maritime Labour Convention) (Survey and Certification) Regulations' and is therefore not assessed in this impact assessment. The consultation document and Impact Assessment on these regulations is being consulted on separately.

References

No.	Legislation or publication
1	Maritime Labour Convention, 2006 http://www.ilo.org/global/standards/maritime-labour-convention/WCMS_090250/lang--en/index.htm
2	ILO (2001) The impact of seafarers' living and working conditions of changes in the structure of the shipping industry. Report JMC/29/2001/3 http://www.ilo.org/global/publications/ilo-bookstore/order-online/books/WCMS_PUBL_9221122379_EN/lang--en/index.htm
3	European Commission (2006) Communication from the Commission under Article 138(2) of the EC Treaty on the strengthening of maritime labour standards. http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2006:0287:FIN:EN:PDF .
4	ILO (2012) Maritime Labour Convention, 2006: Frequently asked questions. http://www.ilo.org/global/standards/maritime-labour-convention/WCMS_177371/lang--en/index.htm
5	ILO (2011) Advantages of the Maritime Labour Convention, 2006. http://www.ilo.org/global/standards/maritime-labour-convention/WCMS_153450/lang--en/index.htm

Annexes 2 to 6 are provided under separate cover.