



MIN 632 (M) Amendment 1

COVID – 19 EXTENSION OF SEAFARER EMPLOYMENT AGREEMENTS

Notice to all Shipowners, Masters, Manning and Seafarers

This notice should be read with the Merchant Shipping (Maritime Labour Convention) (Minimum Standards for Seafarers, etc) Regulations 2014 and replaces MIN 632(M).

This MIN expires 30 September 2020

Summary

- Under UK legislation implementing the Maritime Labour Convention, every seafarer on a UK ship is entitled to repatriation on the expiry of their seafarer employment agreement or after a maximum of 11 months of continuous service on board their ship.
- Restrictions on crew changes that have been applied in some ports in response to the COVID-19 pandemic mean that many seafarers are having to remain on board beyond their contracted period.
- While recognising the exceptional obstacles in some jurisdictions to crew changes in the current situation, as a flag state which has ratified the MLC, the UK has legal obligations to protect the living and working conditions of seafarers on its ships.
- This notice therefore requires shipowners of UK ships to notify the MCA (via mlc@mcga.gov.uk) of any seafarers remaining on board beyond their contracted period.
- Where seafarers have been on board for 11 months or longer, the MCA will only consider further extensions if satisfied that any health, safety or wellbeing concerns are being addressed (see section 4).
- Extensions will be considered case by case, taking account of the consent of the seafarers concerned.
- Where approved, extensions will be agreed only for the minimum amount of time necessary to reach a port where repatriation can be facilitated, or for thirty days at a time, unless the seafarer concerned has requested to remain on board for a longer period.
- This MIN takes account of the ILO "Information note on maritime labour issues and coronavirus (COVID-19)"¹ and other related ILO and IMO publications on the issue.

Amendment 1 makes changes to the process in the light of experience, including clarifying the need to provide full information to MCA to support decision making

¹ https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/briefingnote/wcms_741024.pdf



1. Introduction

1.1 It is now four months since the MCA issued advice on compliance with the Maritime Labour Convention, 2006 in the context of COVID-19 restrictions. While progress has been made on agreeing international protocols to facilitate crew changes and ensure the welfare of seafarers in this difficult situation, the situation remains uncertain, with some port restrictions re-instated in response to resurgence in outbreaks. Problems are continuing in many areas and many crew members have been working on board for significantly longer than originally contracted for. This raises serious concerns about seafarer wellbeing and the risk of fatigue affecting safety on board.

1.2 Seafarers have a right to be repatriated –

- (a) where the Seafarer Employment Agreement (“SEA”) expires,
- (b) when the SEA is terminated by the shipowner:
- (c) when the SEA is terminated by the seafarer in accordance with the terms of their SEA;
- (d) when the seafarer is no longer able to carry out their duties under their SEA or cannot be expected to carry them out in the specific circumstances.

2. Seafarers who are onboard UK vessels longer than originally contracted for reasons connected with the COVID-19 virus.

2.1 Extension of seafarers’ employment agreements (SEAs) should only be used as a last resort and the shipowner should make every effort to repatriate the crew in the first available port once the SEA has expired. Any delay to repatriation or deferral of their annual leave (except with consent) should only occur where it is impossible to safely repatriate seafarers because of circumstances outside the control of shipowners. Seafarers must be repatriated as soon as those circumstances are no longer present. International protocols have been agreed to facilitate safe crew changes in order to ease the current difficulties. See Circular letter No 4204/Add 14 at the following link:

<http://www.imo.org/en/MediaCentre/HotTopics/Pages/Coronavirus.aspx>

2.2 However, it is recognised that there are still situations where crew changes are not possible for a variety of reasons. In all such cases, the shipowner should consult the seafarers and obtain their informed consent as regards further extension and agree mitigating measures to avoid fatigue and to support seafarer well-being. Seafarers have the right, and should be enabled if they wish, to contact their trade union for advice. A SEA must be agreed by the seafarer in conditions where they have an opportunity to review and seek advice on its terms and conditions and freely accept them before signing. In situations where neither the shipowner nor the seafarer is able to exercise free choice as regards repatriation in the current situation, seafarers should nevertheless be fully informed as to the situation and given the opportunity to ask questions and take advice.

2.3 Where SEAs have been or are to be extended because of restrictions due to the COVID-19 virus -

- (a) for more than 30 days longer than their original contract; or
 - (b) for more than 50% longer than the original contractual obligation,
- whichever is less, the shipowner must inform MCA.

Please email MLC@MCGA.gov.uk stating clearly your shipowner name, ship name and the number and positions of seafarers affected. Please also indicate the date of expiry of the earliest SEA(s) to expire.

2.4 Upon receiving notification that SEA extension are required, the MCA will provide a blank copy of our ‘SEA Extension Spreadsheet’, this will include all the information we need for each SEA extension application, this information is required for us to ensure we are aware



how long seafarers have been on board, and where, how and when they are being repatriated.

2.5 The MCA will also require:

- Information around any arrangements being explored / made for future repatriation, including the health and safety of seafarers whilst in transit
- Provision for monitoring for signs of crew fatigue and measures taken to address it
- Measures to support wellbeing, including arrangements for contacting family and friends at home;
- Confirmation that the consent of seafarers has been obtained and/or that seafarers are being kept informed.

2.6 Agreement should not be considered as automatic. The MCA cannot make a decision on extension of contracts without the minimum information requested. Personal data is not required – approvals will refer to seafarers by rank/role. If it is considered necessary to identify individuals, other than by their rank/role, it is suggested that the individual's number from the list of crew is used.

2.7 Approval for extension: Every seafarer on a UK ship is entitled to repatriation after a maximum of 11 months on board (see MGN 479(M)). For seafarers whose time on board exceeds or is due to exceed 11 months, where it has not been possible to arrange repatriation due to COVID-19 restrictions, the MCA will consider case by case whether a further extension to the SEA can be approved.

2.8 Where shorter contracts are extended by a significant period this may lead to safety and wellbeing concerns. The MCA may intervene in these circumstances.

2.9 As a matter of policy, the MCA will not agree extensions of more than 30 days at a time. Any further extension that is required will need further notification to MCA around 7 days before the amended expiry date, accompanied by updated information regarding arrangements for repatriation.

2.10 The MCA will use the information provided by shipowners on numbers and locations of crew, to work with the social partners and government colleagues to seek to address obstacles to crew changes and facilitate repatriation.

3. Extension of SEAs

3.1 The shipowner should ensure that seafarers are kept informed about the reasons why they are required to stay on board and about any arrangements for their repatriation. A valid SEA must remain in force until repatriation. If necessary, they should be offered an extension or a new SEA issued, on the same terms and conditions.

3.2 The situation should be kept under review and the shipowner needs to ensure that the seafarers are allowed to return home at the first available opportunity even if this is part way through an extension to their SEA. Evidence should be retained by both the seafarer and the company including an entry in the Official Log Book clearly demonstrating the reason why the seafarer was asked to extend their contract.

4. Safety and welfare measures to consider where repatriation is deferred

4.1 Where seafarers unavoidably have to remain on board for longer than their contracted period of service, shipowners and seafarers should consider the following:



- Extended periods working on board ship without leave are likely to give rise to greater risk of fatigue, and a dip in morale particularly if anticipated leave is deferred at short notice.
- MGN 505 (M) includes guidance on recognising the signs of fatigue, and the master and all seafarers should monitor and be alert for such signs and report any concerns to the master or the safety committee.
- Consideration should be given to rearranging work patterns to allow for additional rest periods/shore leave where possible, and to providing increased connectivity to allow seafarers to contact home and access entertainment on board.
- The seafarer's informed consent should be obtained in any case where the shipowner is advising/requesting the seafarer to stay on board, where repatriation might be possible.
- Where deferred repatriation/leave is unavoidable, seafarers and/or seafarers' organisations should be kept informed of the reasons and consulted on possible impacts and mitigating measures. A record of such discussions and outcomes should be kept and be available to the seafarer.
- If repatriation is not possible through scheduled ports of call, consideration should be given to diverting the ship to a port where it is possible.
- Shipowners should consider whether it is safe to continue operating where there are signs of fatigue or a significant or sustained deterioration in the wellbeing of crew members.

5. Carry over of annual leave

5.1 Many seafarers have contractual leave entitlements in excess of the statutory leave entitlement. This guidance applies to statutory paid leave. Arrangements for taking leave and the time when leave is to be taken are matters for agreement between shipowners and seafarers.

5.2 As a result of the current pandemic, in some cases seafarers may be unable to take their statutory leave within the leave year. In such cases, the following should be noted:

- Any right to annual leave which is deferred should not be lost, but the opportunity provided to take it (subject to any conditions in the seafarer's SEA) as soon as practicable, reviewing the situation at regular short intervals.
- If that is not possible before the termination of the seafarer's SEA, and so the seafarer receives pay in lieu of untaken leave they have accrued, it is the responsibility of seafarers to take sufficient leave before embarking on a new contract to ensure that they are properly rested and fit for duty when they start work.

More Information

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