

The Maritime Labour Convention, 2006 (MLC) One Year On

Julie Carlton, Prasad Panicker and Matt Giacomini from the MCA attended an Employment Seminar at the UK Chamber of Shipping on 22 October to answer questions about the Maritime Labour Convention, 2006 as implemented in UK law.

Here is a sample of the questions and answers given.

Consistency of surveys

Q: Can MCA comment on inconsistent judgements by MCA surveyors carrying out MLC surveys?

A: Shipowners are asked to raise any concerns about inconsistent decisions with MCA, initially through the Chamber of Shipping, so that any trends can be identified. MCA HQ is happy to consider any problems in this regard. Surveyors are still undergoing refresher training on the MLC, and of course the regulations are still new and standards bedding down. However, MCA will seek to ensure that inconsistencies are addressed.

Definitions:

Q: What is the procedure for agreeing the status of charterers' personnel on board UK ships?

A: Those taking charterers' personnel on board their ships should write to the MCA setting out the arrangements – the time the charterers' personnel will spend on board, their role, whether they have any safety duties on board, and whether they have alternative protection from employment ashore while on board the ship. A decision can then be made in discussion between the MCA and the shipowner on which of those personnel are seafarers, and which are not.

Title 1.4 Recruitment and Placement

Q: MCA offers certification of MLC Compliance to R&P services which ask for it. At the moment, under interim arrangements, this can be issued pending a satisfactory solution for the MLC requirement for a system of protection. How long with those arrangements last?

A: MCA is seeking further guidance to be issued by the ILO to ensure a consistent interpretation of the "system of protection" internationally. While this initiative continues, the interim arrangements will be extended. However, it is not possible to say at what point the situation will be resolved. There are now insurance products available, and the more of these that come to light the less need there will be for the provision.

Title 2.1 Seafarer employment agreement

Q: Does an SEA have to be in a specified MCA format? Will it cause problems in a PSC inspection if it does not comply with a particular format?

A: There is no "standard format" for SEAs on UK ships. The Regulations specify that the parties must include the seafarer and the shipowner, and lists the minimum provisions to be included. There is no reason to think that a PSC inspector would expect to see a particular format.

Title 2.2 Wages

Q: What evidence is required on board a ship during survey to demonstrate that seafarers are receiving their wages?

A: MCA surveyors will usually do this by informal conversations with seafarers to confirm that they are being paid. In a port state control situation, the inspector should not inspect for payment of wages unless they have reasonable grounds for a more detailed inspection.

We are aware that some Classification Societies have asked for documentary evidence, but MCA will not normally require this, unless there is some doubt about compliance.

Title 2.5 Repatriation

Q: Is there any guidance on the circumstances in which a seafarer may terminate their agreement on “compassionate grounds”?

A: MCA has not defined “compassionate grounds, but recommend that this is defined in the SEA in order to ensure transparency for the seafarer and consistent treatment.

Title 4.2 Shipowner liability

Q: The MLC allows for certain matters to be agreed by CBA. Where a collective bargaining agreement (CBA) is in place, which is deemed MLC-compliant by the parties to the agreement, which takes precedence, the agreement or UK legislation?

A: Policy on collective bargaining agreements (CBAs) falls outside MCA or DfT. However, the MCA understands that UK legislation does not explicitly recognise CBAs, except in certain specific circumstances, such as the consideration of authorised exceptions to hours of rest provisions (S.I. 2002/2125 Reg 6) where it is referred to alongside a workforce agreement. If UK legislation therefore contains minimum requirements which are more favourable to seafarers than the CBA, UK legislation takes precedence over CBA provisions.

MLC information on www.gov.uk

Search for “Title 1”, and one of the options provided will be “MLC Titles 1 to 5: regulations, guidance and information”.

Alternatively, follow the link <https://www.gov.uk/mlc-2006-titles-1-to-5-regulations-guidance-and-information>

This page starts with some introductory text, and then provides links to regulations, M-notices and other relevant documents for each regulation in turn.