



TUVALU SHIP REGISTRY

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MARINE CIRCULAR

MC-1/2016/1

8/2016

FOR: Ship Owners, Ship Managers, Ship Operators, Ship Masters, Ship Officers, Classification Societies, Flag State Inspectors

SUBJECT: AMENDMENTS OF 2014 TO MLC 2006

DEFINITIONS:

The following abbreviations stand for:

- “DMLC” – Declaration of Maritime Labour Compliance
- “MLC” – Maritime Labour Convention, 2006
- “MLCert” – Maritime Labour Certificate
- “PSC” – Port State Control
- “PSCO” – Port State Control Officer
- “RO” – Recognized Organization as defined by IMO Resolution A.789(19)

The term “Administration” shall mean the Tuvalu Ship Registry.

PURPOSE:

The purpose of this marine circular is to notify the shipping community of the 2014 amendments to the MLC which will come into force on 18 January 2017.

REFERENCES:

- (a) Maritime Labour Convention, 2006
- (b) Text for the amendments of 2014 to the Maritime Labour Convention, 2006, approved by the International Labour conference at its 103rd session, Geneva, 11 June 2014
- (c) Tuvalu Marine Circular MC-13/2012/1 - Guidance for Implementation of Maritime Labour Convention
- (d) ILO Resolution on the transitional measure relating to the entry into force of the amendments to the Maritime Labour Convention, 2006, concerning financial security requirements in respect of abandonment of seafarers and for shipowners' liability

APPLICATION:

This marine circular applies to Tuvalu ships and seafarers as defined under Article II of the MLC.

BACKGROUND:

The 2014 amendments to the MLC were discussed and agreed at the first meeting of the Special Tripartite Committee (STC), held on 7-11th April 2014. The amendments were subsequently approved by the 103rd session of the International Labour Conference in Geneva on 11th June 2014.

The amendments relate primarily to shipowner's obligations in respect of the abandonment of seafarers (regulation 2.5), and shipowner's liability for seafarers (regulation 4.2) and compensation for the death or long-term disability of seafarers due to occupational injury, illness or hazard.

To cover these shipowner's aspects, the amendments stipulate new requirements pertaining to a financial security scheme that must be established.

CONTENTS:

1. Amendments to Regulation 2.5 of the MLC – *Standard A.2.5.2 (Financial security)*

- 1.1. The new Standard A.2.5.2 establishes the requirements for Ship owners / operators to ensure that all seafarers are covered by a financial security provider for repatriation even in the event of abandonment, and the financial security shall cover:
 - Outstanding wages and other entitlements due from the ship owner to the seafarer in accordance with their seafarers' employment agreement and any applicable collective agreement, limited to four (4) months of any such outstanding wages and four (4) months of any such outstanding entitlements;
 - All expenses reasonably incurred by the seafarer, including the cost of repatriation which shall cover travel by appropriate and expeditious means; and
 - The essential needs of the seafarer which includes items such as: adequate food, clothing where necessary, accommodation, drinking water supplies, essential fuel for survival on board the ship, necessary medical care, passage and transport of personal effects, and any other reasonable costs or charges from the act or omission constituting the abandonment until the seafarer's arrival home.
- 1.2. A certificate or other documentary evidence of financial security issued by a financial security provider (refer to section 3.1 below) shall be posted in a conspicuous place on board and easily available to the seafarers and shall be in English or accompanied by an English translation. If there is more than one financial security provider providing the cover, then the certificate or other documentary evidence of each provider shall be carried on board.

2. Amendments to Regulation 4.2 of the MLC – *Standard A.4.2.1 (Shipowner's liability) & A.4.2.2 (Treatment of contractual claims)*

- 2.1. The amendments to Standard A.4.2 and introduction of Standard A.4.2.2 establishes the requirements for Ship owners / operators to ensure that all seafarers are covered by a financial security provider for contractual claims which refer to any claim relating to death or long-term disability of a seafarer due to an occupational injury, illness or hazard as set out in the seafarers' employment agreement and any applicable collective agreement.
- 2.2. A certificate or other documentary evidence of financial security issued by a financial security provider (refer to section 3.2 below) shall be posted in a conspicuous place on board and easily available to the seafarers and shall be in English or accompanied by an English translation. If there is more than one financial security provider providing the cover, then the certificate or other documentary evidence of each provider shall be carried on board.

Note: Please refer to the above reference (b) of this circular for full details of the 2014 amendments to the MLC.

3. Amendments to include new main appendices – **Appendix A2-1, A4-I and B4-I**

- 3.1. Appendix A2-1 describing the format and content of the certificate of financial security in relation to abandonment to be provided by the financial security provider.
- 3.2. Appendix A4-I describing the format and content of the certificate of financial security in relation to death and long term disability.
- 3.3. Appendix B4-I details a model *Receipt and Release Form*, referred to in the new Guideline B.4.2.2.

4. More than one (1) Financial Security Provider

Where more than one financial security provider provides cover, the document provided by each provider shall be carried on board. The certificate or other documentary evidence, shall include updated information and it shall be in English or accompanied by an English translation.

5. Responsibility of Shipowners

5.1. The amendments specify various requirements for the financial security and place the obligation on the shipowner to ensure that they have the financial security that meets the requirements of MLC, as amended; the Regulations do not apply directly to financial security providers, since they are largely located outside the jurisdiction of the Administration.

5.2. In addition, the new Appendix A2-I and Appendix A4-I require the financial security provider to provide a certificate with an attestation that the financial security meets the requirements of the new Standards A.2.5.2 and A.4.2.1 – therefore it is envisaged that most of the practical compliance measures will be undertaken by the financial security provider in order that they can provide this attestation to shipowners.

6. Compliance & Certification

6.1. Recognising the need for transitional period to issue or renew MLCerts and the related DMLCs as required by the amendments, the ILO has issued a resolution requesting Member States to acknowledge that the entry into force of the amendments should not invalidate any existing MLCerts and DMLCs that have been issued previously and that are still valid (refer to reference (d) above).

6.2. This Administration accepts the recommendations by ILO for the transitional period as mentioned above, but requires shipowners for Tuvalu flagged vessels who hold existing valid MLCerts and DMLCs to have them renewed no later than the date of the first renewal inspection following entry into force of the amendments.

6.3. This Administration recommends that shipowners place a copy of this circular on board to notify PSC authorities and PSCOs of the ILO transitional measures that have been accepted by Tuvalu i.e. all existing valid MLCerts and DMLCs on Tuvalu flagged vessels shall remain valid until the first renewal inspection following the entry into force of the amendments.

6.4. Notwithstanding the above, this Administration wishes to advise that the transitional measures adopted above relate only to the certification requirements for the MLCert and DMLCs. The transitional measures do not affect the rights and obligations of the seafarers and shipowners (respectively) with regards to the financial security required by the amendments from the date of entry into force.

6.5. This Administration recommends that shipowners start applying for a new DMLC Part I from our office and submit an updated DMLC Part II to the respective RO prior to 18th January 2017 (entry into force of the amendments) displaying the measures adopted to ensure ongoing compliance with the new requirements.

6.6. It is also recommended that the updated DMLCs be appended to the vessel's existing MLCert as evidence of compliance with the amendments since existing MLCerts will only be reissued at the vessel's next renewal survey.

6.7. Please refer to reference (c) above for the updated DMLC Part I & II format issued by the Administration.

6.8. DMLC Part I – all vessels holding an existing DMLC Part I may apply to the Administration to be re-issued with the revised DMLC Part I (electronic format) incorporating the above amendments without any charge by submitting a new application form for DMLC Part I (see section 6.9 below).

- 6.9. Application Form for DMLC Part I – may be downloaded from the DOWNLOADS / FORMS section of our website at www.tvship.com
- 6.10. DMLC Part II – may be downloaded from the DOWNLOADS / FORMS section of our website at www.tvship.com

Yours sincerely,

Deputy Registrar
Tuvalu Ship Registry