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Date: 10 October 2016

Dear Consultee,

STATUTORY CONSULTATION – PROPOSED CHANGES TO LEGISLATION TO IMPLEMENT THE 2014 AMENDMENTS TO THE MARITIME LABOUR AMENDMENTS 2006, (MLC) INTO UK LAW AND SOME ADDITIONAL AMENDMENTS

The consultation period will run for 8 weeks. Please send your written responses to MCA via email to mlc@mcga.gov.uk or to the address at the head of this letter by Monday 5 December 2016.

The international rules governing the minimum working and living rights for seafarers (the Maritime Labour Convention, 2006 (MLC)) have been amended. The UK government needs to make changes to UK legislation to implement these amendments. The UK government also wants to make some small corrections and one amendment to the existing legislation implementing the MLC. The proposals will amend the Merchant Shipping (Maritime Labour Convention) (Minimum Requirements for Seafarers, etc.) Regulations 2015 (S.I. 2014/1613), the Merchant Shipping (Maritime Labour Convention) Medical Certification Regulations 2010, the Merchant Shipping (Maritime Labour Convention) (Survey and Certification) Regulations 2013 and the Merchant Shipping (Maritime Labour Convention) (Recruitment and Placement) Regulations 2014.

Background

MLC Amendments

The UK ratified the MLC in August 2013. In 2014, the International Labour Organization (ILO) adopted the first set of amendments to the Convention, introducing provisions to further ensure the welfare of seafarers and their families if seafarers are abandoned by the shipowner. These are based on the work on the Joint IMO/ILO Ad Hoc Expert Working Group on Liability and Compensation regarding Claims for Death, Personal Injury and Abandonment of Seafarers in 2009. This consultation is about the proposals to implement those amendments.¹

These Amendments, which are set out in Part 2 of the draft amending Regulations:

- Require shipowners to have sufficient liability financial security to cover their liability for the costs of abandonment of seafarers on board MLC compliant vessels
- Add to the detailed explanation of the existing liability financial security requirements to cover repatriation, or in the event of the seafarer's death, or where long term disability occurs as a result of occupational injury, illness or hazard, and
- Make it a flag state responsibility to ensure by inspection that a financial security system is in place for ships flying its flag to cover these costs.

The amendments also provide a definition of what constitutes abandonment of seafarers, sets out the shipowner's obligations to seafarers and should make it easier for shipowners to understand the existing requirements.

The MCA published details of the expected change in November 2014 to raise awareness in the industry (Marine Information Note MIN 497(M)).² UK seafarers and industry and seafarer union representatives were involved in discussions about the amendment at the ILO and since adoption with the MCA through a Tripartite Working Group. The Tripartite Working Group supports implementation of the amendments.

¹ Amendments to Standard A5.1 adopted in 2016 are not included in these proposals.

² <https://www.gov.uk/government/publications/min-497m-maritime-labour-convention-2006-mlc-proposed-amendments>

Corrections and Amendments to existing Legislation

The MCA intends to take this opportunity to make a number of relatively small corrections and amendments to the existing implementing UK legislation for the MLC. These corrections and amendments, which are in Part 3 of the draft amending regulations, are listed in Annex A to the Regulatory Triage Assessment (RTA) accompanying this consultation.

Shipowner liability for wages in case of sickness (S.I. 2014/1613 reg 50):

There is one significant amendment which could substantially reduce the liabilities of shipowners for wages in cases of seafarers' sick leave, particularly in parts of the industry with a high proportion of short-term employees.

The current legislation implementing Standard A4.2.3 and A4.2.4 requires payment of wages until the seafarer has been repatriated and then full basic wages for up to 4 months in certain circumstances even when the seafarers' existing contract ends before this period.

We propose to:

- (1) Amend the current regulation to end liability on the natural termination date of a fixed term seafarer employment agreement if that is earlier than the end of the 16-week period.
- (2) Allow the operation of a Collective Bargaining Agreement (CBA) providing for payment of part wages during a period of sickness or injury (in compliance with A4.2.3 (b)). Such an agreement may differentiate between different groups of employees or other workers:

This proposal does NOT affect the entitlement of seafarers for wages until they have been repatriated in accordance with the Convention (A4.2.3 (a)).

This change is proposed as a result of representations from UK shipping companies and seafarer unions since the UK regulations were made regarding the intent of the MLC provision in A4.2.3 and A4.2.4, and the impact of the current UK interpretation on UK shipping companies.

Consultation Package

This consultation package details the proposal to implement these changes into UK Law through an amending statutory instrument the Merchant Shipping (Maritime Labour Convention) (Amendments) Regulations 2017.

The consultation package is available on-line (www.gov.uk > Departments and Policy > Consultations) and consists of:

Regulatory Triage Assessment (RTA) detailing the costs and benefits of implementing these changes.

Proposed statutory instrument; The Merchant Shipping (Maritime Labour Convention) Minimum Requirements for Seafarers etc.) (Amendment) and Miscellaneous Amendments Regulations 2016

Next Steps

In the light of any comments received, the draft Statutory Instrument, and RTA will be reviewed with the aim of finalising them as soon as possible. The intention is for the proposed Regulations to come into force as soon as possible after the MLC Amendments come into force internationally.

Comments on this Consultation, together with the MCA responses, will be made available on-line (www.gov.uk > Departments and Policy > Consultations) within three months of the closing date of this Consultation.

Freedom of Information Act

Please be aware that information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for

disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department will process your personal data in accordance with the DPA and in the majority of circumstances; this will mean that your personal data will not be disclosed to third parties.

Consultation Criteria

This consultation has been conducted in accordance with the [Cabinet Office Consultation Principles Guidance](#).

Feedback

If you have any comments regarding the conduct of this consultation please contact the Consultation Co-ordinator at consultation.coordinator@mca.gov.uk. We are continually trying to improve the way in which we conduct consultations and appreciate your views, so we would also be grateful if you could complete and return the attached feedback form. These should be submitted to the Consultation Co-ordinator and are not affected by the deadline for this consultation.

Consultation Attachments

Annex 1

Proposed statutory instrument. The Merchant Shipping (Maritime Labour Convention) Minimum Requirements for Seafarers etc.) (Amendment) and Miscellaneous Amendments Regulations 2016

Annex 2

Regulatory Triage Assessment (RTA)

Yours Sincerely,

Louise Unsworth
Seafarer Safety & Health Branch