

The Maritime Labour Convention, 2006

A Seafarers' Bill of Rights



**An ITF Guide for Seafarers to the ILO
Maritime Labour Convention, 2006**

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Contents:

Terms & abbreviations

1. About the Maritime Labour Convention, 2006 (MLC)

- Why was the Maritime Labour Convention adopted?
- How and when will the MLC come into force?
- Who is covered under the MLC? What vessels? Which seafarers?
- Fundamental rights, workers' rights and the MLC
- Seafarers' rights
- How it works
- Structure of the MLC
- Substantial equivalence
- Consultation with shipowners' and seafarers' organisations

2. Your rights under the MLC (Titles 1 - 4)

Title 1: Minimum requirements for seafarers to work on a ship

- Minimum age
- Medical certificate
- Training and qualifications
- Recruitment and placement
- How to tell if a manning agent or recruitment company is reliable

Title 2: Conditions of employment

- Seafarers' employment agreements
- What must be in your employment agreement?
- Wages
- Overtime
- Sending money home
- Your entitlements
- Hours of work and hours of rest
- Entitlement to leave
- Repatriation
- Seafarer compensation for the ship's loss or foundering
- Manning levels
- Career and skill development and opportunities for seafarers' employment

Title 3: Accommodation, recreational facilities, food and catering

- Accommodation and recreational facilities
- Food and catering

Title 4: Health protection, medical care, welfare and social security protection

- Medical care on board ships and ashore
- On-board medical facilities

Shipowners' liability
Health and safety protection and accident prevention
Young seafarers
Access to shore-based welfare facilities
Consulates
Social security
What is meant by 'Social Security'?

3. Safeguarding your rights (Title 5)

Title 5: Compliance and enforcement

Flag State responsibilities
Declaration of maritime labour compliance
Maritime labour certificate
Certificates and related documents
When is a certificate not valid?
Inspection and enforcement
On-board complaints procedures
Maritime casualties
Port State responsibilities
Inspections in port
Onshore seafarer complaint-handling procedures
Labour-supplying responsibilities

4. List of conventions incorporated into the MLC

5. MLC Index – where to find what you're looking for

Terms and abbreviations

CBA – collective bargaining agreement – an agreement on terms and conditions of work negotiated by a union on behalf of a group of workers

Competent authority – the minister, government department or other authority with the power to issue and enforce regulations or other legal instructions regarding a provision of the Convention

DMLC – Declaration of Maritime Labour Compliance – a document attached to a Maritime Labour Certificate, which must be carried on board ships that are MLC certified

GT – gross tonnage

ILO – International Labour Organization, founded in 1919 to promote social justice and contribute to ‘universal and lasting peace’. The ILO includes representatives of governments, employers’ and workers’ organisations (in what is referred to as a ‘tripartite’ process). Over the years it has issued a large number of international labour conventions and recommendations on freedom of association, employment, social policy, conditions of work, social security, industrial relations and labour administration, and child labour, among others.

IMO – International Maritime Organization, established in 1948 and held its first meeting in 1959. Its main task is to develop and maintain a comprehensive regulatory framework for shipping, dealing with safety, environmental concerns, legal matters, technical co-operation, maritime security and shipping efficiency. Where the focus of the ILO is on workers, that of the IMO is primarily on technical matters relating to ships.

MARPOL – International Convention for the Prevention of Pollution from Ships, 1973 (and its protocols)

MLC – Maritime Labour Convention, 2006

No more favourable treatment – the concept which prevents ships flying flags of States that haven’t signed the Convention from having an unfair advantage over ships flying the flag of States that have

Recognised organisation (RO) – an organization (such as a classification society) to which the competent authority has delegated certain tasks.

SEA – Seafarers' Employment Agreement – includes a contract of employment, articles of agreement and provisions in a CBA

Seafarers' rights – your employment and social rights, including the right to a safe and secure workplace, the right to fair terms of employment, the right to decent living and working conditions and the right to health protection, medical care, welfare measures and other forms of social protection

SOLAS – International Convention for the Safety of Life at Sea, 1974

STCW – International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (amended 1995)

Substantial equivalence – any law, regulation, collective agreement or other measure used by a State to implement the requirements of the Convention. The approach may be different from that set in the Convention so long as the goals and purpose are fulfilled.

WHO – World Health Organization, the United Nations body with the responsibility for co-ordinating international standards and guidance relating to health. WHO produces the International Medical Guide for Ships, which was first published in 1967.

1. About the Maritime Labour Convention, 2006

Why was the Maritime Labour Convention adopted?

It is widely agreed that, given the global nature of the shipping industry, seafarers need special protection, especially since you can be exempted from national labour laws.

The Maritime Labour Convention, 2006 (MLC), otherwise known as the Seafarers' Bill of Rights, incorporates and builds on sixty eight existing maritime labour conventions and recommendations, as well as more general fundamental principles, to ensure decent working and living conditions for all seafarers. A list of these conventions is included for reference at the end of this book. Some important conventions not included are those relating to seafarers' identity documents (ILO 108 and 185) and pensions (ILO 71).

The MLC is designed to sit alongside regulation such as the International Maritime Organization (IMO) standards on ship safety, security and quality ship management (such as SOLAS, STCW and MARPOL). Where they deal more with the vessel and its operation, the MLC deals more with your rights as a seafarer. It should be remembered that the MLC sets out minimum requirements; many flag States that ratify the Convention may have higher standards. States may not reduce existing rights when they ratify a new convention.



How and when will the MLC come into force?

The MLC was adopted in February 2006 with a ratification requirement of a minimum of 30 countries representing at least one third of the world fleet in gross tonnage. Twelve months after meeting this requirement, the Convention comes into force.

There are some key features of the MLC that should make the Convention relatively easy for governments to ratify and should enable its provisions to be put into practice and fairly enforced.

Some parts of the Convention are compulsory, other parts take the form of guidelines. The intention is to make sure that seafarers are protected without being too specific as to how it is done. This is to encourage the maximum number of States to ratify the Convention. The MLC provides a way of enforcing the standards through a system of certification and inspection by flag State and port State authorities. A key to enforcement will lie in the ability to detain vessels if they are in breach of the Convention.

Who is covered under the MLC?

What vessels?

All ships are covered except:

- ships navigating exclusively in inland waters, close to the coast, in sheltered waters or areas where port regulations apply
- fishing vessels
- ships of traditional build, such as dhows or junks
- warships and naval auxiliaries

Ships below 200 GT, that are not carrying out international voyages, can be excluded by the flag State from some of the requirements if the seafarers rights concerned are already covered by national laws, collective agreements, or other measures.

Which seafarers?

Any person who is employed, engaged or working in any capacity on board a ship to which the Convention applies. This includes riding gangs and hotel staff on cruise ships – anyone working on board.

If there is any doubt as to whether a category of ship or person is covered by the Convention, the situation has to be clarified between the State authorities in consultation with the shipowner and seafarer organisations concerned.

Fundamental rights, workers' rights and the MLC

The MLC requires governments to make sure that their laws and regulations respect certain fundamental rights relating to work.

These are:

- The right to freedom of association – your right to join a trade union of your choice
- Effective recognition of the right to collective bargaining – the right of your union to negotiate a CBA (Collective Bargaining Agreement) on your behalf
- Elimination of all forms of forced or compulsory labour – your right to work of your own free will and to be paid for that work
- Effective abolition of child labour
- Elimination of discrimination in respect of employment and occupation – your right to be treated in the same way as your fellow seafarers doing the same work regardless of race, religion, national origin, gender, or political views

In brief, you have a right to a safe and secure workplace, where safety standards are complied with, where you have fair terms of employment, decent living and working conditions, including social protection such as access to medical care, health protection and welfare.



Seafarers' rights

The rights referred to above are expanded in the requirements of the MLC under four headings:

- Minimum requirements for seafarers to work on a ship
- Conditions of employment
- Accommodation, recreational facilities, food and catering
- Health protection, medical care, welfare and social security protection

Under these headings there are more details of the obligations of States and shipowners to ensure that you have the same sort of protections afforded to people working ashore, bearing in mind the particular circumstances of life working at sea. This is broadly referred to as seafarers' rights. If your rights are not respected there are processes to follow for making complaints. If the problems are serious and repeated or a hazard to your health, safety or security, this can result in the detention of the ship.

How it works

The minimum rights that you have under this Convention are put into place either through national laws, regulations, CBAs or simply through good practice. To make sure they are actually carried out, there is a strong enforcement regime backed by a system of inspection and certification.

Every ship of 500 GT or above operating internationally has to have a *maritime labour certificate* and a *declaration of maritime labour compliance*, both issued by the flag State. Through these documents, the flag State provides details of how the ship complies with the requirements in the Convention. These details form the basis of the inspection regime in that the Port State authorities can check against them for compliance. In enforcing compliance with the MLC, the authorities have to make sure that ships flying the flag of a State that hasn't ratified the Convention don't get any advantages over those flying a flag that has. This is referred to as the *no more favourable treatment clause*.

Structure of the MLC

The MLC starts with a *Preamble* setting out the context in which the Convention was adopted. Then come the *Articles*, covering general obligations for the States ratifying the Convention, the fundamental rights and principles and how the Convention works. After that, come *the Regulations and the Code*. This part is divided into five parts:

- Title 1: Minimum requirements for seafarers to work on a ship
- Title 2: Conditions of employment
- Title 3: Accommodation, recreational facilities, food and catering
- Title 4: Health protection, medical care, welfare and social security protection
- Title 5: Compliance and enforcement

In each part there are *Regulations, Standards* and *Guidelines*. The Regulations are general, non-negotiable points of principle. The Standards are referred to as *Part A*, and the Guidelines are called *Part B*. Part A is mandatory, Part B contains recommendations that set out in more detail how Part A can be put into practice, and has to be given due consideration. Together Part A (the standards) and Part B (the guidelines) are called *The Code*.

Substantial equivalence

The MLC allows for a certain amount of flexibility as to how it is put into practice. If a flag State can prove that its approach is *substantially equivalent* to the MLC's requirement, ie, it covers the basic principles but in a different way from that set out in the MLC, this can be acceptable for the Part A requirements in Titles 1 to 4. For Title 5 there can be no substantial equivalence, the measures for compliance and enforcement must be followed according to the Convention.

Consultation with seafarers' and shipowners' organisations

Where there is any doubt over how compliance is to be achieved, the Convention requires consultation with representatives of seafarers and shipowners.



2. Your Rights under the Maritime Labour Convention, 2006

TITLE 1: Minimum requirements for seafarers to work on a ship

- Minimum age to work on a ship
- Medical certification for duties on board
- Training and qualifications
- Recruitment and placement

Minimum age

To ensure that no under-age persons work on a ship

If you are under the age of 16 you cannot be employed to work on a ship.

If you are under the age of 18 you cannot carry out 'night work' on board a ship. The term 'night' depends on national law and practice, but it must be a period of at least nine hours, starting no later than midnight and ending no earlier than 5am.

Exceptions can be made but only for specific, approved training programmes where duties must be performed at night.

If you are under the age of 18 you cannot be employed in work that would be likely to jeopardise your health and safety, and special attention should be given to the regulation of your working and living conditions.

Regulation 1.1

1. No person below the minimum age shall be employed or engaged or work on a ship.
2. The minimum age at the time of the initial entry into force of this Convention is 16 years.
3. A higher minimum age shall be required in the circumstances set out in the Code.

Medical certificate

To ensure that all seafarers are medically fit to perform their duties at sea

You cannot work on board a ship unless you are certified medically fit for your duties.

Medical certificates must be issued by a qualified, independent medical practitioner. In the event of a certificate being refused or restricted, you can seek a second opinion from another qualified, independent practitioner or referee.

Certificates must meet with accepted international standards, such as those issued to comply with the requirements of the International Convention on Standards of Training and Watchkeeping for Seafarers (STCW). It is recommended that they follow the ILO/WHO Guidelines for Conducting Pre-sea and Periodic Medical Fitness Examinations for Seafarers. They must cover hearing, sight and colour vision (if it affects your work).

They must confirm that you are not suffering from any condition that would:

- a) be made worse by work at sea
- b) make you unable to perform your job
- c) make you a danger to others

Medical certificates are valid for a period of 2 years (1 year for seafarers under the age of 18), colour vision certificates are valid for 6 years. If you have a recently expired certificate, in urgent cases the *competent authority* may allow you to work until the next port of call as long as this does not exceed a period of 3 months. For international voyages medical certificates must be in English.

If you are working on a ship that is covered by this Convention, but not trading in international waters, the medical certification requirements may be less strict.

Your company may have its own policy requiring more frequent medical checks.

Regulation 1.2

1. Seafarers shall not work on a ship unless they are certified as medically fit to perform their duties.
2. Exceptions can only be permitted as prescribed in the Code.

Training and qualifications

To ensure that seafarers are trained or qualified to carry out their duties on board ship

You must have completed the training necessary to carry out your duties on board (as per IMO STCW). In addition you must have completed training for personal safety on board.

Regulation 1.3

1. Seafarers shall not work on a ship unless they are trained or certified as competent or otherwise qualified to perform their duties.
2. Seafarers shall not be permitted to work on a ship unless they have successfully completed training for personal safety on board ship.
3. Training and certification in accordance with the mandatory instruments adopted by the International Maritime Organization shall be considered as meeting the requirements of paragraphs 1 and 2 of this Regulation.
4. Any Member which, at the time of its ratification of this Convention, was bound by the Certification of Able Seamen Convention, 1946 (No.74), shall continue to carry out the obligations under that Convention unless and until mandatory provisions covering its subject matter have been adopted by the International Maritime Organization and entered into force, or until five years have elapsed since the entry into force of this Convention in accordance with paragraph 3 of Article VIII, whichever date is earlier.

Recruitment and placement

To ensure that seafarers have access to an efficient and well-regulated seafarer recruitment and placement system

Crewing agencies offering recruitment services must not charge you for finding you work. The only costs that can be charged to you are those for obtaining your national statutory medical certificate, your national seafarers'

book, your passport or similar personal travel documents. The cost of visas must be paid for by the shipowner.

All private crewing agencies must be regulated and provide an efficient, adequate and accountable system that protects and promotes your employment rights.

The creation of blacklists that could prevent qualified seafarers from finding work is forbidden.

Shipowners must use agencies that comply with these minimum requirements. Depending on which country you come from, your union may offer recruitment services under the terms of a collective bargaining agreement. The flag State must make sure that if seafarers are recruited from a crewing agency in a country that has not ratified the Convention, the shipowner recruiting them must ensure that the agency meets with the MLC's standards.

Where a manning agency is publicly operated, it must also be run in an orderly way that promotes your employment rights.

There has to be a process in place to enable you to make a complaint if a manning agency is not run properly and is in breach of the requirements of this convention. Depending on the situation you may need to complain to the authorities of your own country (for example for Filipino seafarers this could be the POEA – Philippines Overseas Employment Agency), those of the flag State or those of a port State. You can also contact your union or the ITF for advice.

This Convention covers the regulation of recruitment through public and private agencies and through union hiring halls. It is also possible to be employed directly by a shipowner.

How to tell if a private crewing agent or recruitment company is reliable?

Crewing agencies must:

- Keep an up-to-date register of all their seafarer placements
- Keep up-to-date lists of ships and company contact details where their seafarers are placed
- Inform you of your rights and duties under an employment agreement and give you enough time to examine it before you sign up

- Give you a copy of the employment agreement
- Make sure their agreements comply with applicable national laws and CBAs
- Check your qualifications for the job
- Make sure that the shipowners or companies they work with are financially secure so that you don't get stranded in a foreign port
- Have an effective complaints procedure in place
- Have an insurance system in place in case they need to compensate you for any failure to meet their obligations under the recruitment and placement service, or if the shipowner fails to meet their obligations under the SEA

As a matter of good practice they should also:

- Employ staff with relevant knowledge of the maritime industry
- Respect your right to privacy and the need to protect confidentiality
- Ensure that they can respond promptly and sympathetically to requests for information and advice from your family while you're at sea – at no cost to you or your family
- Keep up-to-date lists of contact details in case of emergencies
- Inform you of any relevant shipping company policies, eg. dry ship policies where no alcohol may be consumed on board
- Check that the labour conditions on ships where they supply crew comply with all applicable CBAs, laws and regulations

Regulation 1.4

1. All seafarers shall have access to an efficient, adequate and accountable system for finding employment on board ship without charge to the seafarer.
2. Seafarer recruitment and placement services operating in a Member's territory shall conform to the standards set out in the Code.
3. Each Member shall require, in respect of seafarers who work on ships that fly its flag, that shipowners who use seafarer recruitment and placement services that are based in its countries or territories in which this Convention does not apply, ensure that those services conform to the requirements set out in the Code.

TITLE 2: Conditions of Employment

- Seafarers' employment agreements
- Wages
- Hours of work and hours of rest
- Entitlement to leave
- Repatriation
- Seafarer compensation in the event of a ship's loss or foundering
- Manning levels
- Career and skill development opportunities

Seafarers' employment agreements

To ensure that seafarers have a fair employment agreement

You are entitled to a fair employment agreement or contract setting out the terms and conditions of your employment. It must be signed by you and your employer, be easy to understand and legally enforceable. On the employer's side, it can be signed by the shipowner, the shipowner's representative, or another person acting as the shipowner, such as the ship manager, agent or bareboat charterer. The shipowner is responsible for ensuring that your rights under the employment agreement or contract are respected even if you are also working for another company on the ship (eg. seafarers working as hotel staff on cruise ships).

You must receive and keep a signed original of the agreement, a copy of which must also be available on board. Make sure you fully understand your rights and responsibilities. You have the right to seek advice before you sign. Applicable CBAs are normally incorporated in the employment agreement.

All information on the terms and conditions of employment, including the CBA, must be freely accessible to everyone on board and available for inspection in port. If your employment agreement or CBA is not in English, for ships operating in international waters, an English language version must be available on board.

In addition to the employment agreement, you must receive a record of your employment or discharge book – this will help you when seeking another job or making a case for promotion. This record must not include reference to performance or discipline issues it is simply a document of your service.

What must be in your employment agreement?

- Your full name, date of birth/age and place of birth
- Shipowner's name and address
- Place where and date when the agreement was signed
- Position on board eg. 3rd Engineer, Able Seaman, Cook
- Amount of your wages and how they are calculated
- Amount of paid annual leave
- Conditions for terminating the contract, including notice period for agreements of indefinite length (this must not be less for the shipowner than for the seafarer ie. you cannot be asked to give two month's notice if the shipowner only has to give one month)
- Expiry date – if the contract is for a fixed term you are entitled to know when you will be discharged
- Port of destination – if the contract is for a specific voyage you should know how long it will be after your arrival before you will be discharged
- Health and social security benefits provided by the shipowner
- Details of your entitlement to repatriation
- Reference to the CBA, if applicable
- Any other details required by national law

Regulation 2.1

1. The terms and conditions for employment of a seafarer shall be set out or referred to in a clear written legally enforceable agreement and shall be consistent with the standards set out in the Code.
2. Seafarers' employment agreements shall be agreed by the seafarer under conditions which ensure that the seafarer has an opportunity to review and seek advice on the terms and conditions in the agreement and freely accepts them before signing.
3. To the extent compatible with the Member's national law and practice, seafarers' employment agreements shall be understood to incorporate any applicable collective bargaining agreements.

Wages

To ensure that seafarers are paid for their services

You have the right to be paid regularly and in full, at least monthly, and in accordance with your employment agreement or CBA.

Your employer must provide you with a monthly account setting out payments due and amounts paid, including wages additional payments and the rate of exchange if the currency is different from that set out in the employment agreement.

Basic pay or wages means pay for normal hours of work, normally no more than 8 hours/day and not more than 48 hours/week. Basic pay should never be less than the recommended minimum wage.

If you are a member of a trade union, your wage will often be negotiated between your employer and your trade union on your behalf. The International Labour Organization (ILO) sets a recommended minimum wage for Able Seafarers based on a formula that takes into consideration changes in the cost of living and exchange rates against the US dollar in a range of maritime countries. It is used as a reference by shipowners and trade unions when agreeing wage scales. No seafarer should be paid at a rate below the recommended ILO minimum. For further information on the ITF interpretation of the recommended ILO minimum see: www.itfseafarers.org

Overtime

If you are required to work more than your normal hours of work you should get paid overtime. This should be covered by national law or your CBA and the rate of pay should be at least one and one quarter times the basic rate. In some agreements the basic pay and overtime is consolidated into one sum in which case the same principles should apply. Overtime records should be kept by the Captain and endorsed at least monthly by you. If you have to work on a day that is specified a day of rest or a public holiday either by national laws or the terms of your CBA, then you should be entitled to overtime payment or time off in lieu.

It is good practice to keep your own copy of overtime records in case of disagreement.

Sending money home

Your employer must ensure that you are able to send all or part of your earnings home. This could be by regular bank transfer of remittances agreed when you sign the contract. Remittances should be sent on time directly to the person or account nominated by you. You shouldn't be expected to pay unreasonable charges for such services. The exchange rate must be at the current market rate or at an official published rate that is not unfavourable to you.

Your entitlements

- Seafarers on the same ship should be paid equal pay for equal work without discrimination
- Seafarers' employment agreements should be available on board including details of rates of pay
- You should be paid in full any outstanding remuneration on termination of engagement
- If the shipowner fails to pay any outstanding remuneration without undue delay, contact your union representative or a representative of the flag State or port State. There should be a system in place to penalise owners that don't pay their seafarers. Failure to pay wages is a matter that is subject to ship inspection by flag States and port States and may result in the detention of a ship
- No deductions can be made from your pay, including fees for obtaining employment, unless expressly permitted by national law or agreed in a CBA
- Any charges that are made, such as for services provided on board over and above the terms of your agreement, should be fair and reasonable
- You are free to decide how to spend your wages

Regulation 2.2

1. **All seafarers shall be paid for their work regularly and in full in accordance with their employment agreements.**

Hours of work and hours of rest

To ensure that seafarers have regulated hours of work or hours of rest

Hours of work and rest are regulated to avoid fatigue and to ensure that the ship is operated safely.

Normal working hours are based on an eight-hour day with one day of rest per week; how this is applied may vary according to your CBA or employment agreement.

The flag State can decide whether to base the limits on maximum hours of work or minimum hours of rest.

Maximum hours of work

- You must not work more than 14 hours in any 24-hour period
- You must not work more than 72 hours in any seven-day period

Minimum hours of rest

- You must have at least 10 hours of rest in any 24-hour period
- You must have at least 77 hours rest in any seven-day period

The hours of rest can be divided into no more than two periods, one of which must be at least 6 hours long.

You cannot work for more than 14 hours without taking rest.

Unfortunately most flag States use the calculation based on minimum hours of rest, this gives the shipowner more flexibility as you can be required to work up to 91 hours in any 7 day period.

In the event of an emergency where the safety of the ship and crew are in danger, or to give assistance to other ships or persons in distress at sea, the Captain can suspend the work schedule until the problem is resolved. If normal working hours are disrupted by emergencies or unscheduled call-outs you are entitled to an adequate compensatory rest period.

Musters and all other drills must take place with minimal disturbance to periods of rest.

All ships have to display a table with shipboard working arrangements in the working language of the ship and in English. It must include:

- Schedule of service at sea and service in port
- Maximum hours of work or minimum hours of rest required by law or by applicable CBAs

Records must be kept of hours of work and hours of rest so that they can be checked to ensure compliance with the regulations. You must receive an endorsed copy of your hours or work/rest.

There are additional guidelines designed to ensure protection of young seafarers. You should not have to work for more than eight hours a day and 40 hours per week. You should have enough time for meals, at least one hour for the main meal of the day and 15-minute breaks after every two hours, unless this interferes with agreed training programmes.

Regulation 2.3

1. Each Member shall ensure that the hours of work or the hours of rest for seafarers are regulated.
2. Each Member shall establish maximum hours of work or minimum hours of rest over given periods that are consistent with the provisions in the Code.

Entitlement to leave

To ensure that seafarers have adequate leave

You are entitled to paid annual leave, and shore leave for the benefit of your health and well-being.

Flag States have to determine minimum standards for annual leave, taking into account your special needs as a seafarer. The annual leave entitlement is calculated on the basis of 2.5 days for every calendar month of employment. Justified absences from work, such as sickness or attendance at an approved training course, cannot be considered annual leave. It is forbidden to deny or buy off your entitlement to paid annual leave.

While you are on leave, all other contractual entitlements still apply; when you have signed off, the contract ends.

The following should not be counted as annual leave:

- Public and customary holidays
- Time off for illness, injury or maternity
- Temporary shore leave
- Compensatory leave

You should have the right to take annual leave in your home country. You should not be required to take leave in a place where you have no substantial connection unless it is with your agreement. If you do have to take your leave from a different place then you should be entitled to free transportation at the shipowner's expense to your place of recruitment as well as subsistence for the duration of the journey. The travel time should not be deducted from your paid annual leave.

When you take your leave should be agreed between you and your employer. You should be able to take all your leave at once, but sometimes it may be divided into parts.



Regulation 2.4

1. Each Member shall require that seafarers employed on ships that fly its flag are given paid leave under appropriate conditions, in accordance with the provisions in the Code.
2. Seafarers shall be granted shore leave to benefit their health and well-being and with the operational requirements of their positions.

Repatriation

To ensure that seafarers are able to return home

You have a right to be repatriated at no cost to yourself under the following circumstances:

- your employment agreement expires while you are abroad
- the shipowner terminates your contract
- you terminate the contract for reasons that are justified
- you are unable to carry out your duties under the agreement for reasons such as illness, injury, shipwreck, trading in a war zone or if the shipowner fails to fulfil his/her legal obligations to you

The maximum period you can be expected to serve on board before being entitled to repatriation at the shipowner's expense is 12 months.

Shipowners are not allowed to ask you for a contribution nor can they make a deduction from your wages towards the cost of repatriation, unless you have seriously breached the terms of your employment agreement.

If the shipowner fails to pay for your repatriation, the flag State must take over this responsibility. If, for any reason the flag State fails to do this, contact your consulate or diplomatic mission. They should be able to arrange your repatriation and claim the costs back from the flag State, who in turn can claim against the shipowner. The port State should also help you to find a way home.

All ships flying flags of States that have signed the Convention must carry on board and have available for seafarers a copy of the flag State's provisions on repatriation.

The shipowner should pay for the following costs:

- Passage to the place of repatriation, normally by air
- Accommodation and food for the duration of the journey
- Pay and allowances for the duration of the journey if specified by CBAs or national laws
- Transportation of 30kg of your luggage
- Medical treatment where necessary to make you fit for travel

You should have the right to choose your preferred place of repatriation from the following options:

- The place where you agreed to join the ship
- The place stated in a CBA
- Your country of residence
- Any other place agreed at the time of engagement

You should agree to whichever option you prefer at the time of engagement.

If you are under 18, have served at least 4 months on your first foreign-going voyage, and find that you are not suited to a life at sea, you should be given the opportunity of repatriation, at no expense to yourself, from the next suitable port of call.

Regulation 2.5

1. Seafarers have a right to be repatriated at no cost to themselves in the circumstances and under the conditions specified in the Code.
2. Each Member shall require ships that fly its flag to provide financial security to ensure that seafarers are duly repatriated in accordance with the Code.

Seafarer compensation for the ship's loss or foundering

To ensure that seafarers are compensated when a ship is lost or has foundered

You are entitled to adequate compensation in case of injury, loss or unemployment due to the ship's loss or foundering. This must be paid to you by the shipowner, and shouldn't prevent you from asserting any other rights to claim you may have under relevant national law.

For the period that you are unemployed, you should be paid the same amount as you would have received under your contract, but the total may be limited to 2 months' wages.

Regulation 2.6

1. Seafarers are entitled to adequate compensation in the case of injury, loss or unemployment arising from the ship's loss or foundering.

Manning levels

To ensure that seafarers work on board ships with sufficient personnel for the safe, efficient and secure operation of the ship

You have a right to work on a safely and securely operated ship. There must be adequate crew on board, in terms of number and qualifications, to ensure the safety and security of the ship and all those on board under all operating conditions. The manning levels have to take into account the need to avoid excessive hours of work, ensure sufficient rest and limit fatigue. They also have to take into account the requirement for seafarers working in catering and food services.

Manning levels also have to take into account the nature and conditions of the voyage.

If you think that your vessel is operating with insufficient manning, report it to your union or to ITF London. There should be a complaints procedure in place to allow concerns to be raised with the flag State.

Regulation 2.7

1. Each Member shall require that all ships that fly its flag have a sufficient number of seafarers employed on board to ensure that ships are operated safely, efficiently and with due regard to security under all conditions, taking into account concerns about seafarer fatigue and the particular nature and conditions of the voyage.

Career and skill development and opportunities for seafarers' employment

To promote career and skill development and employment opportunities for seafarers

Everyone concerned with the maritime industry has an interest in ensuring that the sector has a competent workforce. You should have the opportunity to strengthen your competencies, qualifications and employment opportunities.

Regulation 2.8

1. Each Member shall have national policies to promote employment in the maritime sector and to encourage career and skill development and greater employment opportunities for seafarers domiciled in its territory.

TITLE 3: Accommodation, Recreational Facilities, Food and Catering

- Accommodation and recreational facilities
- Food and catering

Accommodation and recreational facilities

To ensure that seafarers have decent accommodation and recreational facilities on board

You are entitled to safe and decent living and recreational facilities on board.

Flag States have to pass laws and regulations obliging ships flying their flag to comply with a set of standards that must be inspected for compliance. Inspections have to be carried out when a ship is registered, re-registered or when substantial structural changes are made to the accommodation on board.

The laws and regulations on accommodation and recreational facilities must also take into account the Convention's requirements for health and safety protection and accident prevention (see page 39).

When setting standards, particular attention must be given to:

- The size of rooms and other accommodation spaces
- Heating and ventilation
- Noise, vibration and other ambient factors
- Sanitary facilities
- Lighting
- Hospital accommodation

The following tables set out the minimum requirements that flag States must ensure are fulfilled on their ships. However, provisions relating to ship construction and fixed equipment don't apply to ships built before the Convention obligations come into force (ie. when the Convention's ratification requirements have been met and the flag State in question has signed up).

(Text in *italics* in the table below indicates that the provision is from the guidelines, part B of the code.)

General	Requirement	Exemptions & Allowances
Bulkheads	Watertight, gas-tight and constructed from materials that are fit for purpose	
Headroom	Adequate and not less than 203cm	Limited reduction can be permitted by the authorities responsible for regulation if reasonable and if seafarers are not discomforted
Insulation	Adequate	
Lighting and drainage	Adequate	
Heating in ships	Adequate heating systems. Heating systems should be able to maintain a satisfactory temperature in the normal conditions of the trading area	Where ship is trading exclusively in tropical climates
Ventilation in ships	Air conditioning for seafarer accommodation, radio rooms and central machinery control rooms. The ventilation and air conditioning system should at all times maintain comfortable conditions for crew	Where ship is regularly trading in a temperate climate

General	Requirement	Exemptions & Allowances
<p>Health and safety protection and accident prevention</p>	<p>Health and safety protection and accident prevention requirements apply to accommodation and recreational and catering facilities. They must prevent the risk of exposure to hazards and provide acceptable occupational and onboard living environment for seafarers</p>	
<p>Prevention of noise, vibration, other ambient factors and chemicals</p>	<p>Reasonable precautions must be taken to prevent the risk of exposure to hazardous levels of noise, vibration, other harmful ambient factors and chemicals.</p> <p><i>Accommodation and recreational and catering facilities should be located as far as practicable from the engines, steering gear rooms, deck winches, ventilation, heating and air-conditioning equipment and other noisy machinery and apparatus.</i></p> <p><i>There should be adequate sound proofing and insulation against engine room noise.</i></p> <p><i>Limits for noise levels in working and living spaces should be in line with ILO and IMO international guidelines, copies should be available and accessible to seafarers on board, No accommodation, recreational or catering facilities should be exposed to excessive vibration</i></p>	
<p>Ships trading regularly to mosquito-infested ports</p>	<p>Fitted with appropriate devices</p>	

General	Requirement	Exemptions & Allowances
<p>Hospital accommodation</p>	<p>Separate hospital accommodation to be used exclusively for medical purposes, on ships with 15 or more seafarers, on voyages of more than three days.</p> <p><i>The accommodation should be comfortable and designed for medical consultations, first aid and to prevent the spread of infectious diseases.</i></p> <p><i>There should be separate sanitary facilities, at least one toilet, one wash basin and one tub/shower</i></p>	<p>May be relaxed for ships engaged in coastal trade</p>
<p>Mess rooms</p>	<p>Located separate from sleeping rooms, close to the galley</p> <p>Adequate for the number of crew.</p> <p><i>Where there is more than one mess room, one should be for the master and officers, separate facilities should be provided for all other seafarers.</i></p> <p><i>Floor area per person should be at least 1.5 square metres.</i></p> <p><i>Mess rooms should be equipped with sufficient tables and seats.</i></p> <p><i>There should be facilities for hot beverages, cool water and a conveniently situated refrigerator available at all times.</i></p> <p><i>Shipowner should provide good quality plates, cups and other mess utensils</i></p>	<p>Ships of less than 3,000 GT may be exempt following consultation with shipowners' and seafarers' representatives</p> <p>Recommended floor area may be less on passenger ships</p>

General	Requirement	Exemptions & Allowances
Recreational facilities, amenities	<p>Appropriate to meet the needs of all seafarers living and working on board.</p> <p>Taking into account health and safety protection and accident prevention.</p> <p><i>Ideally, some or all of the following should be provided: smoking room and bars, TV, radio, video, CD, DVD and PC equipment, sports and swimming facilities, table and deck games, library, facilities for practising handicrafts, communication facilities including email and internet access</i></p>	
Laundry facilities	<p>Appropriately situated and furnished</p> <p><i>Laundry facilities should include washing machines, drying machines or drying rooms and irons and ironing boards</i></p>	<p>Ships of less than 200 GT may be exempt following consultation with shipowners' and seafarers' representatives</p>
Other facilities	<p><i>Changing rooms (if they exist) for engine department personnel should be easily accessible but outside the machinery space.</i></p> <p><i>They should be fitted with individual lockers, tubs/showers and wash basins with hot and cold running fresh water</i></p>	
Deck space	<p>Open deck space accessible to off-duty seafarers</p>	
Ship's office(s)	<p>For use by deck and engine departments</p>	<p>Ships of less than 3,000 GT may be exempt following consultation with shipowners' and seafarers' representatives</p>

General	Requirement	Exemptions & Allowances
Inspections	Master should be required to oversee frequent inspections to ensure decent, clean, well-maintained conditions on board Results to be recorded for review	
Variations for religious/social practices	Variations for religious/social practices	Unless they result in facilities that are less favourable overall

Sleeping Accommodation	Requirement	Exemptions & Allowances
Situation of sleeping rooms on vessels	Above the load line, amidships or aft	In exceptional cases sleeping rooms may be located in the fore part of the ship, never forward of the collision bulkhead
Situation of sleeping rooms on passenger ships and special purpose ships	As above	May be below the load line if lighting and ventilation is satisfactory, but never immediately beneath working alleyways
Access to sleeping rooms	No direct openings from cargo and machinery spaces, galleys, storerooms, drying rooms or communal sanitary areas	
Lighting in sleeping rooms and mess rooms	Natural light and adequate artificial light. <i>Sidelights in sleeping rooms should have curtains.</i> <i>Each berth should be provided with a reading lamp</i>	Special arrangements may be permitted in passenger ships

Sleeping Accommodation	Requirement	Exemptions & Allowances
Ventilation and heating in sleeping rooms and mess rooms	Adequate	
Sleeping rooms on vessels other than passenger ships	Individual rooms. In case of exemptions, a maximum of two seafarers to one room is allowed, and the room must be at least 7 square metres	Ships of less than 3,000 GT and special purpose ships may be exempt following consultation with shipowners' and seafarers' representatives
Sleeping rooms	Separate rooms for men and women. Adequate size and properly equipped. Separate berths. <i>Where possible sleeping rooms should be planned and equipped with a private bathroom, including a toilet. They should be fitted with a mirror, cabinet for toiletries, book rack and coat hooks. They should be arranged so that seafarers working during the day don't have to share a room with watchkeepers</i>	
Floor area: single berth rooms in ships less than 3,000GT	4.5 (7.5 for Officers*) square metres	Reduced area may be permitted in order to provide single berth rooms on ships below 3,000 GT, passenger ships and special purpose ships. Ships of less than 200 GT may be exempt following consultation with shipowners' and seafarers' representatives
Floor area: single berth rooms in ships 3,000-10,000 GT	5.5 (8.5 for Officers*) square metres	

Sleeping Accommodation	Requirement	Exemptions & Allowances
Floor area: single berth rooms in ships over 10,000 GT	7 (10 for Officers*) square metres	
Sleeping rooms on passenger ships and special purpose ships	7.5 square metres in rooms for two people, 11.5 square metres in rooms for three people, 14.5 square metres in rooms for four people	Ships of less than 200 GT may be exempt following consultation with shipowners' and seafarers' representatives
Special purpose ships	May have more than four people to a room, minimum of 3.6 square metres required per person	Ships of less than 200 GT may be exempt following consultation with shipowners' and seafarers' representatives
Master, chief engineer, chief navigating officer	Sitting room/day room in addition to sleeping quarters	Ships of less than 3,000 GT may be exempt following consultation with shipowners' and seafarers' representatives

***Applies for officers where no private sitting room or day room is provided**

Berths	Minimum inside dimension: 198cm x 80cm. <i>Berths should be as comfortable as possible for the seafarer and partners who may accompany them. Berths should be fitted with a comfortable mattress. Berths should be no more than two-tier and should not obstruct sidelights.</i>	
Bedding and other provisions	<i>Clean bedding, towels, soap and toilet paper should be supplied by the shipowner</i>	
Furniture per sleeping room	Table/desk. Comfortable seating	
Furniture per person	Lockable clothes locker (min 475 litres).Drawer (min 56 litres).If combined, min total volume of 500 litres)	

Sanitary Facilities	Requirement	Exemptions & Allowances
	<p>Easily accessible for all seafarers on board, meeting standards of health, hygiene and comfort. Separate facilities for men and women.</p> <p>Additional facilities in easy reach of the navigating bridge and the engine room control centre.</p> <p>Ventilation to the open air</p>	<p>Ships of less than 3,000 GT</p>
<p>All ships</p>	<p>Minimum of one toilet, one wash basin, and one tub/shower per max six persons without private facilities.</p> <p><i>Toilets should have flushing mechanisms.</i></p> <p><i>Toilets should be separate from, but convenient for sleeping and wash rooms.</i></p> <p><i>All sanitary facilities should have sufficient lighting, heating and ventilation</i></p>	
<p>All sleeping rooms other than on passenger ships</p>	<p>Washbasin with hot and cold running fresh water</p>	<p>Unless a private bathroom is provided. Passenger ships normally engaged on voyages of no more than 4 hours may make special arrangements. Ships of less than 200 GT, may be exempt following consultation with shipowners' and seafarers' representatives</p>
<p>All wash places</p>	<p>Hot and cold fresh running water</p>	

ACCOMMODATION TABLE

	All ships above 3,000 gt	Passenger ships	Special purpose ships	Ships below 3,000 gt	Ships below 200 gt
Individual sleeping rooms	Yes	No	May be	May be	
Separate sleeping rooms for men and women	Yes	Yes	Yes	Yes	Yes
Separate bed 1.98 x 80 cm	Yes	Yes	Yes	Yes	Yes
Headroom 203 cm	Yes	Yes	Yes	Yes	Yes
Min floor area in single berth sleeping room	5.5 sq. m ships less than 10,000 gt, 7 sq.m ships more than 10,000 gt	4.5 sq.m possible reduction	4.5 sq.m possible reduction	4.5 sq.m possible reduction	
Two seafarers /sleeping room	No	May be	May be	Yes 7 sq.m or more floor area	
Three or four seafarers / sleeping room	No	May be	May be	No	
More than four ratings / sleeping room	No	No	Yes, at least 3.6 sq.m per person	No	

ACCOMMODATION TABLE

	All ships above 3,000 gt	Passenger ships	Special purpose ships	Ships below 3,000 gt	Ships below 200 gt
Min floor area for officers in sleeping room where no private sitting room provided	8.5 sq.m in ships less than 10,000 gt; 10 sq.m in ships more than 10,000 gt	junior officers: 7.5 sq.m senior officers: 8.5 sq.m		7.5 sq.m	
Min floor area for ratings in sleeping room		(i) 7.5 sq.m in rooms accommodating two persons; (ii) 11.5 sq.m in rooms accommodating three persons; (iii) 14.5 sq.m in rooms accommodating four persons			
Adjoining sitting room for the master, the chief engineer and the chief navigating officer	Yes	Yes		May be	

Regulation 3.1

1. Each Member shall ensure that ships that fly its flag provide and maintain decent accommodations and recreational facilities for seafarers working or living on board, or both, consistent with promoting seafarers' health and well-being.
2. The requirements in the Code implementing this Regulation which relate to ship construction and equipment apply only to ships constructed on or after the date when this Convention comes into force for the Member concerned. For ships constructed before that date, the requirements relating to ship construction and equipment that are set out in the Accommodation of Crews Convention (Revised), 1949 (No.92), and the Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No.133), shall continue to apply to the extent that they were applicable, prior to that date, under the law or practice of the Member concerned. A ship shall be deemed to have been constructed on the date when its keel is laid or when it is at a similar stage of construction.

3. Unless expressly provided otherwise, any requirement under an amendment to the Code relating to the provision of seafarer accommodation and recreational facilities shall apply only to ships constructed on or after the amendment takes effect for the Member concerned.



Food and catering

To ensure that seafarers have access to good quality food and drinking water provided under regulated hygienic conditions

Ships must carry sufficient quantities of good quality food and drinking water and supply it free of charge during your period of engagement. Food provided has to be nutritious and varied and prepared and served in hygienic conditions. Religious and cultural differences also have to be considered.

Frequent inspections have to be carried out and recorded by the Captain or someone under his/her authority. The following has to be checked:

- Supplies of food and drinking water
- Spaces and equipment use for storing and handling food and drinking water
- Galley and food preparation areas

Ships' cooks have to be over 18 and appropriately trained and qualified for the job. However, on ships with less than 10 crew or in exceptional cases for a period no longer than one month, the cook does not have to be fully qualified, but all those responsible for handling food, must be trained in matters relating to hygiene, food and its storage on board.

Regulation 3.2

1. Each Member shall ensure that ships that fly its flag carry on board and serve food and drinking water of appropriate quality, nutritional value and quantity that adequately covers the requirements of the ship and takes into account the differing cultural and religious backgrounds.
2. Seafarers on board a ship shall be provided with food free of charge during the period of engagement.
3. Seafarers employed as ships' cooks with responsibility for food preparation must be trained and qualified for their position on board ship.



TITLE 4: Health Protection, Medical Care, Welfare and Social Security Protection

- Medical care on board ship and ashore
- Shipowners' liability
- Health and safety protection and accident prevention
- Access to shore-based welfare facilities
- Social security

Medical care on board ship and ashore

To protect the health of seafarers and ensure their prompt access to medical care on board ship and ashore

Whilst you are on board you must be able to protect your health and have prompt access to medical care, including dental care, should you need it. The flag State is responsible for standards of health protection on the vessel and for promoting health education programmes on board.

You should not be worse off than people working ashore. This means you should have prompt access to necessary medicines, medical equipment and facilities for diagnosis and treatment as well as medical information and expertise.

All States that have signed the Convention must give you access to medical care if you are in urgent need of it whilst in their territory. When in port you should be able to visit a doctor or dentist without delay. You should be able to get medical care and health protection free of charge, though the level of provision may vary according to national law.

You should have access to:

- Outpatient treatment for sickness and injury
- Hospitalisation if necessary
- Facilities for dental treatment, especially in cases of emergency
- Hospitals and clinics for the treatment of disease

You should be admitted promptly regardless of nationality or religious belief and, where possible and necessary, you should receive continuing treatment.

Ships' Captains and medical personnel on board and ashore must use a standard medical report form which must be kept confidential

On-board medical facilities

All ships have to have a medical chest, medical equipment and a medical guide on board.

The contents of medical chests and the equipment on board should be determined by national medical guides taking into account the latest edition of the WHO/ILO/IMO International Medical Guide for Ships. Inspections should be carried out at least every 12 months and should look at labelling, expiry dates, condition of storing medicine and the correct functioning of equipment.

Whenever dangerous goods are carried on board, you should be informed of all necessary information on the nature of the substances, including risks, necessary measures for personal protection, relevant medical procedures and antidotes. Any such antidotes should be carried on board along with protective devices.

For ships carrying 100 or more people, on international voyages of more than three days, there must be a qualified medical doctor on board. National laws may require other ships to carry a doctor depending on the nature and conditions of the voyage.

Where there is no doctor on board, at least one seafarer must be in charge of medical care as part of their regular duties, or able to provide medical first aid. Appropriate training must be completed as specified in the STCW convention. Training should be based on the contents of the following publications as well as any national guidance:

- International Medical Guide for Ships
- Medical First Aid Guide for Use in Accidents Involving Dangerous Goods
- Document for Guidance – An International Maritime Training Guide
- International Code of Signals (medical sections)

Normally seafarers with medical responsibilities should go on refresher courses every 5 years to maintain their knowledge and keep up to date with new developments.

There must be arrangements for sending medical queries and receiving medical advice by radio or satellite communication 24 hours/day, free of charge. Ships should carry a complete, up-to-date list of radio stations and coast earth stations that can be contacted for the purpose.

If you are the person responsible for medical care on board, you should have had:

- instruction in the use of the ship's medical guide and the medical section of the most recent edition of the International Code of Signals
- training in medical care and first aid in line with STCW and requirements and national laws, including practical training and training in life-saving techniques

You should be able to demonstrate that you can:

- provide satisfactory medical care to people who become sick or are injured during the period they are likely to remain on board
- understand the type of information needed by an advising doctor as well as the advice received

Regulation 4.1

1. Each Member shall ensure that all seafarers on ships that fly its flag are covered by adequate measures for the protection of their health and that they have access to prompt and adequate medical care whilst working on board.
2. The protection and care under paragraph 1 of this Regulation shall, in principle, be provided at no cost to the seafarers.
3. Each Member shall ensure that seafarers on board ships in its territory who are in need of immediate medical care are given access to the Member's medical facilities on shore.
4. The requirements for on-board health protection and medical care set out in the Code include standards for measures aimed at providing seafarers with health protection and medical care as comparable as possible to that which is generally available to workers ashore.

Shipowners' liability

To ensure that seafarers are protected from the financial consequences of sickness, injury or death occurring in connection with their employment

Shipowners are responsible for any costs resulting from sickness, injury or death connected to your employment, from the date you start a contract until you have been repatriated, or can claim medical benefits under an insurance/compensation scheme. This could be a State or private sickness/accident insurance or a workers' compensation scheme.

If you need medicine, medical treatment, or have to stay away from home while your condition is treated, the shipowner has to pay any bills until you have recovered or you have been signed off as permanently disabled. The shipowner's responsibility for paying these costs may be limited to 16 weeks from the day of injury/sickness, if stated in national law/regulation.

If you are unable to work as a result of the injury/illness you should get full wages so long as you are on board. When you get home national laws and CBAs apply which will determine whether you get full pay, part pay or a cash settlement. These payments may be limited to 16 weeks from the day of injury/sickness.

In the event of your death or long-term disability due to an occupational illness or injury, shipowners must provide compensation as set out in national law, your employment agreement or your CBA. Shipowners are also liable for any burial expenses if you die, whether on board or ashore, during the period of engagement.



When is the shipowner **not** liable?

- If you were injured whilst **not** in the service of the ship
- If you were injured or became sick as a result of wilful misconduct
- If you intentionally hid the fact you were sick when you were engaged

Regulation 4.2

1. Each Member shall ensure that measures, in accordance with the Code, are in place on ships that fly its flag to provide seafarers employed on the ships with a right to material assistance and support from the shipowner with respect to the financial consequences of sickness, injury or death occurring while they are serving under a seafarers' employment agreement or arising from their employment under such agreement.
2. This Regulation does not affect any other legal remedies that a seafarer may seek.

Health and safety protection and accident prevention

To ensure that seafarers' work environment on board ships promotes occupational safety and health

You are entitled to live and work in a safe and hygienic environment where a culture of safety and health is actively promoted.

Safety and health on board has to be regulated by the laws of the flag State, taking into account international standards.

The following has to be on board:

- A health policy and programme, including risk evaluation and training
- Precautions to prevent accidents, injuries and the spread of disease, including the effects of handling chemicals and the use of machinery and equipment on board
- Involvement of seafarers' representatives in programmes to improve occupational safety and health and accident prevention
- A process for inspecting, reporting and correcting unsafe conditions and for investigating and reporting on-board accidents (ref. ILO 'Accident prevention on board ship at sea and in port', 1996)
- Investigation and reporting must ensure that your personal data is protected

Seafarers and shipowners have an obligation to comply with standards set for occupational safety and health on board, these must be clearly specified along with the duties of the Captain or the person made responsible by the Captain for safety and health on board. Your attention must be drawn to any safety regulation or procedures to be followed on board and information should be clearly posted. There should also be ongoing publicity campaigns advising on health protection and accident prevention.

If you are on a ship with five or more seafarers, you have to have a seafarers' safety representative elected or appointed by the crew to participate in the ship's safety committee.

The ITF has guidance on the role of the onboard safety representative, see www.itfseafarers.org or contact an ITF inspector.

There are international standards that set out requirements on acceptable levels of exposure to workplace hazards as well as how to develop and put into practice ships' occupational safety and health policies. The MLC doesn't specify details; instead it sets out what matters should be addressed in the flag State regulations. It is the shipowners' responsibility to put them into practice.

What should be covered by occupational safety and health procedures and practice on board?

- **Structural features of the ship including access and asbestos related risks**
- **Machinery**
Where necessary, employers are under an obligation to provide appropriate guards for machinery. You should not operate machinery if the guards are not provided.
- **Effects on surfaces of extremely high and low temperatures**
- **Effects of noise in working and living spaces**
Including instruction on the danger, provision of protective equipment, risk assessment and reduction of exposure levels
- **Effects of vibration in working and living spaces**
Including instruction on the danger, provision of protective equipment, risk assessment and reduction of exposure levels
- **Effects of ambient factors, including tobacco smoke**
- **Special safety measures on deck and below**
- **Manual handling of loads and loading and unloading equipment**
- **Fire prevention and fire fighting**

- Anchors, chains and lines
- Dangerous cargo and ballast
- Personal protective equipment
- Work in enclosed spaces
- Physical and mental effects of fatigue
- Effects of drug and alcohol dependency
- HIV/AIDS protection and prevention
- Emergency and accident response

Young Seafarers

Young seafarers should not be expected to carry out high risk work without supervision, or night work unless for training purposes.

Regulation 4.3

1. Each Member shall ensure that seafarers on ships that fly its flag are provided with occupational health protection and live, work and train on board ship in a safe hygienic environment.
2. Each Member shall develop and promulgate national guidelines for the management of occupational safety and health on board ships that fly its flag, after consultation with representative shipowners' and seafarers' organizations and taking into account applicable codes, guidelines and standards recommended by international organizations, national administrations and maritime industry organizations.
3. Each Member shall adopt laws and regulations and other measures addressing the matters specified in the Code, taking into account relevant international instruments, and set standards for occupational safety and health protection and accident prevention on ships that fly its flag.



Access to shore-based welfare facilities

To ensure that seafarers working on board a ship have access to shore-based facilities and services to secure their health and well-being

The Convention encourages the establishment of port-based welfare facilities. They should be easily accessible to you regardless of your nationality, race, colour, sex, religion, political opinion, social class and the flag of your ship. Ideally they should include meeting and recreation rooms and facilities for sport, education, religious needs and personal counselling. In the interests of your health and well-being, every effort should be made by the people responsible in port and on board your ship to allow you to take shore leave as soon as possible after arrival in port.

You should be informed of the facilities available to you and be advised of any local laws or customs that, if broken, could endanger your freedom.

There should be welfare boards to make sure that the welfare services provided are adequate.

Consulates

In case you get into difficulty in a foreign port, you should have access to your consul (if there is one) and there should be good cooperation between your consulate and the local authorities. If you are detained, your case should be dealt with promptly and lawfully. You can seek assistance and protection either from the country of your nationality or from the flag State of your vessel, so you should make sure both are immediately informed if you are detained abroad.

Regulation 4.4

1. Each Member shall ensure that shore-based welfare facilities, where they exist, are easily accessible. The Member shall also promote the development of welfare facilities, such as those listed in the Code, in designated ports to provide seafarers on ships that are in its ports with access to adequate welfare facilities and services.
2. The responsibilities of each Member with respect to shore-based facilities, such as welfare, cultural, recreational and information facilities and services, are set out in the Code.

Social security

To ensure that measures are taken with a view to providing seafarers with access to social security protection

You and your dependants have a right to have access to social security protection as far as they are provided in national law.

In some countries social security is provided by the State through taxation. In other countries it is a matter for private individuals to take out personal insurance or to make arrangements through a company scheme. As a seafarer you may come under the law of your home country or that of the flag State, either way, the provisions should be no worse than for a shore-based worker in that State.

What is meant by ‘Social Security’?

The following list shows the different areas that you need to consider when checking what you’re covered for:

- Medical care
- Sickness benefit
- Unemployment benefit
- Old-age benefit
- Employment injury benefit
- Family benefit
- Maternity benefit
- Invalidity benefit
- Survivors’ benefit

The MLC aims to encourage wider social security protection for seafarers. States signing up to the Convention have to provide at least three from the above list, the three recommended areas are: medical care, sickness benefit and employment injury benefit. Normally this should be done by the authorities in the country where you live, but it may be arranged through agreement with the flag State or through your employer or union. You may have to contribute financially to the scheme. The point is that you should not be worse off, in terms of social security, on account of choosing a career at sea.

In the event of any dispute over social security provisions, there has to be a fair and effective settlement procedure.

Your employment agreement should clearly set out any aspects of social security protection provided by the shipowner, any statutory deductions that are to come out of your wages (to be paid into a State scheme) and any contributions that the shipowner has to pay on your behalf.

Where the shipowner has responsibilities for making social security payments on your behalf, the flag State must ensure compliance.

Regulation 4.5

1. Each Member shall ensure that all seafarers and, to the extent provided for in its national law, their dependants have access to social security protection in accordance with the Code without prejudice however to any more favourable conditions referred to in paragraph 8 of article 19 of the Constitution.
2. Each Member undertakes to take steps, according to its national circumstances, individually and through international cooperation, to achieve progressively comprehensive social security protection for seafarers.
3. Each Member shall ensure that seafarers who are subject to its social security legislation, and, to the extent provided for in its national law, their dependants, are entitled to benefit from social security protection no less favourable than that enjoyed by shoreworkers.

3. Safeguarding your rights

TITLE 5: Compliance and Enforcement

- Flag State responsibilities
- Port State responsibilities
- Labour-supplying responsibilities

There are several ways to address problems of non-compliance with the MLC. If the problem is with the flag State, ie, It has not put in place adequate regulations to implement the Convention, the issue should be referred to the ITF to be raised with the International Labour Organization through official channels (see onshore complaint handling procedure pg53). If the problem is with a shipowner then the matter can be raised with the flag State or with the port State. There is a mechanism for Flag State inspectors and another for Port State Control (PSC) Officers, these are regular official requirements to ensure initial and ongoing compliance. **In addition, as a seafarer you can make a complaint on board either to a senior officer, to the Captain or, for that matter, to the shipowner or to the flag State. You can also make a complaint to a PSC officer/labour inspector. You don't have to make the complaint directly, someone else (for example, an ITF inspector or a welfare worker) can make it for you. Care must be taken to ensure that you cannot be victimised for making a complaint, confidentiality must be respected at all times.**

Flag State responsibilities

To ensure that each Member implements its responsibilities under this Convention with respect to ships that fly its flag

Every flag State that has ratified the Convention is responsible for ensuring that the MLC's requirements are implemented on board ships flying its flag.

Whenever the Convention refers to a *Member's responsibility*, that State has to make sure that it has national laws, regulations or some other measure in place that fulfil the requirement. For example taking the minimum age for seafarers, a State may advise of compliance with this requirement through a national law prohibiting anyone under the age of 16 to work. Taking the requirement to ensure provision of a minimum of three forms of social security protection, if a State had nothing in its national law referring to

social security, or failed to cover the minimum required, it would have to pass laws, amend its regulations or come up with some other measure to ensure compliance with this provision of the MLC.

Each flag State will decide for itself how to comply with the Convention so conditions will vary from flag State to flag State. This is permitted so long as the Convention's requirements are met and the ship complies with the flag State's standards, which must be set out in the *Maritime Labour Certificate* and the *Declaration of Maritime Labour Compliance*.

Ships flying the flag of a State that has signed the Convention must also have a copy of the Convention available on board.

Maritime labour certificate

Each ship over 500 GT, operating in international waters or between ports of different countries, has to have a maritime labour certificate issued either by the flag State or by the *recognized organization* working on its behalf. The certificate can be valid for a period of no more than five years. The certificate confirms that the vessel complies with the Convention requirements and the following points have to be addressed:

- Minimum age
- Medical certification
- Qualifications of seafarers
- Seafarers' employment agreements
- Use of any licensed or certified or regulated private recruitment and placement service
- Hours of work or rest
- Manning levels for the ship
- Accommodation
- On-board recreational facilities
- Food and catering
- Health and safety and accident prevention
- On-board medical care
- On-board complaint procedures
- Payment of wages

The ship must be inspected to check the ongoing validity of the certificate and to renew it at the end of the period for which it is valid. If the certificate is valid for five years, there must be at least one intermediate inspection between the second and third year of that term.

Declaration of Maritime Labour Compliance (DMLC)

Attached to the Maritime Labour Certificate must be a Declaration of Maritime Labour Compliance. The DMLC has two parts: Part I lists the way in which the flag State's regulation complies with the Convention, Part II is drawn up by the shipowner to show how the vessel is compliant with Part I. The DMLC must be certified by an authorised representative of the flag State (or a recognised organisation on behalf of the flag State, such as a classification society).

Certificates and related documents

The results of inspections, including deficiencies and actions taken to resolve them, have to be noted with the date and kept on board. The DMLC, the maritime labour certificate and any documents relating to maritime labour inspections must be available and accessible for you to look at, as well as for inspection by flag and port State officials, shipowners' and seafarers' representatives. If the originals are not in English and your ship is operating internationally, there must also be an English translation of the documents.

When is a certificate not valid?

A maritime labour certificate ceases to be valid when:

- Inspections are not carried out within the specified period of time
- The certificate is not endorsed by the flag State or by its recognised organization
- A ship changes flag
- A ship changes owner
- Substantial changes have been made to the structure or equipment of the vessel

Inspection and enforcement

All the requirements of the MLC relating to the working and living conditions of seafarers must be inspected, even on ships that are not required to carry a Maritime Labour Certificate. If a ship is deficient and in serious contravention of the requirements of the Convention, there are two ways in which this can come to light and be addressed. One way is through the regular inspections, the other is through the complaints procedures. The flag State inspector is responsible for the thorough, initial inspection for compliance and the port State inspector should make sure that everything is order when the ship comes to port.

The flag State has to operate an effective system for inspecting your working and living conditions on board ships flying its flag. It also has to investigate any well-founded complaint. There should be a policy on compliance and enforcement that should be made available to you.

If a flag State inspector finds a serious breach of the Convention's requirements, he/she can prohibit the ship from leaving port until the problem is solved. Issues that qualify as a serious breach are *seafarers' rights* (for example, non-payment of wages) and situations in which there is a significant danger to your safety, health or security.

In cases not involving a serious breach, the inspector may order the deficiency to be rectified by a set date. Where a vessel has a good history and the inspector considers the breach not to be serious, he/she may give advice instead of taking action. Decisions over what course of action to take will ultimately depend on the professional judgement of the inspector.

If you report a problem or grievance to an inspector, he/she must not tell the shipowner or their representative that the information came from you. If, as a result, an inspection is carried out on board he/she must not make it known that this was as a result of a complaint. Under no circumstances should you be victimised on account of making a complaint.

Flag State inspectors have to be independent with no vested interests that could interfere with their duties. Reports of inspections must be sent to the flag State with a copy given to the Master and a copy posted on board. The reports have to be in English or in the working language of the ship. The flag State has to keep records of the inspections of conditions for seafarers on board and must publish annual reports on inspection activities. The flag State has a responsibility to ensure that the breaches are rectified and to decide on any system of penalties.

Reports on major incidents have to be submitted within one month of investigation.

On-board complaint procedures

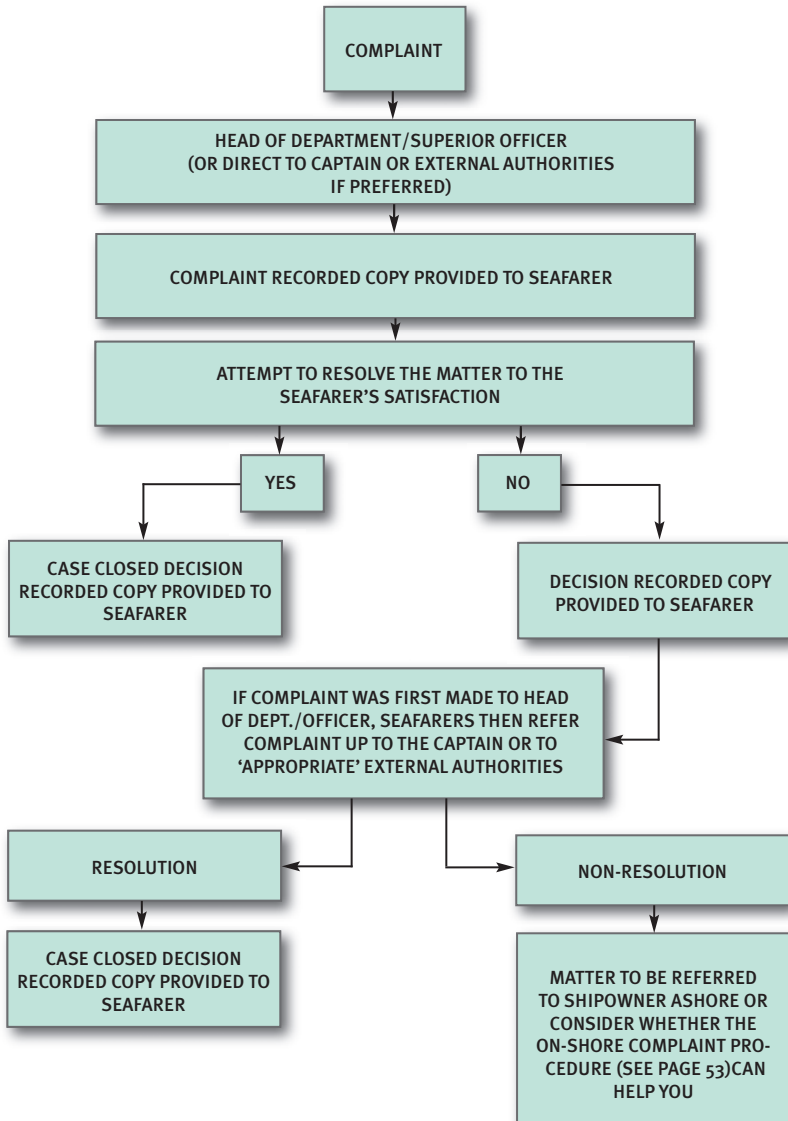
There must be a procedure in place on board your ship enabling you to make a complaint about breaches of the Convention and your rights, including the right to live and work in decent conditions. It must be handled fairly, effectively and promptly. Make sure you get a clear understanding of the time limits for dealing with your complaint, especially if the matter is serious.

To start with you should try to resolve problems at the lowest possible level, but you do have the right to go directly to the master, or to external authorities such as a representative of the flag State. At all times you have the right to be accompanied by a representative or a fellow seafarer and under no circumstances can you be victimised for making a complaint. If the complaint cannot be resolved on board you should refer the matter ashore, either to the shipowner or to the authorities of the flag State, the port State visited by your ship or those in your own country.

When you join the ship you will get a copy of the on-board complaints procedure. This will give you contact details of the responsible person from the flag State and from your country's administration (if different). It will also identify the person or people on board to whom you can go for advice and assistance in making a complaint.



Making a Complaint On-Board



Maritime casualties

If an incident occurs involving serious injury or loss of life, an official inquiry must be held.

Port State responsibilities

To enable each Member to implement its responsibilities under this Convention regarding the international cooperation in the implementation and enforcement of the Convention standards on foreign ships

Inspections in port

While the flag State is responsible for ensuring that vessels flying its flag comply with the Convention, the port State inspections provide an ongoing mechanism for checking compliance. Normally a Port State Control inspector will go on board and just check that the maritime labour certificate and the declaration of maritime labour compliance are in order.

A more detailed inspection can be carried out under the following circumstances:

- the documents are not produced, are invalid or have been falsified
- the inspector has grounds for believing that the working and living conditions are substandard in terms of the Convention
- the ship has changed flag in an attempt to avoid compliance with the Convention
- a specific complaint has been made about the working/living conditions on board by a seafarer, a trade union, or any person with an interest in the safety and health of seafarers and their ship

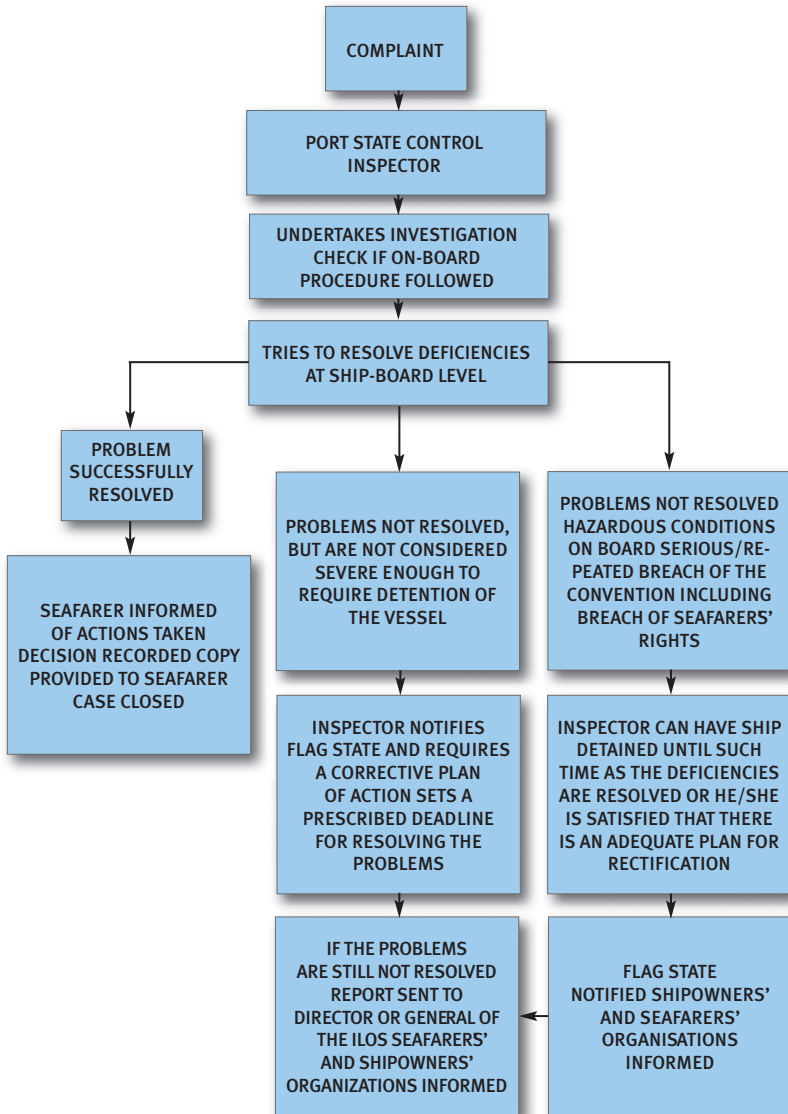
Where deficiencies are found, the inspector should bring them to the attention of the master and give him/her a deadline to fix them. If the conditions on board are found to be hazardous to your safety, health or security or there has been a serious or repeated breach of the Convention requirements, the ship can be detained until the problems have been rectified. Seafarers' and shipowners' organisations have to be informed of significant complaints or deficiencies found in the course of inspections in port.

Examples of circumstances that may require detention of the ship

The following list is taken from the Guidelines for port State control officers carrying out inspections under the MLC, 2006. They are examples of the kinds of circumstances which could warrant a decision to keep the ship in port, either because they are repeated or because of the seriousness of a single instance:

- The presence of any seafarer on board under the age of 16
- The employment of any seafarer under the age of 18 in work likely to jeopardise their health or safety
- Insufficient manning (including that caused by the removal of underage seafarers)
- Any other deficiencies constituting a violation of fundamental rights and principles or seafarers' employment and social rights (see pg 3)
- Any non-conformity applied in a way that violates those fundamental rights (for example the attribution of substandard accommodation based on the race or gender or trade union activities of the seafarers concerned)
- Repeated cases of seafarers without valid certificates confirming medical fitness for duties
- Seafarers on board the same ship repeatedly not in possession of valid seafarers' employment agreements (SEAs) or seafarers with SEAs containing clauses constituting a denial of seafarers' rights
- Seafarers repeatedly working beyond maximum hours of work or having less than the minimum hours of rest
- Ventilation and/or air conditioning and/or heating that is not working adequately
- Accommodation, including catering and sanitary facilities, that is unhygienic or where equipment is missing or not functioning
- Quality and quantity of food and drinking water not suitable for the intended voyage
- Medical guide or medical chest or medical equipment, as required, not on board
- No medical doctor for passenger ships engaged in international voyages of more than three days, carrying 100 persons or more, or no seafarer in charge of medical care on board
- Repeated cases of non-payment of wages or the non-payment of wages over a significant period or the falsification of wage accounts or the existence of more than one set of wage accounts

On-Shore Complaint Handling Procedure



Labour-supplying responsibilities

These ensure that each Member implements its responsibilities under this Convention as pertaining to seafarer recruitment and placement and the protection of its seafarers

States that sign up to this Convention may have responsibilities on three counts, firstly as a flag State, secondly as a port State and thirdly as the State from which you, the seafarer comes. Labour-supply States have to make sure that recruitment and placement services through which your labour is contracted are properly regulated. They may also have responsibility for the provision of social security.

4. Conventions incorporated into the MLC

Minimum Age (Sea) Convention, 1920 (No.7)

Unemployment Indemnity (Shipwreck) Convention, 1920 (No.8)

Placing of Seamen Convention, 1920 (No.9)

Medical Examination of Young Persons (Sea) Convention, 1921 (No.16)

Seamen's Articles of Agreement Convention, 1926 (No.22)

Repatriation of Seamen Convention, 1926 (No.23)

Officers' Competency Certificates Convention, 1936 (No.53)

Holidays with Pay (Sea) Convention, 1936 (No.54)

Shipowners' Liability (Sick and Injured Seamen) Convention, 1936 (No.55)

Sickness Insurance (Sea) Convention, 1936 (No.56)

Hours of Work and Manning (Sea) Convention, 1936 (No.57)

Minimum Age (Sea) Convention (Revised), 1936 (No.58)

Food and Catering (Ships' Crews) Convention, 1946 (No.68)

Certification of Ships' Cooks Convention, 1946 (No.69)

Social Security (Seafarers) Convention, 1946 (No.70)

Paid Vacations (Seafarers) Convention, 1946 (No.72)

Medical Examination (Seafarers) Convention, 1946 (No.73)

Certification of Able Seamen Convention, 1946 (No.74)

Accommodation of Crews Convention, 1946 (No.75)

Wages, Hours of Work and Manning (Sea) Convention, 1946 (No.76)

Paid Vacations (Seafarers) Convention (Revised), 1949 (No.91)

Accommodation of Crews Convention (Revised), 1949 (No.92)

Wages, Hours of Work and Manning (Sea) Convention (Revised), 1949 (No.93)

Wages, Hours of Work and Manning (Sea) Convention (Revised), 1958 (No. 109)

Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No.133)

Prevention of Accidents (Seafarers) Convention, 1970 (No.134)

Continuity of Employment (Seafarers) Convention, 1976 (No.145)

Seafarers' Annual Leave with Pay Convention, 1976 (No.146)

Merchant Shipping (Minimum Standards) Convention, 1976 (No.147)

Seafarers Welfare Convention, 1987 (No.163)

Health Protection and Medical Care (Seafarers) Convention, 1987 (No.164)

Social Security (Seafarers) Convention (Revised), 1987 (No.165)

Repatriation of Seafarers Convention (Revised), 1987 (No.166)

Labour Inspection (Seafarers) Convention, 1996 (No.178)

Recruitment and Placement of Seafarers Convention, 1996 (No.179)

Seafarers' Hours of Work and the Manning of Ships Convention, 1996 (No.180)

5. MLC Index – where to find what you're looking for

INDEX	Articles, Regulations, Standards and Guidelines	Page Ref
Accident prevention	Regulation 4.3	39
	Standard A4.3	39
	Guideline B4.3	39
Accommodation and recreational facilities	Regulation 3.1	22
	Standard A3.1	22
	Guideline B3.1	22
Amendment of this Convention	Article XIV	-
Amendments to the Code	Article XV	-
Annual leave, taking of	Guideline B2.4.2	17
Authoritative languages	Article XVI	-
Bedding, mess utensils and miscellaneous provisions	Guideline B3.1.10	29,25
Calculation and payment (wages)	Guideline B2.2.2	14
Calculation of entitlement (leave)	Guideline B2.4.1	17
Calculation of indemnity against unemployment (ship's loss or foundering)	Guideline B2.6.1	20
Career and skill development and opportunities for seafarers' employment	Regulation 2.8	22
	Standard A2.8	22
	Guideline B2.8	22
Career and skill development, Measures to promote	Guideline B2.8.1	22
Casualties, Marine	Regulation 5.1.6	51
Certification	Title 5	46

INDEX	Articles, Regulations, Standards and Guidelines	Page Ref
Complaints procedures, On-board	Regulation 5.1.5	50
	Standard A5.1.5	50
	Guideline B5.1.5	50
Complaints procedures, On-shore	Regulation 5.2.2	51,53
	Standard A5.2.2	51,53
	Guideline B5.2.2	51,53
Compliance and enforcement	Title 5	45
Conditions of employment	Title 2	12
Declaration of Maritime Labour Compliance – Part I, form	Appendix A5-II	47
Declaration of Maritime Labour Compliance – Part II, form	Appendix A5-II	47
Declaration of Maritime Labour Compliance Part II, sample	Appendix B5-I	-
Declaration of maritime labour compliance, Maritime labour certificate and	Regulation 5.1.3	47
	Standard A5.1.3	47
	Guideline B5.1.3	47
Deficiencies, Rectification of	Title 5	47,51
Definitions and scope of application	Article II	2
Definitions, Specific (wages)	Guideline B2.2.1	14
Denunciation	Article IX	-
Dependants of seafarers (medical care)	Guideline B4.1.5	-
Depositary functions	Article XI	-
	Article XII	-
Design and construction (accommodation)	Guideline B3.1.1	23
Diseases, Provisions on	Guideline B4.3.1	39
Dispute settlement (manning levels)	Guideline B2.7.1	21

INDEX	Articles, Regulations, Standards and Guidelines	Page Ref
Enforcement, Compliance and	Title 5	45
Enforcement, Inspection and	Regulation 5.1.4	47
Entry into force	Article VIII	2
Entry into force, Effect of	Article X	1
Explanatory note to the Regulations and Code of the Maritime Labour Convention		4
Facilities, Other	Guideline B3.1.9	-
Flag State responsibilities (compliance and enforcement)	Regulation 5.1	45
Food and catering	Regulation 3.2	33
	Standard A3.2	33
	Guideline B3.2	33
Foreign port, Seafarers in a	Guideline B4.4.6	42
Fundamental rights and principles	Article III	3
General obligations	Article I	4
Health and safety protection	Regulation 4.3	39
	Standard A4.3	39
	Guideline B4.3	39
Health protection	Title 4	39
Heating (accommodation)	Guideline B3.1.3	23
Hospital accommodation	Guideline B3.1.8	25
Hours of work and hours of rest	Regulation 2.3	16
	Standard A2.3	16
	Guideline B2.3	16
Implementation and enforcement responsibilities	Article V	45

INDEX	Articles, Regulations, Standards and Guidelines	Page Ref
Implementation by Members (repatriation Indemnity)	Guideline B2.5.2	19
Injuries, Provisions on	Guideline B4.3.1	39
Inspection and enforcement	Regulation 5.1.4	47
	Standard A5.1.4	47
	Guideline B5.1.4	47
Inspection by the flag State, List of areas for	Appendix A5-I	46
Inspection by the port State, List of areas for	Appendix A5-III	-
Inspection, education, research and publication (food and catering)	Guideline B3.2.1	33
Inspections in port	Regulation 5.2.1	51
	Standard A5.2.1	51
	Guideline B5.2.1	51
Interim Maritime Labour Certificate, form	Appendix A5-II	-
International cooperation (occupational safety and health protection and accident prevention)	Guideline B4.3.11	-
Investigations (occupational accidents, injuries and diseases)	Guideline B4.3.6	39
Labour-supplying responsibilities (seafarer recruitment and placement)	Regulation 5.3	-
	Standard A5.3	-
	Guideline B5.3	-
Leave, Division and accumulation of	Guideline B2.4.3	18
Leave, Entitlement to	Regulation 2.4	18
	Standard A2.4	17
	Guideline B2.4	17
Lighting (accommodation)	Guideline B3.1.4	23,27
Mail	Guideline B3.1.11	-

INDEX	Articles, Regulations, Standards and Guidelines	Page Ref
Manning levels	Regulation 2.7	21
	Standard A2.7	21
	Guideline B2.7	21
Marine casualties	Regulation 5.1.6	51
Maritime labour certificate and declaration of maritime labour compliance	Regulation 5.1.3	46
	Standard A5.1.3	46
	Guideline B5.1.3	46
Maritime labour certificate, form	Appendix A5-II	-
Medical assistance to other ships and international cooperation	Guideline B4.1.4	-
Medical care	Title 4	35
Medical care ashore	Guideline B4.1.3	35
Medical care on board ship and ashore	Regulation 4.1	37
	Standard A4.1	35
	Guideline B4.1	35
Medical care, Provision of	Guideline B4.1.1	35
Medical certificate	Regulation 1.2	9
	Standard A1.2	8
	Guideline B1.2	8
Medical report form	Guideline B4.1.2	-
Mess rooms	Guideline B3.1.6	25
Minimum age	Regulation 1.1	7
	Standard A1.1	7
	Guideline B1.1	7
Minimum monthly basic pay or wage figure for able seafarers	Guideline B2.2.4	14
Minimum requirements for seafarers to work on a ship	Title 1	7

INDEX	Articles, Regulations, Standards and Guidelines	Page Ref
Minimum wages	Guideline B2.2.3	14
National Declaration, sample	Appendix B5-l	-
National protection and prevention programmes	Guideline B4.3.7	-
Noise and vibration, Prevention of	Guideline B3.1.12	24
Noise, Exposure to	Guideline B4.3.2	24
Obligations of shipowners (accident prevention and health protection)	Guideline B4.3.4	40
Occupational accidents, Provisions on Occupational safety and health protection and the prevention of occupational accidents, Instruction in	Guideline B4.3.1 Guideline B4.3.9	39 39
On-board complaints procedures	Regulation 5.1.5 Standard A5.1.5 Guideline B5.1.5	50 50 50
Onshore seafarer complaint-handling procedures	Regulation 5.2.2 Standard A5.2.2 Guideline B5.2.2	53 53 53
Organisational and operational guidelines (recruitment and placement)	Guideline B1.4.1	10
Port State responsibilities (compliance and enforcement)	Regulation 5.2	51
Preamble		-
Protection and prevention programmes, Content of	Guideline B4.3.8	-
Protection and prevention programmes, National	Guideline B4.3.7	-
Recognised organisations, authorization of	Regulation 5.1.2 Standard A5.1.2 Guideline B5.1.2	- - -

INDEX	Articles, Regulations, Standards and Guidelines	Page Ref
Recreational facilities	Guideline B3.1.11	22, 26
Recruitment and placement	Regulation 1.4 Standard A1.4 Guideline B1.4	11 9 9
Register of seafarers	Guideline B2.8.2	-
Regulations and Parts A and B of the Code	Article VI	4
Repatriation	Regulation 2.5 Standard A2.5 Guideline B2.5	20 19 19
Repatriation, Entitlement to	Guideline B2.5.1	19
Reporting and collection of statistics	Guideline B4.3.5	-
Safety and health education of young seafarers	Guideline B4.3.10	-
Sanitary accommodation	Guideline B3.1.7	30
Seafarers employment and social rights	Article IV	3
Seafarers' employment agreements	Regulation 2.1 Standard A2.1 Guideline B2.1	13 12 12
Seafarers' organisations, Consultation with	Article VII	5
Ship visit arrangements	Guideline B3.1.11	-
Ship's loss or foundering, seafarer compensation for	Regulation 2.6 Standard A2.6 Guideline B2.6	21 20 20
Shipowners' liability	Regulation 4.2 Standard A4.2 Guideline B4.2	39 38 38
Shipowners' organisations, Consultation with	Article VII	5

INDEX	Articles, Regulations, Standards and Guidelines	Page Ref
Ships' cooks	Guideline B3.2.2	34
Shore-based welfare facilities, Access to	Regulation 4.4 Standard A4.4 Guideline B4.4	42 42 42
Shore-based welfare facilities, Dissemination of information and facilitation measures	Guideline B4.4.5	-
Shore-based welfare facilities, Responsibilities of Members	Guideline B4.4.1	42
Sleeping rooms	Guideline B3.1.5	27
Social security	Regulation 4.5 Standard A4.5 Guideline B4.5	44 43 43
Social security protection	Title 4	43
Special Tripartite Committee	Article XIII	-
Statistics, Reporting and collection of	Guideline B4.3.5	-
Training and qualifications	Regulation 1.3	9
Ventilation (accommodation)	Guideline B3.1.2	23, 28
Vibration, Exposure to	Guideline B4.3.3	23, 24
Wages	Regulation 2.2 Standard A2.2 Guideline B2.2	15 14 14
Welfare	Title 4	35, 42
Welfare boards	Guideline B4.4.3	42
Welfare facilities ashore, Access to	Regulation 4.4 Standard A4.4 Guideline B4.4	42 42 42

INDEX

**Articles, Regulations,
Standards and Guidelines**

Page Ref

Welfare facilities, Financing of	Guideline B4.4.4	42
Young seafarers (hours of work and hours of rest)	Guideline B2.3.1	17
Young seafarers (leave)	Guideline B2.4.4	-
Young seafarers, safety and health education	Guideline B4.3.10	41

