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Managers

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Entry into force of the Maritime Labour Convention, 2006 (MLC)

Background

The International Labour Organization (ILO) adopted the MLC on 23 February 2006:

http://www.ilo.org/global/standards/maritime-labour-convention/WCMS_090250/lang-en/index.htm

Following ratification of the MLC by the 30th State on 20 August 2012, the Convention will enter into force internationally on 20 August 2013. As of 27 February 2013, 35 States have now ratified the MLC. A list of those States which have ratified can be found at:

http://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO::P11300_INSTRUMENT_ID:312331

The MLC provides a set of comprehensive rights and protection at work for seafarers and aims to achieve minimum on board working conditions covering a wide range of matters, including working hours, health and safety, crew accommodation, seafarers' welfare and seafarers' contractual arrangements. The new labour standards contained in the Convention consolidate and update more than 68 international labour standards related to the maritime sector adopted over the last 80 years.

The MLC requires owners to submit a Declaration of Maritime Labour Compliance (DMLC) to their Flag State, which must be a State Party to the Convention. The Flag State will then issue an MLC certificate to ships flying their flag which should be posted on board in a conspicuous place that is accessible to seafarers.

Financial security for repatriation of seafarers and death or long term disability of seafarers

The MLC also provides that States Parties shall ensure that seafarers¹ on ships flying their flag are entitled to:

- (a) repatriation, including repatriation in cases of a shipowner's insolvency (effectively abandonment) and for which financial security should be in place; and
- (b) compensation in the event of death or long term disability due to an occupational injury, illness or hazard as set out in national law, the seafarer's employment agreement or collective agreement and for which financial security must be in place.

Ships flying the flag of a State Party to the MLC will therefore need to have evidence that financial security is in place to ensure compliance with (a) and (b) above.

The MLC also provides that seafarers are entitled to unemployment compensation resulting from a ship's loss or foundering for each day the seafarer remains unemployed, although there is no requirement to have financial security in place. The total sum of such compensation may be limited to two months wages.

Claims for repatriation following illness or injury and claims under (b) above have generally been covered in the past under a Member's P&I Club entry for standard P&I cover subject to the Club Rules, save for repatriation in cases of insolvency. In order to assist owners in complying with these financial security requirements, all 13 International Group (IG) Clubs have agreed to extend the scope of standard P&I cover to include repatriation in cases of insolvency and in other circumstances listed in the MLC where seafarers should be entitled to repatriation (as contained in Guideline B2.5.1 of the MLC).

These changes to the scope of Club cover will take effect in advance of the entry into force of the Convention on 20 August 2013.

Evidence of financial security

The term "financial security" is not defined in the Convention.

The MLC does not require "blue cards" in the form that are provided for the purposes of the 1992 CLC and 2001 Bunkers Convention and does not impose a right of direct action against the provider of financial security. However, each individual State can determine the precise form of financial security in its legislation implementing the Convention and some form of evidence (such as proof that adequate insurance is in place) is likely to be required to satisfy the requirement of financial security for claims under (a) and (b) above.

¹The term 'Seafarer' is defined very broadly in the MLC as: "any person who is employed or engaged or works in any capacity on board a ship to which this Convention applies".

The IG will liaise with each State Party to the Convention to determine whether they will accept an IG Club issued certificate of entry, in the form already issued at 20 February 2013 renewal, as evidence of compliance with the MLC financial security provisions, on the basis that Members' cover includes crew risks.

The initial indications from those States already contacted are that an IG Club issued certificate of entry will be sufficient evidence of compliance where the Member's cover includes crew risks.

The IG will continue to liaise with States Parties to the MLC and a further update to Members will be provided closer to the entry into force of the Convention.

All Clubs in the International Group have issued similar Circulars.

Yours faithfully
Tindall Riley (Britannia) Ltd
Managers

This circular should not be placed in the Binder