

MLC TITLE 3.2 FOOD AND CATERING REQUIREMENTS

CONSULTATION RESPONSES SUMMARY

Public consultation on the proposed Regulations took place from 8 May to 27 July 2012. Over 150 consultees were targeted for this public consultation exercise. Ten written responses were received, from significant players in the industry. In summary, there was no opposition in principle to the implementation of the MLC standards. Consultation responses confirmed that implementation of the MLC provisions on food and catering are supported by industry, reflecting current best practice.

There were some concerns raised on details of UK implementation which will be addressed through minor changes to the Regulations and improved guidance, rather than substantive changes to the requirements. Most consultation comments related to the interpretation and practical implementation of Convention requirements. These comments have been taken into account in finalising both the legal provisions and supporting guidance.

The Regulations were consolidated into the Merchant Shipping (Maritime Labour Convention) (Minimum Requirements for Seafarers, etc.) Regulations 2014 (S.I. 2014/1613) as Part 8 of the Regulations, which came into force on 7 August 2014. MSN 1845(M) sets out the detailed requirements for provision of food and water. MSN 1846(M) sets out the requirements for ship's cooks and catering staff.

Organisation	Reference	Comment	MCA Response
British Chamber of Shipping	Food & Fresh Water General Comment: Ships engaged on voyages of no more than 60 nm from a safe haven in the UK	The draft SI on food & catering does have an exemption for vessels trading within 60 miles of the shore, but the exemption is only for paragraphs 10-13 (which refer to qualified ships cooks). Paragraph 7 requires that the owner supply food and drinking water. This will be a significant change to our operation and is contrary to the earlier advice given at the DPSSG (see above) and a very costly one.	There is no expectation for owners of such vessels to provide meals to crew members, however crew members should have reasonable access to shorebased facilities where they can obtain adequate provisions.
Nautilus	Food & Fresh Water Draft Regulation 2	Definition of "shipowner" : Nautilus has concerns about the definition in the draft Regulations recalling that the interpretation of "shipowner" within the MLC has been subject to considerable debate. In the draft definition under limb (a) a problem could arise if the Maritime Labour Certificate is otherwise valid but yet the person identified as the shipowner is incorrect therefore Nautilus requests that the phrase "person identified" should be amended to read "person properly identified." As regards limb (b) then this is a partial copy-out of the definition	General comment

			<p>within the MLC, Article II, paragraph 1 (j), but misses out the word "agent". Nautilus would propose that the whole definition is replaced with: "shipowner" "means the owner of the ship or another organisation or person, such as the manager, agent or bare boat charterer, who has assumed the responsibility for the operation of the ship from the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on the shipowner by the legislation implementing the Maritime Labour Convention 2006, regardless of whether any other organisation or persons fulfil certain of the duties or responsibilities on behalf of the shipowner."</p>	
Nautilus	Food & Fresh Water	Draft Regulation 3	<p>Definition of "seafarer" - Nautilus would wish to see a copy-out of the definition in the MLC, Article II, paragraph 1(f). This definition does not include the words used in draft regulation 3 "on the business of the ship" which could narrow the MLC definition and invite arguments from shipowners that non-traditional maritime occupations such as hotel staff on cruise ships are not covered. Nautilus does not agree that those persons referred to in draft regulation 3 (1) (b) - e.g. persons on board a sail training vessel other than for training should be excluded from any legislation implementing the MLC and therefore we would request that this is remedied so that they are included.</p>	General comment
Nautilus	Food & Fresh Water	Draft Regulation 5 (2)(a)	<p>Revocations and amendments - regarding the definition of "shipowner" see the concerns raised above regarding the same definition under regulation 2(1) and note that these concerns apply here as well.</p>	General comment
British Chamber of Shipping	Food & Fresh Water	Draft Regulations: Regulation 7: Provision of food and drinking water	<p>Some island ferry services are manned on short shifts of no more than 12 hours. It is the practice for crew members to supply their own food, as there are no meal storage or preparation facilities on board and no crew members are trained in the preparation of meals. Any new vessels built will be fitted out and crewed on the same basis. If such owners are required to provide food free of charge there will be a significant and costly change to their operations. It also runs contrary to the earlier advice given at the meeting of the DPSSG on 27 September 2011.</p>	There is no expectation for owners of such vessels to provide meals to crew members, however crew members should have reasonable access to shorebased facilities where they can obtain adequate provisions.
IMCA	Ships' Cook	Reg 10	<p>There is no mention of whether a cook certified outside the UK would be accepted for service on board UK registered ships. MLC Guideline B3.2.2 paragraph states that the competent authority should provide for the recognition of ships' cooks certificates issued by other parties to the MLC or the Certification of Ships' Cooks Convention. Although there is some guidance on this issue in the Draft MSN, the possibility that non-UK certified cooks will be accepted should be included in the regulation.</p>	Reg 10.2 does not exclude non UK qualified certificated cooks.

British Chamber of Shipping	Ships' Cook	Regulation 10: Requirement to carry a "qualified" ships' cook	The regulation considers UK certification of ship's cooks but no mention is made of how the qualifications and experience of cooks from overseas will be recognised as acceptable for service on board UK ships. Guideline B.3.2.2. paragraph 3 states that competent authorities should provide for recognition of ship's cooks certificates issued by other members who have ratified either the MLC or the Certification of Ship's Cooks Convention 1946 (No.69). Whilst there is some guidance given in the Draft MGN, it is in the Chamber's view that the possibility that foreign cooks will be accepted for service on UK ships - and under which circumstances - needs to be made in the regulations.	See final Regulations and MSN 1846(M).
British Chamber of Shipping	Ships' Cook	Regulation 11: Certificate of Competency as a ships' cook	One of the changes to the STCW convention that was introduced by the Manila Amendments was to reserve the designation of "Certificate of Competency" for officers' qualifications and to use the term "Certificate of Proficiency" for other qualifications including ratings' qualifications and those arising from basic safety courses. In this view the Chamber suggests that the term "Certificate of Competency for Ships' Cooks" is no longer appropriate and that the term "Certificate of Proficiency" is preferable.	Final regulations retain "certificate of competency".
IMCA	Ships' Cook	Reg 11	Term COC replaced with term "Certificate of Proficiency"	Final regulations retain "certificate of competency".
IMCA	Ships' Cook	Reg 12	Under Regulation 12, anyone with an existing certificate of competency would have to complete additional training within 5 years of the MLC entering into force if they wish to continue to serve as a ships' cook. We believe that anyone who has previously worked as a ships' cook for such a time would have already proven their abilities in the elements set out by the MLC, and should therefore be issued an updated certificate without having to complete further training.	For UK issued certificates we could accept a testimonial from the Master of the vessel on which they serve confirming they meet: • Food & Safety in Catering as per Annex 1 • Cultural and religious catering requirements as per Annex 2 as an alternative to completing the training
British Chamber of Shipping	Ships' Cook	Draft Regulations - Regulation 12 Recognition of existing ships' cooks	This provides that a ships' cook who holds a Certificate of Competency issued under the 1981 Regulations or an overseas equivalent thereto will be required to undergo additional training within five years of the MLC's entry into force in order to be able to continue to work as a ships' cook. The Chamber considers that somebody who has worked as a ships' cook for such a period of time (and is qualified in accordance with Convention 69) will have proven their abilities in matters required by the MLC and should be granted an updated certificate without being required to undergo further training. Such would also accord with MLC Guideline B3.2.2 paragraph 3.	For UK issued certificates we could accept a testimonial from the Master of the vessel on which they serve confirming they meet: • Food & Safety in Catering as per Annex 1 • Cultural and religious catering requirements as per Annex 2 as an alternative to completing the training
Nautilus	Food & Fresh Water	Regulation 14	Penalties - Nautilus does not agree that a criminal offence should be created for the master failing to implement the duties within these draft regulations. In many cases any failure to properly implement the duties will be due to the incompetence of the shipowner or its failure to provide adequate financial support and manpower resources to the master to ensure that the obligations are fully implemented. Even though it is reasonable within these draft regulations to impose certain duties on the master there are other ways in	General comment

			which failures can be dealt with including disciplinary action. The criminalisation of seafarers is one of the reasons which puts young persons' off from going into the industry and therefore Nautilus would submit that no new offences should be created recalling that there is no obligation to do so under the MLC.	
Nautilus	Food & Fresh Water	Regulation 16	Detention of ships - Nautilus is of the view that in draft regulation 16(1)(b)(ii) the reference to "of regulations 8 to 13" should read "of regulations 7 to 13". Furthermore to comply with MLC Standard A5.2.1, paragraph 6 (b), there should be a reference to "(including seafarers' rights)" therefore draft regulation 16 (1)(b)(ii) should read "a serious breach or the latest in a serious of repeated breaches (including seafarers' rights) of the requirements of regulations 7 to 13".	Accepted
Nautilus	Food & Fresh Water	Regulation 16(5)	to fully comply with MLC Standard A5.2.1 paragraph 6 there should be inserted into this provision the duty to "invite a representative of that State to be present, if possible, requesting that State to reply within a prescribed deadline. The authorised officer shall also inform forthwith the appropriate shipowners' and seafarers' organisations in the port State in which the inspection was carried out."	Noted
Nautilus	Food & Fresh Water	Regulation 18(1)(b)	Inspection of non-United Kingdom ships with Maritime Labour Certificates - as this draft regulation applies to non-Uk ships with Maritime Labour Certificates Nautilus suspects that there has been an error in this provision in referring to MLC , Standard A5.1.3 (which is a flag State control provision) and thinks it should really refer to the port State control provisions particularly those which can lead to detailed inspections and therefore Standard 5.2.1 (Inspections in port) and Standard 5.2.2 (onshore seafarer complaint handling procedures).	Accepted.
Nautilus	Food & Fresh Water	Regulation 19(1)(b)(ii)	Detention of non-United Kingdom ships with Maritime Labour Certificates -to fully comply with MLC Standard A5.2.1, paragraph 6, there should be inserted at the end of this provision the following words "(including seafarers' rights)".	Typo to be corrected. Accepted
Nautilus	Food & Fresh Water	Regulation 19(5)	to fully comply with MLC Standard A5.2.1 paragraph 6 there should be inserted into this provision the duty to "invite a representative of that State to be present, if possible, requesting that State to reply within a prescribed deadline. The authorised officer shall also inform forthwith the appropriate shipowners' and seafarers' organisations in the port State in which the inspection was carried out."	Noted.