



Bundesrepublik Deutschland
Federal Republic of Germany

Berufsgenossenschaft Verkehrswirtschaft Post-Logistik
Telekommunikation
Dienststelle Schiffssicherheit



Circular 01/2016 (MLC)

Subject: Amendment Maritime Labour Convention (MLC)
Reference: MLC Regulations 2.5 (Repatriation) und 4.2 (Shipowners' liability), Maritime Labour Act
Attachments: Amendments Maritime Labour Act
Date: 15.04.2016

The ILO adopted amendments to the Maritime Labour Convention on 11 June 2014, which have the aim to improve the protection of seafarers against financial risks in possible hazardous situations. For the first time, the amendments contain standards for financial protection of seafarers' entitlements when abandoned by the shipowner. In addition, the amendments of the Maritime Labour Convention provide minimum requirements for financial security for compensation claims for the death or disability of seafarers due to occupational accidents, diseases or hazards. The Maritime Labour Act has been adapted to the amended requirements of the Maritime Labour Convention. The amendments of the Maritime Labour Convention and the Maritime Labour Act will enter into force on **18 January 2017**.

1. Financial security for cases of abandonment (MLC Regulation 2.5)

1.1 The new § 76a of the Maritime Labour Act regulates the obligation of the shipowner to ensure financial security for cases of abandonment. Crew members are particularly regarded as abandoned if the shipowner

- does not pay the costs for repatriation,
- does not satisfy the entitlement for medical care,
- is in default with payment of wages for at least two months,
- provides harmful accommodations,
- provides insufficient supplies of food or drinking water

1.2 The shipowner has to maintain an insurance policy (e.g. P&I) or other financial security for cases of abandonment. The insurance policy or agreement for financial security must provide that

- the crew members may assert their claims directly against the insurer or protection provider,
- the insurance cover or protection provided by the other financial security does not cease before the end of the contract period unless the insurer or protection provider has given prior notification of at least 30 days to the Berufsgenossenschaft (Ship Safety Division), and
- outstanding payments from the employment contract are incurred for at least four month.

1.3 Ships which are required to have a Maritime Labour Certificate must carry on board a certificate of the insurance or the other financial security from **18 January 2017**. A copy of the certificate in English translation shall be posted in a conspicuous place on board and, if necessary, in a language suitable for the crew members. The certificate must have at least the following content:

- name of the ship,
- port of registry of the ship,
- call sign of the ship,
- IMO number of the ship,
- name and address of the insurer or protection provider,
- contact details of the persons or entity responsible for handling seafarers' requests for relief,
- name of the shipowner,
- period of validity of the insurance or the other financial security, and
- an attestation from the insurer or the financial security provider that the insurance or financial security meets the requirements of Standard A2.5.2 of the Maritime Labour Convention.

2. Obligation to provide compensation for occupational accidents and diseases (MLC Regulation 4.2)

2.1 The provisions in the new § 106a of the Maritime Labour Act require the shipowner to maintain an insurance or other financial security which compensate crew members or their survivors in case of disability or death of crew members due to occupational accidents or diseases.

2.2 A certificate of the insurance or the other financial security must be carried on board from **18 January 2017**. A copy of the certificate in English translation shall be posted in a conspicuous place on board and, if necessary, in a language suitable for the crew members. The certificate must have at least the following content:

- name of the ship,
- port of registry of the ship,
- call sign of the ship,
- IMO number of the ship,
- name and address of the insurer or protection provider,
- contact details of the persons or entity responsible for handling seafarers' requests for relief,
- name of the shipowner,
- period of validity of the insurance or the other financial security, and
- an attestation from the insurer or the financial security provider that the insurance or financial security meets the requirements of Standard A4.2.1 of the Maritime Labour Convention.

2.3 The insurance policy or agreement for financial security must provide that

- the crew members may assert their claims directly against the insurer or protection provider,
- the insurance cover or protection provided by the other financial security does not cease before the end of the contract period unless the insurer or protection provider has given prior notification of at least 30 days to the Berufsgenossenschaft (Ship Safety Division), and
- interim payments are made to the seafarer, if necessary, to avoid undue hardship.

2.4 On the occurrence of occupational accidents or diseases, the statutory accident insurance accepts in principle all costs for treatment and medical, occupational and social rehabilitation in accordance with the Seventh Book of the Social Code (SGB VII). This satisfies the requirements of the amended Maritime Labour Convention. The shipowner is not required to provide additional financial security as far as the crew members are compulsorily insured in the statutory accident insurance on ships flying the German flag (exception see No. 2.5). The necessary certificate referred to in No. 2.2 will be issued and forwarded to the shipowner by the Ship Safety Division.

2.5 Foreign crew members with an assignment certificate A1 are not compulsorily insured in the statutory accident insurance. In these cases, the shipowner must provide by means of an additional insurance (e.g. P&I) that the crew members concerned or their survivors are adequately protected in accordance with the requirements of the amended Maritime Labour Convention. In this case, the certificate referred to in No. 2.2 must be issued by the insurer.

3. Modification of the Declaration of Maritime Labour Compliance (DMLC)

3.1 The Declaration of Maritime Labour Compliance will be amended as follows:

15. Financial security for repatriation (Regulation 2.5)

16. Financial security relating to shipowners' liability (Regulation 4.2)

3.2 The existing DMLC Part I will be revised and issued by the Ship Safety Division. The modified form will be valid from **18 January 2017**. In DMLC Part II, the shipowner has to identify the measures adopted to ensure ongoing compliance with the requirements mentioned in DMLC Part I. The modified DMLC Part II will be verified and approved by the Ship Safety Division.

3.3 Maritime Labour Certificates and Declarations of Maritime Labour Compliance issued prior 18 January 2017 remain valid until the next upcoming inspection after 18 January 2017.

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