

THIS GUIDANCE IS PROVISIONAL UNTIL THE LEGISLATION HAS BEEN MADE

WAGES

1. Introduction

1.1 The MLC seafarer wages standards introduce new provisions covering the payment of wages to seafarers working on Merchant Ships, commercially operated yachts and other sea-going vessels. The MLC seafarer wages standards also amend provisions of the following Regulations:-

- (a) the Merchant Shipping Act 1995
- (b) the Merchant Shipping (Seamen's Allotments) Regulations 1972 (SI 1972/1698) and
- (c) the Merchant Shipping (Seamen's Wages and Accounts) Regulations 1972 (SI 1972/1700) (as amended)

1.2 The primary changes resulting from the MLC seafarer wages standards are that:-

- (a) all seafarers are to be paid for their work regularly; at not greater than monthly intervals; and in full in accordance with their Seafarer Employment Agreements;
- (b) interest of 20% per annum is payable to a seafarer in the event that a shipowner, without reasonable cause, fails to make payment of that seafarer's wages on the due date;
- (c) all seafarers are to be given a monthly account of the payments due to them and amounts paid, including wages, additional payments and the rate of exchange used where payment has been made in a currency or at a rate different from the one agreed to;
- (d) all shipowners are to provide seafarers with a means to transmit all or part of their earnings to their families or dependents or legal beneficiaries. The charges for this service are to be reasonable in amount and to be at the prevailing market rate or the official published rate which is not unfavourable to the seafarer.

2. Application

2.1 The MLC seafarer wages standards apply to all commercially operated ships, yachts and other vessels which go to sea and to all seafarers employed or engaged or who work in any capacity on them and whose normal place of work is on a ship. This includes self-employed seafarers.

2.2 The new MLC standards do not apply to non sea-going ships; or to fishing vessels, pleasure vessels; warships or naval auxiliaries, ships of traditional build (such as dhows or junks) and vessels not engaged in commercial activities .

2.3 For further information on the meaning of "seafarer" or "ship" in UK regulations introduced to implement the MLC 2006, see MGN 471 Maritime Labour Convention, 2006; Definitions.

3. Payment of Wages

3.1 Shipowners must ensure that all seafarers on their ships have a signed Seafarers' Employment Agreement (SEA) which meets minimum standards as to its content (see Provisional Guidance on SEAs). The MLC SEA standards also require an SEA to include

a provision governing when wages or remuneration is to be paid which is to be at intervals of no more than one month.

- 3.2 On termination of their engagement, for whatever reason, a seafarer must be paid all wages or remuneration due to them without undue delay. If the shipowner fails to pay wages or is late in making monthly payments, they may become liable to pay interest on the amount outstanding. Currently the rate of interest is 20% per annum but this may not be applicable if delay in making payment results from matters outside the control of the shipowner.
- 3.3 It is expected that wages are paid directly to a seafarer's designated bank account unless he/she specifically agrees otherwise with the shipowner.

4. Permitted deductions

- 4.1 The MLC seafarer wages standards do not generally change the deductions that a shipowner can make automatically from a seafarer's wages under the Merchant Shipping (Seamen's Wages and Accounts) Regulations 1972 (as amended). The deductions shown in (A) below can be deducted without the prior agreement of the seafarer and those in (B) can be deducted where the seafarer has requested the shipowner to make such contributions direct to the pension fund, charity etc on his/her behalf:-

(A) any amounts payable by the seafarer to the shipowner in respect of

- (i) canteen bills;
- (ii) goods supplies;
- (iii) radio or telephone calls, which may include access to the internet or emails;
- (iv) postage expenses;
- (v) cash advances;
- (vi) allotments; or.

(B) contributions by a seafarer to

- (vii) any pension fund; or,
- (viii) any charity; or,
- (ix) in respect of any membership of:-
 - (a) any trade union; or,
 - (b) any friendly society.

- 4.2 The Merchant Shipping (Seamen's Wages and Accounts) Regulations 1972 (as amended) also permit a shipowner to deduct the actual expenses or losses incurred or sustained by the shipowner, as a result of any breach or breaches of the seafarer's obligations under their Seafarers' Employment Agreement. However, such deductions are limited to a maximum of £100 where the breach comprises absence without leave or £300 in any other breach¹ except in certain instances when a seafarer is dismissed from a ship for gross misconduct.
- 4.3 Where a seafarer satisfies the shipowner that their absence without leave was due to an accident or mistake or some other cause beyond their control and that they took all reasonable precautions to avoid it, no deduction may be made from a seafarer's remuneration.

¹ Regulation 6 of the Merchant Shipping (Seamen's Wages and Accounts) Regulations 1972 (as amended)

4.4 The only exception to the limits in 4.2 above applies in the case of seafarers dismissed from a ship for gross misconduct. Previously the maximum a shipowner/employer could recover in such circumstances was considered to be limited to the maximum of £100/£300 (as appropriate) referred to above. However this limitation has been removed and the shipowner may recover the full cost of repatriation, including relief and maintenance (i.e. food and lodging) from a seafarer dismissed for gross misconduct **PROVIDED THAT** a provision indicating that this could occur in such situations is included in each seafarer's SEA.

4.5 The deductions referred to in paragraph 4.2 above may however only be made if the following conditions are met:-

(a) where possible, the shipowner must, not less than 24 hours before the seafarer's wages are due to be paid, provide the seafarer with a notice of deduction containing the information set out in paragraph 4.5 below and give the seafarer the opportunity to make representations about the deduction to the shipowner or the master;

(b) where it is not possible for the shipowner to give notice of deduction to the seafarer at least 24 hours before the seafarer's wages are due to be paid, the shipowner or the master on his behalf must:-

(i) if possible, before the seaman's wages are due, give the seafarer a notice of deduction and an opportunity to make representations about the deduction to the shipowner or the master; or

(ii) if the seafarer has not been given such notice and opportunity, send to the seafarer by registered post at his last known address a notice of deduction complying with paragraph 4.6 below.

4.6 A notice of deduction, referred to in paragraph 4.5 above, must contain a statement that the shipowner is satisfied on reasonable grounds, that the seafarer has breached their obligations under their Seafarers' Employment Agreement; and must

(i) identify the specific obligation(s) under the seafarer's Seafarers' Employment Agreement which the shipowner considers the seafarer has not fulfilled, as a result of which the shipowner intends to make a deduction;

(ii) state the grounds upon which the shipowner is satisfied that the seafarer has not fulfilled their obligations

(iii) specify the amount of the actual cost or loss incurred by the shipowner and how it is calculated, in respect of failure to comply with such obligation(s);

(iv) specify the total amount of the deduction proposed to be made.

The notice of deduction should also state that the deduction specified in that notice appears to the shipowner to be authorised to be made from the wages due to the seafarer under their Seafarers' Employment Agreement.

5. Maintenance of Seafarers' Dependents

5.1 In addition to the deductions referred to above, a shipowner may be required, by means of a notice issued by a responsible authority under section 40 of the Merchant Shipping Act 1995, to retain from the net wages due to a seafarer such amount as shall have been notified to the shipowner by that authority in respect of the maintenance of dependants of the seafarer. In this context "responsible authority" means the Secretary of State or other authority, including a local authority, responsible for the maintenance of the seafarer's dependents and "dependents" means the seafarer's spouse and any person under the age of 19 for whom the seafarer is liable.

6. Reimbursement of Repatriation Costs in Cases of Disciplinary Discharge Grounds

- 6.1 Under the MLC repatriation standards, a seafarer dismissed on the grounds of gross misconduct may be required to bear his own repatriation costs or to reimburse such costs to the shipowner, if the shipowner has paid for repatriation. However repatriation costs incurred by the shipowner may only be recovered automatically if a specific provision to this effect is included in the seafarer's Seafarer Employment Agreement. Where such provision is not included in the seafarer's Seafarer Employment Agreement the shipowner may only recover any repatriation costs and any relief and maintenance costs as damages, in cases where the agreement is terminated because of the seafarer's gross misconduct.

7. Other Deductions

- 7.1 Other than the authorised deductions referred to above, UK merchant shipping legislation does not permit deductions to be made from the wages of a seafarer without the agreement of the seafarer concerned.

8. Monthly Account

- 8.1 Shipowners are required to provide each seafarer with an account of wages each time they are paid, showing all payments due to the seafarer and the amounts paid, including wages, additional payments, deductions and the rate of exchange used where payment has been made in a currency or at a rate different from the one agreed to.
- 8.2 An account of payments due must also be provided to a seafarer within one month of the termination of their employment under the Seafarer Employment Agreement.
- 8.3 The information to be included in an Account of Wages is set out in Annex 1 of this Provisional Guidance.

9. Allotments

- 9.1 Shipowners are required to have in place a system enabling seafarers, either at the time they commence employment or during their employment to allot a proportion of their wages for transfer at regular intervals to their families, dependents or legal beneficiaries, by bank transfers or similar means. Such allotments are required to be remitted in due time and directly to the person or persons nominated by the seafarer making the allotment(s). Any charge for the service provided is to be reasonable, and the rate of currency exchange should be at the prevailing market rate or the official published rate² and is not to be unfavourable to the seafarer.
- 9.2 Although the MLC seafarer wages standards require the shipowner to have an allotment system in place it is not compulsory under those Regulations for seafarers to use that system and individual seafarers may find that payment of their wages into a common bank account, from which their dependent(s) can draw funds as required, is sufficient for their needs,
- 9.3 A suggested form for an Allotment Note is set out in Annex 2 of this Provisional Guidance.

² Official exchange rate means an exchange rate published by a national bank or other institution,

INFORMATION TO BE CONTAINED IN AN ACCOUNT OF A SEAFARER'S WAGES

1. Information for employed Seafarers

- (a) Name of seafarer;
- (b) The date of birth of the seafarer (if known)
- (c) The number of the seafarer's current discharge book (if any);
- (d) Capacity in which the seafarer was employed;
- (e) The period covered by the account
- (f) The amounts payable for the period covered by the account Dates on when employment commenced and ceased and total period of employment in which wages were earned, showing separately the dates of the beginning and end of any period in which wages were not earned;
- (g) The type and amount of any deductions made during the period covered by the account.

2. Exchange Rates and Commission

Where, an account of a seafarer's wages includes information in respect of amounts which have been determined by reference to a currency exchange rate, they must include details of the relevant exchange rate and any commission paid.

3. Information for non-employed Seafarers

Where the seafarer is not an employee, paragraph 1 above does not apply and the accounts must instead include the following information-

- (a) Payments due
- (b) Payments made (including any not falling within sub-paragraph (a)); and
- (c) Any rates of exchange which are relevant to those payments.

SUGGESTED FORM FOR AN ALLOTMENT NOTE

I, (insert name of seaman)
 employed in (insert name of ship)
 Port of Registry Official Number
 require you (insert name of shipowner)
 of
 (insert address of employer)
 to pay to (insert name of recipient)
 of
 (insert address of recipient)
 the sum of (insert amount of each payment)
 on (insert date of first payment)
 and at intervals of thereafter
 (insert intervals at which payments to be made)

until payments (insert number of payments) **have been made***

OR

until the Seafarer Employment Agreement under which I am now employed is terminated*

OR

until 7 days after I have given notice in writing of revocation of this allotment note to you as the shipowner or to the master of my ship, whichever shall be the earlier.*

**Delete whichever is not required*

Signature of Seafarer	Acknowledgement of receipt of Allotment Note by shipowner
Signed	Signed
Date	Date