

Maritime Labour Convention



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The 2013/14 Annual Review reported on the Maritime Labour Convention, 2006 (MLC). Under Article XIII of the MLC, the Convention is to be kept under continuous review by a Special Tripartite Committee comprised of representatives of shipowners, seafarers and governments.

The Committee held its first meeting in April, 2014. The outcome of the meeting was in agreement on a number of amendments, resulting in more stringent liability and financial security requirements under Regulation 2.5 in respect of liability for the costs and expenses of crew repatriation following abandonment. The Committee also agreed to amend the liability and financial security rules for compensation for the death and disability of seafarers under Regulation 4.2.

Entry into force

The amendments were approved by the International Labour Organisation Governing Body, at the ILO Conference, on 13 June 2014. The Conference agreed that implementation will be deferred for at least two years (i.e. no earlier than June 2016), and it is likely that the amendments will enter into force by early 2017. States parties must, after consultation with organisations representing shipowners and seafarers, ensure that a financial security system is in place through appropriate national regulation.

Financial security

The effect of these latest MLC amendments will be that shipowners will be required to demonstrate that financial security is in place to cover the liabilities introduced by the amendments. Club boards have been canvassed on whether they wish their Clubs to provide that financial security for amounts within individual Club retention. All boards have concluded that, in principle, they would wish to see a Club solution for amounts within the individual Club retention. Various options are currently being considered by the Group Compulsory Insurance subcommittee and MLC working group. This is work in progress, and Club managers, and boards will give further consideration to certification options during the course of 2015.

The financial security requirements include security for repatriation costs, and the costs of essential needs such as food, accommodation and medical care. However, the most controversial requirement, and the one which poses the greatest challenge for shipowners and Clubs, is in respect of unpaid crew wages (up to a maximum of four months) for which the security provider will be responsible. Providing security for unpaid wages following abandonment is far from being a traditional marine insurance liability or risk,

and the amounts involved (particularly if a large cruise fleet became insolvent, for example) could be substantial. The transfer of what has historically been a financiers' risk to the marine insurer, particularly where a mutual Club is involved, raises difficult issues of principle quite apart from practical concerns such as cover limits and pooling.

Financial security must also be provided for shipowners' liability for contractual payments for death or long-term disability due to an occupational injury, illness or hazard set out in the employment agreement or collective agreement (Regulation 4.2). Contractual compensation must be paid in full and without delay. There are also provisions relating to interim payments, where the extent of an illness or disability is not clear. These liabilities largely fall within the scope of existing P&I cover and represent less of a challenge than the repatriation and unpaid wages requirements.

Direct action exposure

The amendments to the Convention confer on seafarers a right of direct action against the security provider, similar to the direct action rights which arise under blue cards issued by Clubs under the IMO Conventions. The financial security provider will remain liable under the security unless his liability has been terminated by a minimum 30 days' notice to the relevant Flag State.

The work continues

The financial certification requirements are an integral and mandatory part of the Maritime Labour Convention. Given that shipowners have no choice but to comply with the requirements, a pragmatic solution was needed as to how the requisite security could be most effectively provided. The Club security solution seems to be universally supported, and the Group will continue to work on the detail of the security requirements so as to ensure that, when the requirements enter into force, shipowners will have the requisite certification.