



MGN 491 (M) Amendment 1

MARITIME LABOUR CONVENTION: Application to workboats of 200GT to less than 500GT

Notice to all workboat owners, operators and managers, seafarers, designers, builders and surveyors

This amendment updates and replaces the information contained in MGN 491 (M) previously published in August 2013.

Summary:

This note provides guidance of the application of the Maritime Labour Convention 2006 to workboats of 200GT to less than 500GT, including:

- Information on what vessels the MLC applies to and how it applies;
- The substantially equivalent accommodation standards agreed by the UK Tripartite Working Group for UK workboats of 200GT to less than 500GT; and
- The procedures for having vessels inspected and certified.

1. Introduction

1.1 The Maritime Labour Convention, 2006 (MLC) came into force internationally on the 20th August 2013. The MLC consolidates and updates over 60 maritime labour instruments adopted by the International Labour Organization (ILO), introduces some new standards, as well as consolidating and updating existing requirements. The MLC applies standards to vessels which have not previously been covered by international convention. The MLC provides a comprehensive set of global maritime standards for all seafarers on vessels to which the MLC applies.

1.2 The MLC applies to all seafarers, meaning any persons who are employed or engaged in or work in any capacity on-board vessels covered by the MLC. This includes all ships ordinarily engaged in commercial activities, other than vessels which navigate exclusively in inland waters or sheltered waters or areas where port regulations apply.

1.3 The MLC will be fully in force in international law for UK vessels from 7th August 2014, a year after the date the UK ratified the Convention.

1.4 Provision is made in the MLC for “substantial equivalence” where it is not practical to comply with the standards. The UK government, along with shipowner and seafarer



representatives in a tripartite working group has developed accommodation standards for workboats of 200GT to less than 500GT which are substantially equivalent to the accommodation standards in the MLC. This guidance describes those equivalent arrangements and how the vessel may be inspected and certificated to demonstrate compliance with all requirements of the MLC.

1.5 The shipowner¹ is legally responsible for ensuring that all provisions of the MLC are complied with. This responsibility is transposed into UK law. However, the seafarer also has responsibility to comply with the relevant conditions of the MLC.

1.6 The Maritime and Coastguard Agency (MCA) recognises that the implementation of the MLC for workboats has required operators to make changes to their operating procedures which may take time to implement. There may be some unforeseen circumstances which will require further consideration and clarification from MCA on the appropriate policy. However, when a UK shipowner wishes to operate their ship in a country other than the UK, it is their responsibility to ensure that the ship is compliant with the MLC.

2. Application of the Maritime Labour Convention, 2006.

2.1 The UK has interpreted "all ships ordinarily engaged in commercial activities" to mean all vessels that are not pleasure vessels². This includes workboats certified under the MCA's Small Workboat and Pilot Boat Code³ and any other workboat that is not a registered fishing vessel, pleasure vessel, ship of traditional build, warship, or naval auxiliary (see paragraph 3.1).

2.2 The MLC does not apply to workboats navigating exclusively within inland or sheltered waters or areas where port regulations apply. The UK interpretation of this is that the MLC

¹ In the UK "Shipowner" means –

- (a) in relation to a ship which has a valid Maritime Labour Certificate, the person identified as the shipowner on that Certificate.
- (b) in relation to any other ship, the owner of the ship or, if different, any other organisation or person such as the manager, or the bareboat charterer, that has assumed the responsibility for the ship from the owner.

² "pleasure vessel" means-

(a) any vessel which at the time it is being used is:

(i)

(aa) in the case of a vessel wholly owned by an individual or individuals, used only for the sport or pleasure of the owner or the immediate family or friends of the owner; or

(bb) in the case of a vessel owned by a body corporate, used only for sport or pleasure and on which the persons on-board are employees or officers of the body corporate, or their immediate family or friends; and

(ii) on a voyage or excursion which is one for which the owner does not receive money for or in connection with operating the vessel or carrying any person, other than as a contribution to the direct expenses of the operation of the vessel incurred during the voyage or excursion; or

(b) any vessel wholly owned by or on behalf of a members' club formed for the purpose of sport or pleasure which, at the time it is being used, is used only for the sport or pleasure of members of that club or their immediate family, and for the use of which any charges levied are paid into club funds and applied for the general use of the club; and

(c) in the case of any vessel referred to in paragraphs (a) or (b) above no other payments are made by or on behalf of users of the vessel, other than by the owner.

In this definition "immediate family" means-

in relation to an individual, the spouse or civil partner of the individual, and a relative of the individual or the individual's spouse or civil partner; and "relative" means brother, sister, ancestor or lineal descendant;

³The Code of Practice for the Safety of Small Workboats & Pilot Boats; and The equivalent provisions provided by the Annex to MGN 280 (M) – Small Vessels in Commercial Use for Sport or Pleasure, Workboats and Pilot Boats – Alternative Construction Standards.



does not apply to United Kingdom ships⁴ operating on domestic voyages within 60 miles of a UK safe haven. A domestic voyage for a UK ship is a voyage that starts and finishes in the UK without the vessel going to another State. Where earlier UK legislation covering some requirements of the MLC already applied to all seagoing ships regardless of their area of operation, the new legislation will continue to apply.

2.3 The MLC will apply to all United Kingdom ships on international voyages, which includes United Kingdom ships which operate on a voyage from a State other than the UK, and return to that same State without visiting any other State. The MLC will also apply to United Kingdom ships on domestic voyages which proceed further than 60 miles from a UK safe haven⁵. Any UK vessel to which the MLC applies in the waters of a State for which the MLC is in force will need to comply with the MLC. Furthermore, any UK vessel to which the MLC applies, operating in the waters of a State that has ratified the MLC, will receive no more favourable treatment than a vessel flying the flag of that State under Article V(7) of the MLC.

2.4 Non-UK vessels to which the MLC applies, operating around the UK, including those that do not make other international voyages will be required to comply with the MLC.

2.5 See Table 1 below which illustrates which vessels the MLC applies to.

3. Vessels which are not covered by the MLC

3.1 The MLC does not apply to registered fishing vessels, pleasure vessels, ships of traditional build⁶, warships, or naval auxiliaries. However, for the application of individual provisions, see the relevant statutory instrument and supporting guidance.

3.2 Owners and operators of vessels not covered by the MLC should be aware that the UK legislation covering all of the requirements of the MLC has been updated which may place revised duties on them. Merchant Shipping Notices (MSN) and Marine Guidance Notes (MGN) have been issued to accompany legislative changes.

3.3 See Table 1 below which illustrates which vessels the MLC applies to.

⁴ "United Kingdom ship" means a ship which is—

- (a) a United Kingdom ship within the meaning of section 85(2) of the Act,
 - (b) a Government ship within the meaning of section 308(4) of the Act which is ordinarily engaged in commercial maritime operations, or
- a hovercraft registered under the Hovercraft Act 1968⁽⁴⁾

⁵ "Safe haven" means a harbour or shelter of any kind which affords safe entry and protection from the force of weather.

⁶ This means built using traditional construction techniques that were common when that style of vessel was first built. It does not mean a traditional style ship built using modern construction techniques. The purpose of this clause in the MLC is to preserve traditional ship building techniques.



Table 1 – Application of the MLC

	Pleasure vessel	Small Workboat/(Coded)	Small Workboat Vessel (non-coded)	Large Workboat less than 500GT	Registered Fishing Vessel	Traditional Ship	Warship	Naval auxiliary
UK Inland Waters	x	x	x	x	x	x	x	x
UK vessel on a domestic voyage no more than 60 miles from a UK safe haven	x	x	x	x	x	x	x	x
UK vessel on a domestic voyage operating more than 60 miles from a UK safe haven	x	✓	✓	✓	x	x	x	x
UK vessel on an international voyage	x	✓	✓	✓	x	x	x	x
Non-UK vessel operating in the UK	x	✓	✓	✓	x	x	x	x

✓ – The MLC applies in these circumstances

x – The MLC does not apply in these circumstances

For the purposes of this table “small” means <24m load line length, or <150grt if the vessel was built before 21 July 1968. “Large” means ≥24 metres load line length, or ≥150grt if the vessel was built before 21 July 1968.

4. MLC 2006 Standards

4.1 The MLC covers a wide range of standards for the protection and welfare of seafarers. The UK has made provision for substantially equivalent accommodation standards for workboats (see section 5 below), but other requirements of the MLC apply as they would to all other ships.

4.2 To transpose the MLC into UK national law the UK has revised and made a number of statutory instruments which have been consulted upon publicly. Additional guidance on the application of the legislation has been published. A full list of the standards covered by the MLC, and the applicable UK legislation and guidance is included as Annex 2 to this MGN. Reference should be made to those documents for guidance on the standards that apply and how to comply with them.

5. Substantially equivalent accommodation standards

5.1 Article VI (3) of the MLC allows a Member State to implement through provisions in its laws and regulations or other measures which are substantially equivalent to the provisions of Part A of the MLC. The UK government has consulted shipowners and seafarer’s



representatives and developed substantially equivalent standards for the accommodation on new⁷ workboats of 200GT to less than 500GT.

5.2 It was recognised at an early stage that one particular element of the accommodation standards in the MLC would be difficult to apply to some workboats covered by this guidance. Therefore the UK government worked closely with vessel designers, builders, and seafarers to develop pragmatic standards to allow accommodation to be placed below the load line for these workboats. These substantially equivalent standards are published as Annex 1 to this guidance. New⁷ United Kingdom workboats to which the MLC applies must either fully comply with the requirements of Part 7 of the Merchant Shipping (Maritime Labour Convention) (Minimum Requirements for Seafarers etc.) Regulations 2014 (S.I. 2014/1613) and MSN 1844(M) or the substantially equivalent standards published in Annex 1 to this guidance. 'Cherry-picking' of standards from each shall not be permitted because they each form a package of measures.

5.3 Workboats constructed of fibre reinforced plastic, or similar materials, will be considered to be at a similar stage of construction to having their keel laid if they have had more than 5% of the hull resin and reinforcement laid.

5.4 Existing⁷ workboats will not be required to comply with the accommodation standards in the MLC, or the substantial equivalence, subject to them complying with standards which applied before that date, unless they are substantially reconstructed or altered.

5.5 The substantially equivalent standard adopted in this notice is similar to that adopted by The Netherlands in order to provide a consistent approach for shipowners and seafarers.

6. Inspection of workboats

Procedures

6.1 Flag State Inspection

6.1.1 MCA will carry out the MLC inspections on workboats which are 200GT or over, but under 500GT, to which the MLC will apply. However MCA has authorised the recognised Small Commercial Vessel Certifying Authorities to carry out the required MLC inspections on the small number of vessels that they certify under the Small Workboat and Pilot Boat Code, that are less than 24 metres load line length and 200GT or over as part of their normal survey regime.

6.1.2 The MLC requires each vessel to be inspected at least every 36 months. This fits with the renewal/intermediate survey regime applied to all workboats certified under the UK Small Workboat and Pilot Boat Code (<24 metres load line length) or issued International or UK Load Line Certificates (≥ 24 metres load line length), so it is anticipated that such a workboat will receive an inspection at each initial/renewal and intermediate survey.

6.1.3 There are 14 inspection items under the MLC, although all provisions of the MLC must be complied with:

- Minimum age
- Medical certification
- Qualifications of seafarers

⁷ To demonstrate compliance with the MLC in other States, the UK recommends that shipowners consider a new vessel to be those vessels with their keels laid, or are at a similar stage of construction, on or after the 20th August 2013, as their national law may make that the date for commencement of standards in compliance with the MLC. For the same reason, the UK recommends that shipowners consider an existing vessel to be those vessels with their keels laid, or are at a similar stage of construction, before the 20th August 2013.



- Seafarers' employment agreements
- Use of any licensed or certified or regulated private recruitment and placement service
- Hours of work or rest
- Manning levels for the ship
- Accommodation
- On-board recreational facilities
- Food and catering
- Health and safety and accident prevention
- On-board medical care
- On-board complaint procedures
- Payment of wages

6.1.4 MCA or its authorised Certifying Authorities will expect to see evidence of compliance for all elements of the inspection. Some of the items are hardware items which should be easily demonstrable during the on-board inspection, other elements may be submitted by other means, such as by electronic means or by post, to demonstrate compliance with the applicable provisions of the legislation. Further details on what may be inspected and what evidence of compliance should be provided, as a minimum, may be found in Annex 3 to this guidance.

6.1.5 Shipowners are encouraged to provide the following documents to the inspector to demonstrate their compliance with the requirements under United Kingdom legislation implementing the Maritime Labour Convention, 2006.

- .1 If, applicable, a list of hazardous work for young persons, risk assessment for workers under 18 years of age, specific to the risks for young persons (see MSN 1838(M)).
- .2 Evidence that any Recruitment and Placement Service used was based in a country which has ratified the Maritime Labour Convention, or other evidence of MLC compliance such as certification by a flag State administration or a report of a successful and sufficiently thorough audit by the shipowner or suitable third party organisation.
- .3 If applicable, copy of the Collective Bargaining Agreement.
- .4 A copy of the Seafarers Employment Agreement for seafarers serving on that ship.
- .5 Where the Seafarers Employment Agreement is signed by a representative of the shipowner, a copy of the manning agreement between the shipowner and the representative of the shipowner.
- .6 A copy of the shipowner's evidence of financial security for repatriation of seafarers (e.g. Certificate and Document of Insurance).
- .7 A copy of the shipowner's evidence of financial security to assure compensation in case of seafarer's death or long-term disability due to an occupational injury, illness or hazard (e.g. Certificate and Document of Insurance).
- .8 A copy of the form of ship board working arrangements for use on-board the ship.
- .9 A copy of the form of daily hours of rest for use on-board the ship.
- .10. A copy of the shipowner's health and safety policy.
- .11 A copy of the shipowner's on-board complaint procedures.



6.1.7 MCA has provided the format for an Inspection Report form to Certifying Authorities for their surveyors to complete and issue to owners/operators following inspection. A blank version may be found as Annex 3 to this Note. MCA is using a simplified version of the form. These forms will indicate to port State control inspectors that the UK/MCA is satisfied that the vessel is compliant with the UK's national legislation implementing the MLC. Such a form shall not be issued until the vessel owner has demonstrated that all 14 elements of the inspection are being complied with to the satisfaction of the MCA or Certifying Authority. A Small Workboat Certificate shall not be endorsed as MLC compliant for international voyages unless this process has been completed to the satisfaction of the Certifying Authority. Certifying Authorities may charge for the additional work they will need to undertake to confirm that a vessel is compliant with the MLC.

6.1.8 MCA retains its right to inspect vessels at any time where there are reasonable grounds, and in the case of MLC standards, it will be backed up by the statutory complaints procedures.

6.2 Port State Inspection

6.2.1 Port State inspectors should accept documentation issued by or on behalf of the UK declaring that a UK vessel is compliant with the MLC as *prima facie* evidence of its compliance. Unless there are reasonable grounds for the Port State to believe the vessel is not compliant they should not unduly delay the workboat, but if they have concerns about the validity of the MCA compliance regime, they should be requested to contact the Maritime and Coastguard Agency (MCA).

6.2.2 If there are reasonable grounds for the port State authority to believe that the workboat is not compliant with the MLC, or the UK's substantially equivalent standards, they may require rectification of any deficiencies found prior to the workboat's departure from port.

6.2.3 Owners of non-UK workboats operating in the UK, should be aware that Article V (7) of the MLC requires States to ensure that workboats that fly the flag of any State that has not ratified the MLC do not receive more favourable treatment than the ships that fly the flag of any State that has ratified it.

7. Certification of workboats

7.1 Although workboats under 500GT do not need to carry a Maritime Labour Certificate on-board, their owners are entitled to request one. The UK has a substantial fleet of workboats that operate overseas that may be subject to inspection.

7.2 Where the inspection report referred to 6.1.7 above is not acceptable and where a full Maritime Labour Certificate is requested for a workboat, this must be issued by the MCA in the UK. Application should be made to the MCA for such a certificate to be issued, along with the report of any inspection that may already have taken place, and copies of the applicable documentary evidence that are highlighted in Section 2 of the Inspection Report. The owner must also provide a draft MLC Declaration – Part II. MCA reserve the right to make any final checks and on-board inspections considered necessary to verify compliance before issuing a Maritime Labour Certificate. There will be a charge levied by MCA for verifying compliance and issuing the Maritime Labour Certificate. This will be at the current fee rate at the time.

7.3 Any owner that wishes to have their vessel receive a non-statutory inspection to demonstrate compliance with the requirements of the MLC may contact their Certifying Authority, if certified under the Small Workboat and Pilot Boat Code, or MCA if not certified under the Small Workboat and Pilot Boat Code, to arrange for an inspection to take place.



7.4 Applications for Maritime Labour Certificates should be made to the local MCA Marine Office for UK based vessels and for overseas based vessels applications should be made to:

ISM/ISO Branch
Spring Place
105 Commercial Road
Southampton
SO15 1EG
United Kingdom

Email: quality.assurance@mcga.gov.uk

7.5 It is strongly recommended that designers and builders continue to use the 20th August 2013 as the date from which all new vessels will need to be compliant with the MLC as that is the date of its entry into force internationally.

8. Further information

8.1 Depending upon the nature of the question it may be necessary to contact different sections of the MCA.

- Minimum age – mlc@mcga.gov.uk or 023 80329328
- Medical certification - seafarer.s&h@mcga.gov.uk or 023 80329380
- Qualifications of seafarers - exams.section@mcga.gov.uk or 023 80329231
- Seafarers' employment agreements - mlc@mcga.gov.uk or 023 80329328
- Use of any licensed or certified or regulated private recruitment and placement service - mlc@mcga.gov.uk or 023 80329538
- Hours of work or rest - mlc@mcga.gov.uk or 023 80329216
- Manning levels for the ship - exams.section@mcga.gov.uk or 023 80329231
- Accommodation - codes@mcga.gov.uk or 023 80329139
- On-board recreational facilities - codes@mcga.gov.uk or 023 80329139
- Food and catering - mlc@mcga.gov.uk or 023 80329328
- Health and safety and accident prevention - mlc@mcga.gov.uk or 023 80329328
- On-board medical care - mlc@mcga.gov.uk or 023 80329249
- On-board complaint procedures - mlc@mcga.gov.uk or 023 80329139
- Payment of wages - mlc@mcga.gov.uk or 023 80329328



More Information

Seafarer Safety and Health Branch
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MCA Website Address: www.gov.uk/government/organisations/maritime-and-coastguard-agency

File Ref: MC 18/01/64

Published: September 2014
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ACCOMMODATION – SUBSTANTIALLY EQUIVALENT STANDARDS – NEW WORKBOATS OF 200GT TO LESS THAN 500GT

Objective: The aim of the MLC is to provide a comprehensive set of global maritime labour standards for all seafarers, including accommodation standards.

The purpose of this section is to implement substantially equivalent arrangements to the crew accommodation requirements of the Maritime Labour Convention, 2006, to new vessels built after the UK's Merchant Shipping (Crew Accommodation) (Maritime Labour Convention) Regulations 2013 come into force. It is strongly recommended that designers and builders continue to use the 20th August 2013 as the date from which all new vessels that will need to be compliant with the MLC should be built as compliant with the MLC. Ratifying port States may require this in their waters.

All workboats of 200GT to less than 500GT shall comply with the seafarer accommodation requirements of the Maritime Labour Convention, 2006, transposed in the UK as The Merchant Shipping (Maritime Labour Convention) (Crew Accommodation) Regulations 2013, except as permitted below.

1. Sleeping rooms may be provided below the reference load line if it can be shown that compliance with Standard A3.1, paragraph 6(c) of the MLC would compromise the functionality, safety or stability of the ship.
2. The floor of the sleeping room may be up to 2000 mm below the reference load line provided that:
 - .1 Adequate continuous climate control is provided, partly aimed at controlling of condensation and moisture related odours;
 - .2 At least two adequate escape routes are present;
 - .3 A bilge alarm which has its audible alarm in the watertight compartment of the sleeping room is available;
 - .4 Adequate, adjustable lighting is provided; the lack of daylight shall be compensated according to the needs of the seafarer;
 - .5 Appropriate materials and colours for wall and floor coverings are applied, which provide improved space perception;
 - .6 A minimum of 203 cm headroom in the accommodation must be provided.

Further notes:

The reference load line is defined as follows:

- For ships to which an International Load Line Certificate is issued: the minimum assignable summer freeboard as defined in the Load Line Convention, Annex 1, Regulation 6.2.a.
- For ships to which no International Load Line Certificate is issued: a line parallel to the designed load waterline located at a distance of 20% of the depth of the ship, as defined in the International Load Line Convention Annex I, Regulation 3(5), with a maximum of 1000 mm below the freeboard deck as defined in the International Load Line Convention, Annex I, Regulation 3(9).



MARITIME LABOUR CONVENTION, 2006, STANDARDS – UK LEGISLATION AND GUIDANCE.

Title 1. Minimum requirements for a seafarer to work on a ship:

1.1 Minimum age

- Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Employment of Young Persons) Regulations 1998.
- Merchant Shipping (Maritime Labour Convention)(Minimum Requirements for Seafarers etc.) Regulations 2014, (SI 2014/1613) Part 2 - Minimum Age.
- MSN 1838 (M) Maritime Labour Convention, 2006: Minimum Age.

1.2 Medical certificate

- The Merchant Shipping (Maritime Labour Convention) (Medical Certification) Regulations 2010, as amended.
- MSN 1839 - Maritime Labour Convention, 2006: Medical Certification
- MSN 1821 – Approved Medical Practitioners (Approved Doctors) with effect from 1 September 2009 (but see website for latest information).
- MSN 1815 – Countries whose seafarer medical certificates are accepted as equivalent to the UK seafarer medical certificate (ENG1) from 1 July 2007.

1.3 Training and qualifications

For vessels certified under the MCA Small Commercial Vessel Codes of Practice:

- MGN 280, Annex 3.
- MGN 411 - Training and Certification Requirements for the Crew of Fishing Vessels and their Applicability to Small Commercial Vessels and Large Yachts.
- MSN 1802 - Certificates of Competency: Yacht Deck Officers Training and Certification Guidance - Part A7.

For vessels not certified under the MCA Small Commercial Vessel Codes of Practice:

- MGN 92 – Training and Certification Guidance – Part 2 Certificates of Competency – Deck Department.
- MGN 93 - Training and Certification Guidance – Part 3 Certificates of Competency – Engine Department.

1.4 Recruitment and placement

Maritime Labour Convention 2006 Standards (Recruitment and Placement)

- UK legislation only applies to the recruitment and placement agencies in the UK. The standards for recruitment and placement services are mainly contained in the Conduct of Employment Agencies and Employment Businesses Regulations 2003, as amended, or the Conduct of Employment Agencies and Employment Businesses Regulations (Northern Ireland) 2005, as amended, in Northern Ireland. The new Merchant Shipping (Maritime Labour Convention) (Recruitment and Placement) Regulations 2014 supplement this legislation to bridge the gap between the standards already in UK law and those necessary for MLC compliance.
- MGN 475(M) - Maritime Labour Convention 2006: Recruitment and Placement.



- MGN 476(M) - Maritime Labour Convention 2006: Important advice for seafarers signing on ships flying the flag of a State which has not ratified the MLC.

Recruitment and placement agencies from overseas will be regulated by the States they are based in. If the recruitment and placement agency is in a State which has not ratified the MLC then the shipowner has responsibility to ensure they use MLC compliant agencies.

Title 2. Conditions of employment:

2.1 Seafarers' employment agreements

- The Merchant Shipping (Maritime Labour Convention) (Minimum Requirements for Seafarers etc.) Regulations 2014 (SI 2014/1613) Part 4 - Seafarer Employment Agreements.
- MGN 477(M) – Maritime Labour Convention 2006: Seafarer Employment Agreements.

2.2 Wages

- The Merchant Shipping (Maritime Labour Convention) (Minimum Requirements for Seafarers etc.) Regulations 2014 (SI 2014/1613) Part 5 - Wages.
- MGN 478 (M) – Maritime Labour Convention 2006: Wages.

2.3 Hours of work and hours of rest and 2.4 Entitlement to leave

- The Merchant Shipping (Hours of Work) Regulations 2002, as amended by the Merchant Shipping (Maritime Labour Convention) (Hours of Work) (Amendment) Regulations 2014.
- MSN 1842(M)

2.5 Repatriation

- The Merchant Shipping (Maritime Labour Convention) (Minimum Requirements for Seafarers etc.) Regulations 2014 (SI 2014/1613) Part 6 - Repatriation.
- MGN 479 (M) – Maritime Labour Convention 2006: Repatriation

2.6 Seafarer compensation for the ship's loss or foundering and 4.2 Shipowners' liability

- The Merchant Shipping (Maritime Labour Convention) (Minimum Requirements for Seafarers etc.) Regulations 2014 (SI 2014/1613) Part 10 – Shipowners' Liability.
- MGN 480(M) - Maritime Labour Convention 2006: Shipowners' Liabilities including Seafarer Compensation

2.7 Manning levels

For vessels certified under the MCA Small Commercial Vessel Codes of Practice:

- MGN 280, Annex 3.

For vessels not certified under the MCA Small Commercial Vessel Codes of Practice:



- Provisional Guidance – Maritime Labour Convention 2006: Manning Levels.

2.8 Career and skill development and opportunities for seafarers' employment.

This is not a shipowner duty.

Title 3. Accommodation, recreational facilities, food and catering:

3.1 Accommodation and recreational facilities

Subject to section 5 of this notice:

- The Merchant Shipping (Maritime Labour Convention) (Minimum Requirements for Seafarers etc.) Regulations 2014 (SI 2014/1613) Part 7 – Crew Accommodation
- MSN 1844(M) - Maritime Labour Convention 2006: Crew Accommodation.
- MGN 481(M) - Maritime Labour Convention, 2006: Crew Accommodation, Supplementary Guidance.

It is strongly recommended that MLC standards or the substantial equivalence set out in this notice are applied to vessels the keel of which is laid or are at a similar stage of construction on or after 20 August 2013.

3.2 Food and catering

- Maritime Labour Convention 2006 Standards Food and Catering.
- Merchant Shipping (Maritime Labour Convention) (Minimum Requirements for Seafarers etc) Regulations 2014 (SI 2014/1613), Part 8 - Food and Catering.
- MSN 1845 (M) Maritime Labour Convention, 2006, Food and Catering, Provision of Food and Fresh Water
- MSN 1846 (M) Maritime Labour Convention, 2006, Food and Catering: Ship's Cooks and Catering Staff

Title 4. Health protection, medical care, welfare and social security protection:

4.1 Medical care on-board ship and ashore

- The Merchant Shipping (Maritime Labour Convention) (Minimum Requirements for Seafarers etc.) Regulations 2014 (SI 2014/1613) Part 9 - Medical Care
- MGN 482(M) Maritime Labour Convention 2006: Medical Care.
- MSN 1768(M+F) - Medical Stores.
- MGN 225 - Maritime Labour Convention 2006: Radio Medical Advice.
- MGN 370 - Maritime Labour Convention 2006: Dreadnought Unit.

4.3 Health and safety protection and accident prevention

The Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997 (SI 1997 No. 2962), as amended by the Merchant Shipping (Maritime Labour Convention) (Health and Safety) (Amendment) Regulations 2014, require shipowners and employers to ensure the health and safety of seafarers and other workers on-board ships. Further guidance can be found in MGN 20 (M+F) - Implementation of EC Directive 89/391, Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997, MGN 175 (M+F) - Health and Safety Regulations for Ships: Merchant Shipping and Fishing Vessel (Health and Safety at Work) (Amendment) Regulations. This notice does not aim to provide definitive guidance on these Regulations, and it is the duty of the owner/manager and skipper to ensure that they are familiar with the requirements which include carrying out risk assessments, which are the basis for mitigating measures under all of the regulations.



If there are 5 or more seafarers on-board there is a requirement to have a designated safety official and safety committee on-board. Chapter 3 of The Code of Safe Working Practices for Merchant Seamen provides further information.

It is also important to note that the regulations make no distinction between the duty of care towards workers and that towards others on-board. If there is a relevant risk to other persons, the employer conducting the undertaking must take reasonably practicable steps to avoid that risk. There is further guidance provided in MGN 492 (M+F) – Health and Safety at Work: Protecting those not employed by the shipowner.

Other Merchant Shipping regulations apply similar principles in the context of particular areas of risk to both workers and others on-board. It is the responsibility of the owner/managing agent and skipper to ensure that they are familiar with the requirements of those regulations. These regulations are similar to land based legislation but are separately provided for under Merchant Shipping legislation. Such regulations include, but may not be limited to:

- .1 Noise
 - The Merchant Shipping and Fishing Vessels (Control of Noise at Work) Regulations 2007, as amended.
 - MGN 352 (M+F) – The Merchant Shipping and Fishing Vessels (Control of Noise at Work) Regulations 2007.

- .2 Vibration
 - The Merchant Shipping and Fishing Vessels (Control of Vibration at Work) Regulations 2007, as amended.
 - MGN 353 – The Merchant Shipping and Fishing Vessels (Control of Vibration at Work) Regulations 2007.
 - MGN 436 – WHOLE-BODY VIBRATION: Guidance on Mitigating the Against the Effects of Shocks and Impacts on Small Vessels.
 - MGN 446 - The Merchant Shipping and Fishing Vessels (Control of Vibration at Work) Regulations 2007 – Procedure for seeking exemptions.

- .3 Provision and use of work equipment
 - The Merchant Shipping and Fishing Vessels (Provision and Use of Work Equipment) Regulations 2006, as amended.
 - MGN 331 – “The Merchant Shipping and Fishing Vessels (Provision and Use of Work Equipment) Regulations 2006.

- .4 Lifting operations and lifting equipment
 - The Merchant Shipping and Fishing Vessels (Lifting Operations and Lifting Equipment) Regulations 2006, as amended.
 - MGN 332 – The Merchant Shipping and Fishing Vessels (Lifting Operations and Lifting Equipment) Regulations 2006.

- .5 Working at height
 - The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Work at Height) Regulations 2010, as amended.
 - MGN 410 – The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Work at Height) Regulations 2010.



- .6 Manual handling operations
- Merchant Shipping and Fishing Vessels (Manual Handling Operations) Regulations 1998, as amended.
 - MGN 90 – Implementation of EC Directive 90/269/EC. Merchant Shipping and Fishing Vessels (Manual Handling Operations) Regulations 1998, as amended.
- .7 Personal protective equipment
- The Merchant Shipping and Fishing Vessels (Personal Protective Equipment) Regulations 1999, as amended.
 - MSN 1731 - The Merchant Shipping and Fishing Vessels (Personal Protective Equipment) Regulations 1999 - SI 1999/2205.
- .8 Entry into dangerous spaces
- The Merchant Shipping (Entry into Dangerous Spaces) Regulations 1988, as amended.
 - MGN 423 – Entry into Dangerous Spaces.
- .9 Safe movement on-board
- The Merchant Shipping (Safe Movement on-board Ship) Regulations 1998.
- .10 Carcinogens and mutagens
- The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Carcinogens and Mutagens) Regulations 2007, as amended.
 - MGN 356 – The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Carcinogens and Mutagens) Regulations 2007.
- .11 Biological Agents
- The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Biological Agents) Regulations 2010, as amended.
 - MGN 408 – The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Biological Agents) Regulations 2010.
- .12 Chemical Agents
- The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Chemical Agents) Regulations 2010, as amended.
 - MGN 409 – The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Chemical Agents) Regulations 2010.
- .13 Safe means of access
- The Merchant Shipping (Means of Access) Regulations 1988, as amended.
 - MGN 337 – Provision of Safe Means of Access to Fishing and Other Small Vessels.
- .14 Employment of young persons
- The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Employment of Young Persons) Regulations 1998, as amended.
 - MGN 473 – The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Employment of Young Persons) Regulations 1998.



- .15 New and expectant mothers.
 - MGN 522 New and expectant mothers: Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997 and Merchant Shipping (Maritime Labour Convention)(Medical Certification) Regulations 2010.
- .16 Artificial Optical Radiation
 - The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Artificial Optical Radiation) Regulations 2010, as amended.
 - MGN 428 – The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Artificial Optical Radiation) Regulations 2010.
- .17 Asbestos
 - The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Asbestos) Regulations 2010, as amended.
 - MGN 429 – The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Asbestos) Regulations 2010.
 - MGN 493 – The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Asbestos) (Amendment) Regulations 2013.
- .18 Occupational Diseases
 - Provisional Guidance - Maritime Labour Convention 2006: Reporting of Occupational Diseases.

4.4 Access to shore-based welfare facilities

- Current arrangements apply in the UK

4.5 Social security

The shipowner is responsible for ensuring that the employer pays any statutory contributions.

Title 5. Compliance and enforcement:

5.1 Flag State responsibilities

Guidance on the UK Flag State procedures for MLC compliance is provided in section 6.1 of this Note. Guidance on the on-board complaints procedure may be found in:

- MSN 1849 (M) Maritime Labour Convention, 2006: On-board Complaints Procedure

5.2 Port State responsibilities

Guidance on dealing with Port State authorities to demonstrate MLC compliance is provided in section 6.2 of this Note. Guidance on the on-shore complaints procedure may be found in:

- MGN 487 (M) Maritime Labour Convention, 2006: On-shore Complaints Procedure

5.3 Labour-supplying responsibilities

Not shipowner duties.





Certif ying

DOCUMENT OF COMPLIANCE
MARITIME LABOUR CONVENTION, 2006,
SMALL VESSEL INSPECTION REPORT

The shipowner is legally responsible to ensure that all provisions of UK legislation are complied with.

1. Ship's particulars

- | | |
|---|------------------------------------|
| 1.1. Name of ship: | 1.2 Distinctive number or letters: |
| 1.3 Port of Registry: | 1.4 Gross tonnage: |
| 1.5 IMO number: | 1.6 Type of ship: |
| 1.7 Date of build (if during 2013 include day and month): | |
| 1.8 Name and address of shipowner: | |
| 1.9 Location of inspection: | |
| 1.10 Maximum number of seafarers accommodated on-board: | |

2. Inspection type

(please tick as appropriate)

- Interim
- Initial
- Intermediate
- Renewal
- Additional

3. Mandatory Inspection Items

(Guidance is provided in italics)

3.1 Minimum age	YES/NO
3.1.1 The shipowner has a system in place to verify that seafarers on-board are 16 years of age or over. <i>(Minimum age) No person below the age of 16 years shall be employed, engaged or work on the vessel. A young seafarer is defined as a seafarer under the age of 18.</i>	
3.1.2 Seafarers under 18 years of age are listed on the ALC 1C form.	Yes/No/NA
3.1.3 A risk assessment has been carried out for any employees under 18 years of age, specific to the risks for young persons. <i>(Hours of rest) There is a prohibition on young seafarers working at night, which as a minimum must include a period of at least 9 hours starting no later than midnight and ending no earlier than 0500hrs. However a seafarer aged 16 or 17 may work at night if the work forms part of an</i>	Yes/No/NA



<i>established training programme. Health and safety protection and accident prevention) Measures shall be put in place to protect young seafarers from carrying out any work which is likely to jeopardise their health and safety.</i>	
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3.2 Medical certification	YES/NO
3.2.1 If the vessel is operating up to 60 miles from a safe haven, all the seafarers have either a valid ENG1 or ML5 medical fitness certificate.	Yes/No/NA
3.2.2 If the vessel is operating more than 60 miles from a safe haven, all the seafarers have a valid ENG1 medical fitness certificate.	Yes/No/NA
3.2.3 There are no conditions on the medical fitness certificates that prevent the seafarer from undertaking their duties on-board.	
3.2.4 The company has a system for ensuring that the seafarers it employs have suitable and valid medical fitness certificates.	

3.3 Qualifications of seafarers	YES/NO
3.3.1 The company has a system for ensuring that the seafarers it employs are correctly qualified for the voyages they undertake.	
3.3.2 The company provides familiarisation training for its seafarers.	

3.4 Seafarers' Employment Agreements (SEA)	YES/NO/NA*
3.4.1 The SEA complies with the minimum standards. <i>(Seafarer Employment Agreements) requires that shipowners and all seafarers they employ have a signed original SEA meeting the minimum requirements in MGN 477. MCA have produced a model format of a SEA in MGN 477(M). The SEA and any document forming part of the SEA, if they are not in English should be available on-board with an English translation. Seafarers shall be given a document in English containing a record of their employment on the ship. (Entitlement to leave) requires that seafarers must be given a minimum of 2.5 days per month paid leave and UK public holidays (8 days). Seafarers are to be granted shore leave to benefit their health and well-being consistent with the operational requirements of their positions. (Repatriation) Shipowners are required to provide financial security to ensure that seafarers they employ are duly repatriated. Shipowners are prohibited from requiring seafarers to make an advance payment towards the cost of repatriation. (Financial security) for compensation in case of death or long term disability of seafarers due to occupational injury, illness or hazard is the responsibility of the shipowner</i>	

3.4.2 All seafarers on-board have an SEA.	
3.4.3 The company has a system for ensuring all seafarers it employs have an SEA.	
3.4.4 Occasional staff have a contract of employment.	YES/NO/NA

*N/A where the shipowner is the sole seafarer on-board.

3.5 Use of any licensed or certified or regulated private recruitment and placement service	YES/NO/NA
3.5.1 If a recruitment and placement service is used, are they based in a ratifying country? <i>Shipowners must only use seafarer recruitment and placement services, certified by ratifying countries OR recruitment and placement services that can demonstrate conformity to the MLC requirements for recruitment and placement.</i>	
3.5.2 If the recruitment and placement service is not in a ratifying country has the shipowner verified their compliance with the MLC?	

3.6 Hours of rest	YES/NO
3.6.1 The SEA shows hours in accordance with the minimum standard.	
3.6.2 The schedule is posted up and in compliance with the minimum standard.	
3.6.3 The records of hours of rest are kept in the format required in MSN 1767.	
3.6.4 The standards for minimum hours of rest are being complied with. <i>The minimum limits on hours of rest provided by the shipowner shall be 10 hours in any 24 hour period, which may be divided into no more than two (2) periods – one of which shall be at least six (6) hours in length, and no more than 14 hours between any consecutive periods; and 77 hours in any seven day period.</i>	

3.7 Manning levels for the ship	YES/NO
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3.7.1 Manning levels are adequate	
3.7.2 There is a procedure for briefing the second person on assisting the skipper.	
3.7.3 The company has a system for ensuring that there are sufficient seafarers/persons on-board the vessel.	

3.8 Accommodation	YES/NO/NA
Applicable to ships constructed on or after 20th August 2013. Ship built prior to 20th August 2013 shall comply with existing national standards in force when they were built or last substantially modified.	
Standard complied with: Existing National Standards / Full MLC / MGN 490, Annex 1 / MGN 491, Annex 1 / LY3 21B* (*delete as applicable)	
3.8.1 Access/Escape arrangements	
3.8.2 Headroom	
3.8.3 Ventilation	
3.8.4 Air conditioning (≥200GT only)	
3.8.5 Heating and insulation	
3.8.6 Lighting	
3.8.7 Water services and provision	
3.8.8 Hand holds and grab rails	
3.8.9 Sleeping accommodation	
3.8.10 Sanitary facilities	
3.8.11 Laundry facilities (≥200GT only)	
3.8.12 Mess rooms	
3.8.13 Stowage facilities for personal effects	
3.8.14 Machinery space boundaries	
3.8.15 Securing of heavy equipment	
3.8.16 Hospital accommodation (>15 seafarers on a voyage >3 days)	
3.8.17 Protection from mosquitoes	
3.8.18 Master's inspections	

3.9 On-board recreational facilities	YES/NO
3.9.1 Recreational facilities are provided on-board. <i>Shipowners to provide appropriate seafarers' recreational facilities, amenities and services, as adapted to meet the special needs of seafarers who must live and work on ships. Examples of recreational facilities include reading and writing facilities and, where practicable, games.</i>	
3.9.2 There is an open deck space provided, with safe access that protects seafarers from the elements during any rest period.	

3.10 Food and catering	YES/NO
3.10.1 The shipowner has a system in place to verify that adequate food is provided for all seafarers free of charge. <i>(Food and catering) requires that food is supplied free of charge to seafarers and is suitable in terms of quality, nutritional value, quality and variety.</i>	
3.10.2 The catering facilities on-board are fitted with a sink, a means of cooking and adequate working surface for the preparation of food. The floor surface in the galley area is non-slip. The facilities are hygienic.	
3.10.3 The furniture and fittings in the galley are made of a material which is impervious to dirt and moisture. Metal parts are rust resistant.	
3.10.4 There is adequate ventilation in the galley and a supply of fresh air to discharge fumes to the open air.	
3.10.5 Gimballed cooking appliances have a crash bar and there is a means of locking the gimbal.	YES/NO/NA
3.10.6 On sailing vessels there is a means to secure the cook in position with both hands free for working.	
3.10.7 There are secure and hygienic storage facilities for food and garbage.	
3.10.8 There is a messing area provided which accommodates the greatest number of people likely to be messing at one time.	
3.10.9 The company has a system for ensuring that there is somebody with accepted food hygiene training to supervise the preparation and cooking of food for seafarers on-board the vessel.	



3.11 Health and safety and accident prevention	YES/NO
3.11.1 There are written risk assessments, or the inspector is satisfied that crew have demonstrated that they are aware of the risks verbally.	
3.11.2 There are no obvious health and safety problems. <i>The shipowner shall ensure as far as practicable, the health and safety of seafarers on-board the ship. In carrying out this duty the shipowner shall ensure reasonable precautions are taken to prevent occupational accidents, injuries and diseases on-board ship.</i>	
3.11.3 Complaints from seafarers are being suitably dealt with.	
3.11.4 Where there are 5 or more crew members there are records of safety committee meetings.	

3.12 On-board medical care	YES/NO
3.12.1 Medical stores are in accordance with MSN 1768 and in date.	
3.12.2 There is somebody on-board with adequate first aid training.	
3.12.3 The company has a system for ensuring that there is somebody with first aid training on-board the vessel.	
3.12.4 The shipowner has a system in place to verify that the skipper is aware of how to contact the Radio Medical Advice Service.	
3.12.5 There are records kept of all medical care undertaken on-board.	
3.12.6 Seafarers have access to medical care ashore overseas. <i>Medical care on-board and ashore requires that the cost of medical and dental treatment for seafarers is borne by the shipowner. Seafarers have the right to visit a qualified medical doctor or dentist without delay in ports of call, where practicable.</i>	

3.13 On-board complaint procedures	YES/NO/NA*
3.13.1 There is a complaints procedure posted up which is available to seafarers. <i>The on-board complaints procedure requires that shipowners must ensure their ships have on-board procedures for the fair, effective and expeditious handling of seafarer complaints. Seafarers must not be victimised for raising complaints and have the right to be accompanied or represented.</i>	
3.13.2 The complaints procedure includes details of who to contact in the MCA if the complaint is not resolved. <i>The complaints procedure must allow for complaints directly to the Master and to the MCA if the complaint is not resolved.</i>	
3.13.3 Where complaints have been recorded have they been resolved.	Yes/No/NA**

*Where the shipowner is the sole seafarer on-board

**Where there are no complaints received

3.14 Payment of wages	YES/NO/NA*
3.14.1 Payment of wages is in accordance with the SEA. <i>Payment of wages defines the principles applying to the payment and calculation of basic pay and wages which are partially or fully consolidated.</i>	
3.14.2 Payment of wages is at least monthly. <i>All seafarers shall receive a monthly account of their wages.</i>	
3.14.3 There is provision for allotments. <i>Shipowners are required to take measures to provide seafarers with a means to transit all or part of their earnings to their families or dependents or legal beneficiaries.</i>	
3.14.4 There are no unauthorised deductions. <i>The following deductions from seafarers' wages are permitted – Deductions permitted in relevant national laws, or agreed to in a Collective Bargaining Agreement, on-board purchases, telecommunication calls and internet access, cash advances, allotments, contributions by the seafarer in relation to any pension fund, charity, and in respect of membership of a body to a trade union and friendly society. No deduction can be made from a seafarers' wage in respect of obtaining or retaining employment. Monetary fines against seafarers other than those authorised in a Collective Bargaining Agreement are prohibited.</i>	
3.14.5 Where possible, seafarers confirm that their wages are being paid in accordance with the SEA	

* N/A where the shipowner is the sole seafarer on-board.

4. Declarations



Shipowner's declaration

I declare that I will continue to comply with the requirements of the Maritime Labour Convention, 2006, for the validity of this inspection report.

Shipowner name:

Name of signatory of the shipowner:

Signed:

Date:

Inspector's declaration

I declare that I have reviewed the above measures, and, following inspection of the ship, and I have determined that they meet the purposes set out in the Maritime Labour Convention, 2006, Standard A5.1.3, paragraph 1.

Inspector name:

Signed:

Of [insert name of Certifying Authority] authorised by the Maritime and Coastguard Agency.

Date of Inspection:..... This Inspection Report is valid until.....
(maximum of 3 years from date of inspection date)

This report is to be retained onboard for a period of 3 years and must be made available for consultation by MCA officers at all times.

