



Maritime Labour Convention, 2006: Seafarer's Wages

Notice to all shipowners, ship operators and ship managers; employers of seafarers; masters, officers and seafarers on sea-going ships ordinarily engaged in commercial operations

This notice should be read in conjunction with Parts 4 and 5 of the Merchant Shipping (Maritime Labour Convention) (Minimum Requirements for Seafarers etc.) Regulations 2014 (the "MLC Minimum Requirements Regulations") and Part 2 of the Merchant Shipping (Maritime Labour Convention) (Consequential and Minor Amendments) Regulations 2014 (the "MLC Consequential Amendment Regulations") and MGN 477 (M) which provides guidance on the information to be included in Seafarer Employment Agreements including that relating to wages.

Summary

This Note provides information on changes introduced by the MLC Minimum Requirements Regulations and the MLC Consequential Amendment Regulations to:-

- the intervals at which seafarers are required to be paid
- the provisions regarding the making of allotments by seafarers
- penalties for late payment of wages on termination of employment
- accounts of seafarer's wages

This legislation amends provisions of the Merchant Shipping (Seamen's Allotments) Regulations 1972 (SI 1972/1698) and the Merchant Shipping (Seamen's Wages and Accounts) Regulations 1972 (SI 1972/1700) (as amended) in respect of ships to which the MLC Minimum Requirements Regulations apply. Vessels not subject to the MLC Minimum Requirements Regulations will remain subject to the provisions of the earlier Regulations.

1. Introduction

1.1 The Merchant Shipping (Maritime Labour Convention) (Minimum Requirements for Seafarers etc.) Regulations 2014 (the "MLC Minimum Requirements Regulations") set out provisions covering:-

- the intervals at which seafarers are required to be paid;
- the making of allotments by seafarers;



- penalties for late payment of wages;
- the provision of accounts of seafarer's wages including the intervals at which such accounts are to be provided.

1.2 Additionally the Merchant Shipping (Maritime Labour Convention) (Consequential and Minor Amendments) Regulations 2014 (the "MLC Consequential Amendment Regulations") make consequential amendments to provisions of the Merchant Shipping Act 1995 and the following Regulations:-

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

so that when taken together the effect is to ensure that all seafarers:-

- are paid in full and regularly at intervals not exceeding monthly;
- receive a monthly account of payments due and amounts paid, including wages, additional payments and the rate of exchange used;
- have access to a system for transmitting all or part of their wages to their families, dependants or legal beneficiaries;

Details of the changes made by the MLC Consequential Amendment Regulations are set out in those Regulations.

1.3 The primary changes resulting from the MLC Minimum Requirements Regulations 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 Agreement;
- (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 showing 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 Minimum Requirements Regulations apply to all seafarers on UK registered ships, yachts and other vessels operating commercially. "Seafarers" in this context means any persons, including self-employed persons, who are employed or engaged or who work in any capacity on board any vessel subject to that legislation, whose normal place of work is on a ship. See MGN 471(M) for further guidance on MCA's interpretation of the definition of a seafarer. The MLC Minimum Requirements Regulations do not however apply to the following categories of vessels:-



- (a) pleasure vessels
- (b) fishing vessels
- (c) ships of traditional build
- (d) warships or naval auxiliaries
- (e) vessels not ordinarily engaged in commercial activities

With the exception of warships, which are not subject to Merchant Shipping legislation, and fishing vessels which are subject to separate legislation, employers of seafarers on these ships will remain subject to the Merchant Shipping (Seamen's Allotments) Regulations 1972 (SI 1972/1698) and the Merchant Shipping (Seamen's Wages and Accounts) Regulations 1972 (SI 1972/1700) (as amended).

3. Payment of Wages

- 3.1 The MLC Minimum Requirements Regulations require shipowners to ensure that all seafarers on their ships have a signed Seafarers' Employment Agreement ("SEA") between themselves and the shipowner which meets minimum standards as to its content (see MGN 477). In this context an SEA is required to include a provision governing when wages or remuneration is to be paid which must be at intervals of no more than one month. It is anticipated that wages will normally be paid directly to a seafarer's designated bank account unless the seafarer specifically agrees otherwise with the shipowner.

4. Late Payment of Wages

- 4.1 If in breach of the provisions in an SEA any wages or other remuneration payable to a seafarer under that agreement are not paid on time, the unpaid amount carries interest at the rate of 20 per cent per annum during the period beginning with the day on which the breach occurred and ending on the day on which it is paid in full.
- 4.2 The penalty rate referred to in paragraph 4.1 will not however apply when the failure to make such payment on the required date or as soon as practicable thereafter was due to—
- (a) a mistake;
 - (b) a reasonable dispute as to liability;
 - (c) the act or default of the seafarer; or
 - (d) any other cause not being the wrongful act or default of the shipowner or any other person(s) liable to make the payment.

5. Account of Seafarer's Wages

- 5.1 Under the MLC Minimum Requirements Regulations the shipowner is required to ensure that an account of the wages or other remuneration due to the seafarer under their SEA is prepared and delivered to the seafarer periodically during the term of the SEA at intervals not exceeding one month; and upon termination of employment under a seafarer employment agreement, within one month of the date of termination.



5.2 Where the seafarer is an employee, rather than a self-employed person, the account of wages must include the following information:-

- (a) the name of the seafarer;
- (b) the date of birth of the seafarer (if known);
- (c) the number of the seafarer's current discharge book (if any);
- (d) the capacity in which the seafarer worked on the ship;
- (e) the period covered by the account;
- (f) the amounts payable for the period covered by the account;
- (g) the type and amount of any deductions made during the period covered by the account.

Further information is contained in Annex 1 to this MGN.

Deductions from Wages

5.3 In the context of sub-paragraph 5.2 above, the MLC Minimum Requirements Regulations do not alter the deductions that could previously be made 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 reimburse the shipowner for goods and services already provided to the seafarer and can accordingly be deducted without the prior agreement of the seafarer being required. The deductions in (B) are made as a result of the seafarer requesting 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.

5.4 In addition to the deductions referred to in paragraph 5.3 above, 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 SEA. However, such deductions are limited to a maximum of £100 where the breach



comprises absence without leave or £300 in any other breach except in certain instances when a seafarer is dismissed from a ship for gross misconduct.

- 5.5 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.
- 5.6 The only exception to the limits in 5.4 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. This limitation has however been removed and under the MLC Minimum Requirements Regulations, a seafarer dismissed on the grounds of serious misconduct may be required to bear his own repatriation and maintenance costs or to reimburse such costs to the shipowner, if the shipowner has paid for repatriation. Such repatriation costs incurred by the shipowner may however only be recovered automatically if a specific provision to this effect is included in the seafarer's SEA. Where such provision is not included in the seafarer's SEA the shipowner may only recover any repatriation costs and any relief and maintenance costs as damages.
- 5.7 The deductions referred to in paragraph 5.4 above may 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 5.8 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 5.8 below.
- 5.8 A notice of deduction, referred to in paragraph 5.7 above, must contain a statement that the shipowner is satisfied on reasonable grounds, that the seafarer has breached their obligations under their SEA; and must:-
- (i) identify the specific obligation(s) under their SEA 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 SEA.

Maintenance of Seafarers' Dependants

- 5.9 In addition to the deductions referred to above, a shipowner may potentially 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.
- 5.10 Other than the authorised deductions referred to above, UK merchant shipping legislation does not permit automatic deductions to be made from the wages of a seafarer without the agreement of the seafarer concerned.

6. Allotments

- 6.1 Under the Merchant Shipping (Seaman's Allotment) Regulations 1972, 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 were previously limited to a maximum of no more than 50% of a seafarer's wages, unless the master or employer agreed otherwise, and that part of the seafarer's wages could not be allotted to more than 2 persons. The MLC Consequential Amendment Regulations have however amended these provisions such that a seafarer serving on a ship subject to the MLC Minimum Requirements Regulations may allot any or all of his wages to any number of persons without requiring prior approval to do so.
- 6.2 In addition to the changes referred to in paragraph 6.1 above, the MLC Consequential Amendment Regulations also require that allotments are to be remitted in due time and directly to the person(s) nominated by the seafarer making the allotment(s). Any costs incurred in making payments pursuant to an allotment note may be recovered from the seafarer concerned but the seafarer may not otherwise be charged for the provision of the allotment facility. Where it is appropriate or necessary to exchange currency in order to make payments pursuant to an allotment note, the person making the payment must make the exchange at a reasonable rate.
- 6.3 A suggested form for an Allotment Note is set out in Annex 2 to this MGN
- 6.4 Although the shipowner is required to have an allotment system in place it is not compulsory 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.



7. Offences and Penalties

- 7.1 Failure to pay wages to a seafarer on time could render a shipowner liable to pay interest of 20% on the outstanding amount. Non-compliance with the provisions of the MLC Minimum Requirements Regulations relating to the requirement to provide an account of wages may constitute an offence and render a shipowner liable, upon summary conviction, to a fine. It should not however be anticipated that prosecution will automatically occur in every case. Much will depend upon the circumstances in each case and an improvement notice, or detention of the vessel until deficiencies are rectified may be all that is necessary to ensure that any deficiencies identified are corrected.

8. Inspection and Detention of UK and Non-UK Ships

- 8.1 In line with other Regulations intended to implement the provisions of the MLC, the MLC Minimum Requirements Regulations contain inspection and detention provisions along the lines adopted in other Merchant Shipping Regulations.

9 Review

- 9.1 In line with normal UK Government practice the MLC Minimum Requirements Regulations contain a standard review provision requiring the Secretary of State to review the Regulations at no more than 5 yearly intervals; set out the conclusions of the review in a report; and, publish that report.

More Information

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INFORMATION TO BE CONTAINED IN AN ACCOUNT OF A SEAFARER'S WAGES**1. Information for employed Seafarers**

- (a) name of seafarer;
- (b) date of birth of the seafarer (if known);
- (c) number of the seafarer's current discharge book (if any) or other identifier ;
- (d) capacity in which the seafarer was employed;
- (e) period covered by the account;
- (f) the amounts payable for the period covered by the account e.g basic wages, overtime, leave pay, subsistence (where applicable) or consolidated pay (where applicable);
- (g) the type and amount of any deductions made during the period covered by the account e.g. allotments, amounts payable to the shipowner by the seafarer;
- (h) balance of wages.

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(s) 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 seafarer)
 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

