



BCSEA – MLC,2006 Training for Flag State Surveyors

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- **Key elements of the MLC, 2006**
- **Compliance and Enforcement**
- **Minimum requirements for Seafarers**
- **Conditions of employment**
- **Accommodation, recreational facilities, food and catering**
- **Health protection, medical care, welfare and social security protection**

What is the Maritime Labour Convention, 2006?

Why is an important relevant instrument?



Key elements of the MLC, 2006

- **Proposed by Shipowners and Seafarers in 2001**
- **Adopted in February 2006**
- **Entered into force on 20 August 2013**





Set the rights which should be given to Seafarers



Fundamental rights

- Freedom of association (CE)
- Elimination of all forms of forced or compulsory labour
- Effective abolition of child labour
- Elimination of discrimination in employment and occupation





Seafarers' rights

- Fair terms of employment
- Decent living and working conditions on board
- Health protection, medical care and protection





Structure of the Convention

- **1st level: Articles**
- **2nd level: Regulations.**
- **3rd level: A two part Code**
 - **Part A: Mandatory Standards**
 - **Part B: Non-mandatory Guidelines**
- **Explanatory note (Does not form part of the Convention – General guide)**
- **Resolutions**



Vertical integration

Regulation 1.2 – Medical certificate

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

1. Seafarers shall not work on a ship unless they are certified as medically fit to perform their duties.

Standard A1.2 – Medical certificate

1. The competent authority shall require that, prior to beginning work on a ship, seafarers hold a valid medical certificate attesting...

Guideline B1.2 – Medical certificate

1. Guideline B1.2.1 – International Guidelines

The competent authority... should follow



Articles – Regulations – Standards – Guidelines

Which of them are subject to inspection?



Article I – General obligations.

Article II – Definitions and scope of application.

Article III – Fundamental rights and principles.

Article IV – Seafarers' employment and social rights.

Article V – Implementation and enforcement responsibilities.

Article VI – Regulations and parts A and B of the Code.

Article VII – Consultation with shipowners' and seafarers' organisations.

Article VIII –Entry into force.



Article IX - Denunciation.

Article X – Effect of entry into force.

Articles XI & XII – Depositary functions.

Article XIII – Special tripartite committee.

Article XIV – Amendment of the convention.

Article XV – Amendments to the Code.

Article XVI – Authoritative languages.



Freedom of association and the effective recognition of the right to collective bargaining.

Title 2 – Regulation 2.1 (Seafarers' employment agreements)

The elimination of all forms of forced or compulsory labour.

Title 2 - Regulations 2.1(SEA), 2.2 (Wages), 2.3 (Hours of work)

The elimination of all forms of child labour.

Title 1 - Regulation 1.1 (Minimum age)



The elimination of discrimination in respect of employment and occupation.

Title 1 – Regulation 1.4 (Recruitment and placement)

The right to a safe and secure workplace that complies with safety standards.

Title 4 - Regulation 4.3 (H&S protection and accident prevention)

The right to fair terms of employment.

Title 2 - Regulations 2.1 (SEA), 2.2 (Wages), 2.3 (Hours of work/rest), 2.4 (Leave), 2.5 (Repatriation) and 2.6 (Seafarers' loss..)



The right to decent living and working conditions on board ship.

Title 3 - Regulations 3.1 (Accommodation etc), 3.2 (Catering).

Title 4 - Regulation 4.3 (H&S protection and accident prevention)

The right to health protection, medical care, welfare measures and other forms of social protection.

Title 4 - Regulations 4.1 (Medical care), 4.2 (Shipowners' liability), 4.4 (Shore based welfare facilities) and 4.5 (Social security)



- How is with regard to the ratification process?
- Who will responsible for the survey and certification?
- Who will be responsible for the enforcement?
- Has the DMLC Part I been set?

Compliance and Enforcement



Title 1 – Minimum requirements for seafarers to work on a ship	Requirements for the ship
Title 2 – Conditions of employment	
Title 3 – Accommodation, recreational facilities, food and catering	
Title 4 – Health protection, medical care, welfare and social security	
Title 5 – Compliance and Enforcement	Responsibilities for the Administration

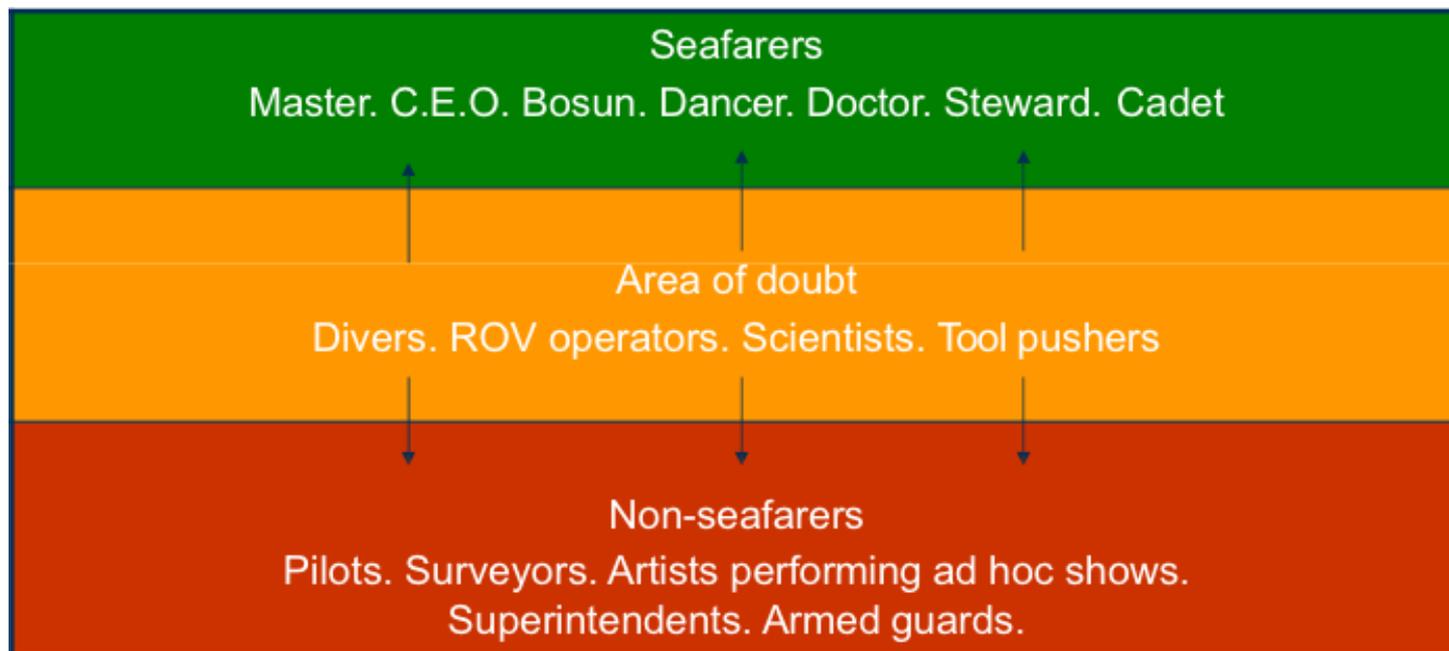


Who or what does the MLC, 2006 apply to?

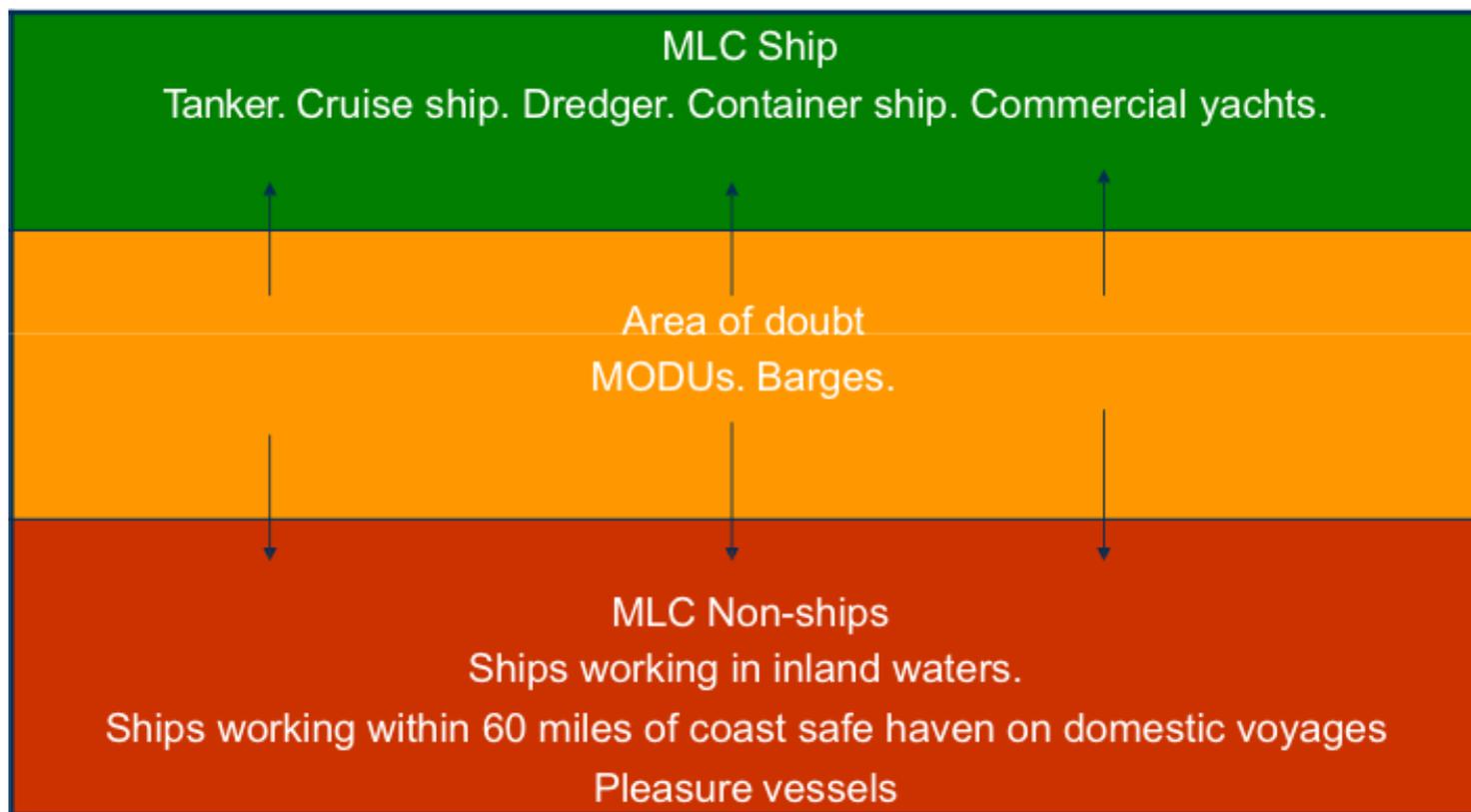
Article II

- **Seafarers: all persons working on a ship (to which the Convention applies)**
- **Ships: all ships, ordinarily engaged in commercial activities except for:**
 - **ships exclusively in inland waters**
 - **ships engaged in fishing etc**
 - **warships and ships of traditional build**

Compliance and Enforcement



Compliance and Enforcement



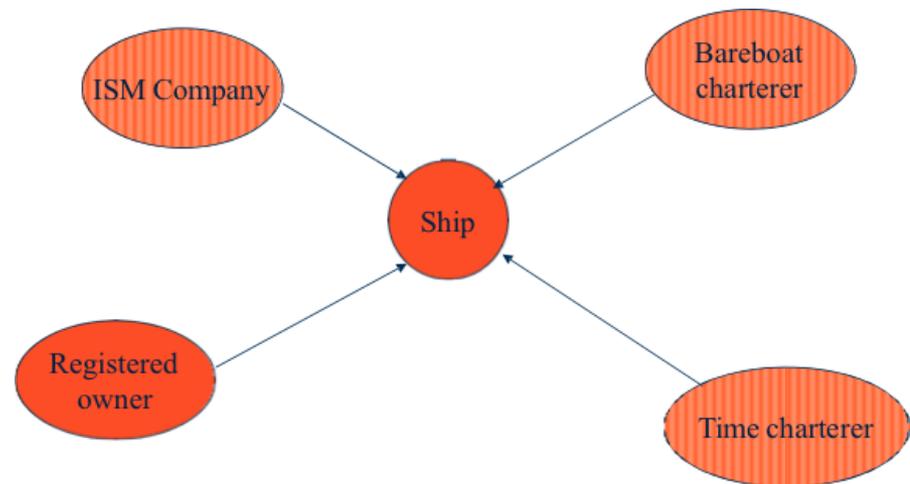


Who or what does the MLC, 2006 apply to?

Article II

- **Shipowner** - The owner** of the ship or another organization or person that has assumed the responsibility for the operation of the ship, e.g. manager, agent, bareboat charterer.

** Depends on the Flag





No more favourable treatment

(Article V, paragraph 7)

To ensure that the ships that fly the flag of any State that has not ratified this Convention do not receive more favourable treatment than the ships that fly the flag of any State that has ratified it.





Flexibilities under the Convention

(Articles VI and VII)

- *Part B of the code*
- *Substantial equivalence*
- *Exemptions*
- *In the event of doubt - seafarers or ships*



Substantial equivalences

(Article VI. Paragraph 3)

A Member which is not in a position to implement the rights and principles set out in Part A of the Code may, unless expressly provided otherwise in this Convention, implement Part A through provisions in its laws and regulations or other measures which are substantially equivalent to the provisions of Part A.





Exemptions

Standard A3.1. Para 21

Any exemptions with respect to the requirements of this Standard may be made only where they are expressly permitted in this Standard and only for particular circumstances in which such exemptions can be clearly justified on strong grounds and subject to protecting the seafarers' health and safety.



Variations

Standard A3.1. Para 19:

Variations are permitted in order to take account of differing and distinctive religious and social practices.

Such variations should not result in overall facilities less favourable than those which would result from the application of the Standard.





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

- Regulation 1.1 – Minimum age (*ISM Clause 6.2 – Resources & Personnel*)
- Regulation 1.2 – Medical certificate (*ISM Clause 6.2 – Resources & Personnel*)
- Regulation 1.3 – Training and qualifications (*ISM Clauses 6.2 & 6.3 – Resources & Personnel*)
- Regulation 1.4 – Recruitment and placement (*Not covered by the ISM Code*)



Title 2 – Conditions of employment

- Regulation 2.1 – Seafarers' employment agreements (Not covered by the ISM Code)
- Regulation 2.2 – Wages (Not covered by the ISM Code)
- Regulation 2.3 – Hours of work and hours of rest (Clause 1.4 – Functional arrangements....)
- Regulation 2.4 – Entitlement to leave (Not covered by the ISM Code)
- Regulation 2.5 – Repatriation (Not covered by the ISM Code)
- Regulation 2.6 – Seafarers' compensation for loss or foundering (Not covered by the ISM Code)
- Regulation 2.7 – Manning levels (Clauses 1.2 & 6 – Objectives/Resources & Personnel)
- Regulation 2.8 – Career and skill development (Not covered by the ISM Code)



Title 3 – Accommodation, recreational facilities, food and catering

- Regulation 3.1 – Accommodation and recreational facilities (Not covered by the ISM Code)
- Regulation 3.2 – Food and catering (Clauses 6 and 7 – Resources & Personnel/ Development of plans...)



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

- Regulation 4.1 – Medical care on board ship and ashore (ISM Clauses 6 & 7 – Resources & personnel/Development of plans...)
- Regulation 4.2 – Shipowners' liability (Not covered by the ISM Code)
- Regulation 4.3 – Health and safety protection and accident prevention (ISM Clause 1.2 – Objectives)
- Regulation 4.4 – Access to shore based welfare facilities (Not covered by the ISM Code)
- Regulation 4.5 – Social security (Not covered by the ISM Code)



Title 5 – Compliance and Enforcement

- **Part 1: Flag State responsibilities.**
- **Part 2: Port State responsibilities.**
- **Part 3: Labour supplying responsibilities**



Authorisation of Recognised Organisations (ROs)

- *Can be authorised by the flag State to undertake MLC, 2006 inspections and to issue certificates.*
- *An up to date list of any authorisations (and their scope) must be provided to the ILO.*
- *The scope of the RO's role must be specified by the flag State.*
- *The flag State should have in place an oversight system for authorised RO's.*



Documentation

(Regulation 5.1.3)

- **Maritime Labour Certificate.**
- **Interim Maritime Labour Certificate.**
- **Declaration of Maritime Labour Compliance (DMLC)**
 - **Part I (Flag) and Part II (Shipowner)**



Interim Certification

Standard A5.1.3. Paragraph 5

Interim Maritime Labour Certificates may be issued:

- To new ships of 10M
- When a ship changes flag
- On change of ownership





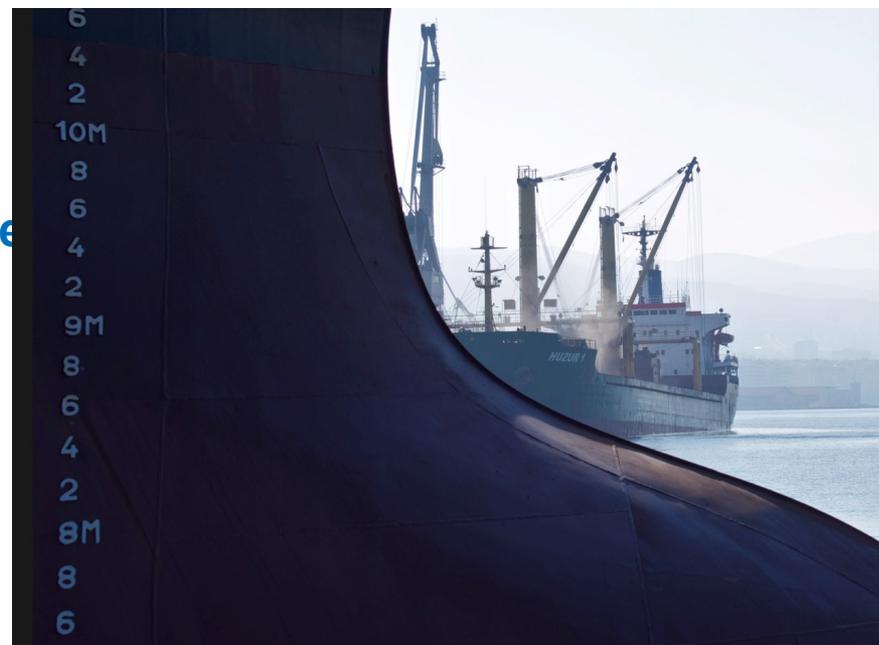
Interim Certification

Standard A5.1.3

An interim certificate may be issued for a max period of 6 months

No further interim certificates may be issued after the initial 6 months

A DMLC need not be issued for the period of validity of the interim certificate





Ships under 500 GT

Standard A5.1.3

Ships under 500 GT are not required to have a Maritime Labour Certificate

BUT!

Paragraph 2 of Regulation 5.1.3 allows for ships under 500 GT to be issued with a Maritime Labour Certificate if requested by the owner.



The inspection process

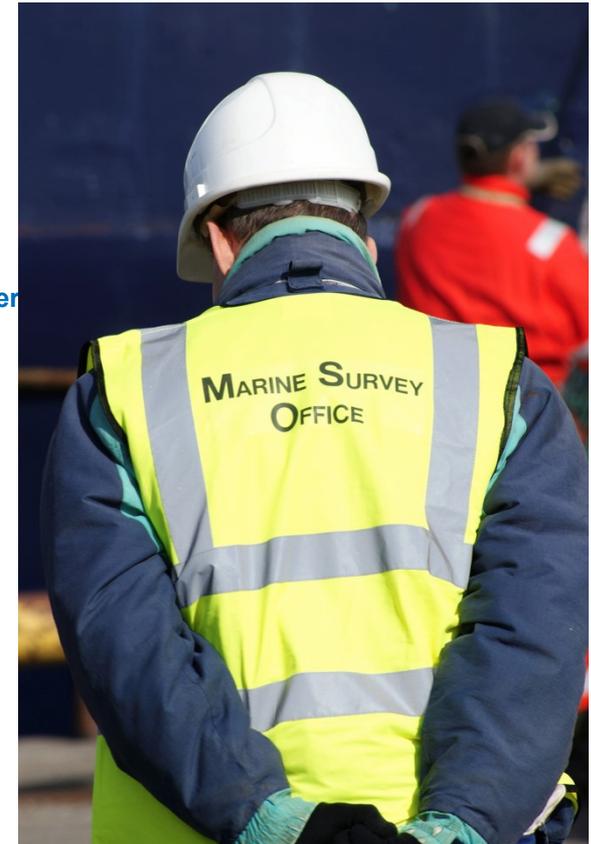
- **First inspection**
- **Intermediate inspection (Must be within the 2nd and 3rd anniversaries)**
- **Renewal Inspection (Should be within 3 months of the expiry of the old certificate)**
- **Change of flag or ownership.**



Compliance and Enforcement

Areas subject to certification

1. Minimum age.
2. Medical certification.
3. Qualification of seafarers.
4. Seafarers' employment agreements.
5. Use of any licensed or certified or regulated private recruitment and placement services.
6. Hours of work and hours of rest.
7. Manning levels.
8. Accommodation.
9. On-board recreational facilities.
10. Food and catering.
11. Health and safety and accident prevention.
12. On-board medical care.
13. On-board complaints procedure
14. Payment of wages.





PORT STATE CONTROL

Every foreign ship may be inspected by an "authorised officer"

For compliance with the "requirements of the Convention" (including seafarers' rights)

Requirements means the Articles, Regulations and the Code, Part A only



Inspection process

In preparation for an inspection the PSCO should verify:

- **Whether the ship is flying the flag of a state that has ratified the Convention**
- **Whether there are any outstanding deficiencies, or complaint(s)**
- **Take due note of the ships' particulars in relation to the applicability of certain elements of the Convention (for example, the keel laying date with respect to crew accommodation)**
- **Review changes in Flag history to avoid compliance**



Certificates and documents

For ships of 500 GT and over check that the ship has:

- **A valid Maritime Labour Certificate**
- **A Declaration of Maritime Labour Compliance (Parts I and II)**
- **In addition check for MLC inspections reports**



Inspecting ship under 500 GT

a) Ships with a certificate:

Follow the procedure for ships of 500 GT and over

b) Ships without a certificate:

Seek evidence confirming that the ship has been inspected by the flag State.

Take account of the flag State inspection report when considering undertaking a more detailed inspection.

In the case of clear grounds, a more detailed inspection should be carried



Inspecting ship under 500 GT

Give the master the opportunity to produce:

- Evidence of compliance with the MLC, 2006.
- Documents detailing any substantial equivalences or exemptions.

The PSCO may contact the flag State in the event of doubt.



One off voyages

The MLC, 2006 does not:

- Specifically allow an exemption for one off voyages.
- Allow for substantial equivalence for Title 5.

However:

The MLC, 2006 only applies to ships that are normally engaged in commercial activities



More detailed inspection

A more detailed inspection may be carried out when:

- **The documentation is incorrect**
- **The PSCO identifies that clear grounds exist**
- **Reasonable grounds exist**
- **A complaint alleging that specific working and living conditions do not conform to the MLC, 2006 has been made**



Grounds for a More detailed inspection

There are clear grounds for the PSCO believing that the working and living conditions on the ship do not conform to the requirements of the Convention.

There are reasonable grounds to believe that the ship has changed flag for the purpose of avoiding compliance with the Convention.



Grounds for a More detailed inspection

There is a complaint alleging that specific working and living conditions do not conform to the requirements of the Convention.

No requirement for clear grounds etc, but the inspection:

- must generally be limited to the scope of the complaint;
- may provide clear grounds for detailed inspection.



Grounds for a More detailed inspection

The working and living conditions constitute a clear hazard to safety, health, security of seafarers,

Or

The PSCO has grounds to believe that any deficiencies constitute a serious breach of the requirements of the MLC, 2006 (including seafarers' rights).





More detailed inspection

When carrying out a More detailed inspection the PSCO should:

- Take account of the provisions stated in the DMLC Part I.
- Use their professional judgement judgment when checking against some or all of the 14 items.
- Consider consulting a competent labour authority ashore if specific expertise is needed.

Minimum requirements for seafarers



**Broader protection of workers
from exploitation**

**Protect workers from situations
that may be harmful to themselves
and to others**

Protection of young people





Regulation 1.1 - Minimum Age

- No under-age person work on a ship (16 years old)
- ‘Person’ – Seafarer
- A higher minimum age can be set





Regulation 1.1 - Minimum Age

Flag State to determine:

- Night time
- Works falling under the category of hazardous/jeopardize health or safety
- Special attention to persons under 18





Regulation 1.1 - Minimum Age

- **Non-compliance with the minimum age requirement is considered as a serious breach**
- **It may lead to a detention under port State control or a refusal to sail under the flag State**
- **No exemptions accepted**
- **Cook requirements**





Regulation 1.2 – Medical certificate

- To ensure that ALL seafarers are medically fit to perform their duties
- Each certificate must state:
 - ✓ Hearing, sight and colour vision
 - ✓ Seafarer is not suffering from any medical condition likely to be aggravated by service at sea





Regulation 1.2 – Medical certificate

- **When and where a seafarer could get a valid medical certificate?**
- **Flag State to determine:**
 - ✓ **Recognition of examination of seafarers (STCW and non-STCW)**
 - ✓ **Qualified medical practitioners**
- **Ships' doctor can not issue medical certificates**





Regulation 1.2 – Medical certificate

- **Validity of two years (One year if under the age of 18)**
- **Certificate of colour vision valid for 6 years**
- **Urgent cases**
 - ✓ **Permission of three months**
 - ✓ **Next port of call**
- **In English as a minimum for ships engaged on international voyages**

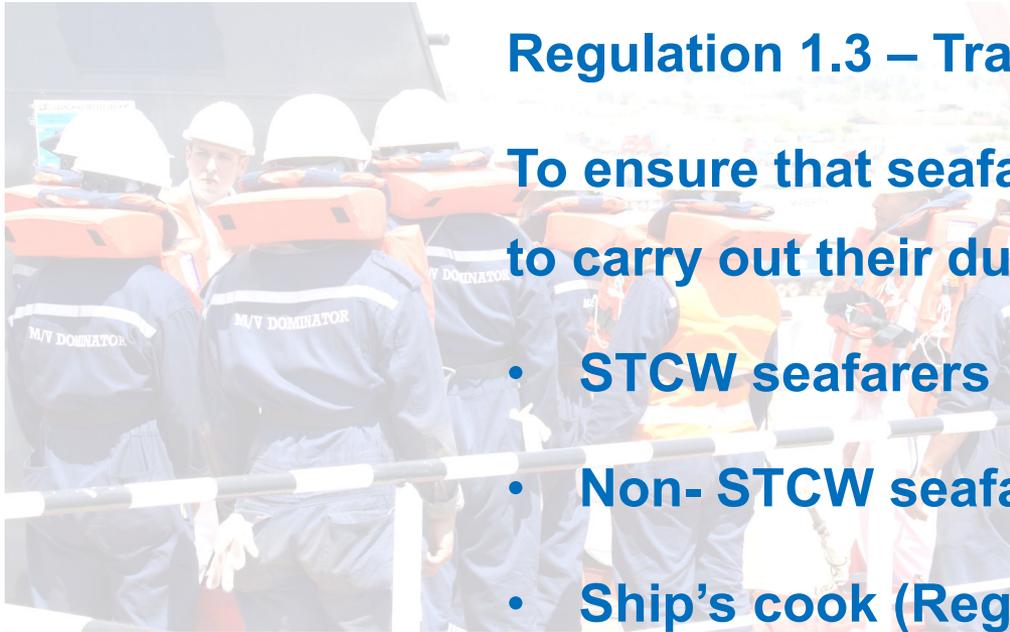




Regulation 1.2 – Medical certificate

- **ILO/WHO Guidelines for Conducting Pre-sea and Periodic Medical Fitness Examinations for Seafarers**





Regulation 1.3 – Training and Qualifications

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

- STCW seafarers
 - Non- STCW seafarers (Basic training)
 - Ship's cook (Regulation 3.2)
- ✓ Trained, qualified, competent
 - ✓ Training course, examination and certification by the Competent authority or approved school)



Regulation 1.4 – Recruitment and placement

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

Ban of abusive practices such as:

- ✓ Blacklisting
- ✓ Fees for access to employment

Certification, licensing, regulations

Difficulties for inspection

Importance to ensure seafarers' rights



Regulation 2.1 – Seafarers' employment agreement

- Intended to achieve fairness
- Agreed by the seafarers
- Incorporate collective bargaining agreements
- Signed by the seafarer and the shipowner
- Original on board





Regulation 2.1 – Seafarers' employment agreement



- The place where and date when the SEA entered into
- Capacity to be employed
- The amount of seafarer's wages or the formula used for calculating them
- The amount of paid annual leave
- The termination of the agreement



Regulation 2.1 – Seafarers' employment agreement



- **Health and social security protection**
- **Entitlement to repatriation**
- **Reference to CBA**



Regulation 2.2 – Wages

- To ensure that seafarers are paid for their services
- Some countries may regulate seafarers' wages in national laws while others may not
- Flag State may establish:
 - Connection between wages and SEA
 - Methods of calculation
 - Payment methods / Allotments



Conditions of employment



Regulation 2.2 – Wages

- **Payments shall be in full and on a monthly basis**
- **Partly transferred to families or dependants**
- **No exceptions**





Regulation 2.2 – Wages

- **Basic pay or wages includes hours of work**
- **Hours of work means the time during which seafarers are required to do work on account of the ship**
- **Overtime means time worked in excess of the normal hours of work**
- **Guideline B2.2.2 Calculation of payment**





Regulation 2.2 – Wages

- **Minimum wages**
- **Consultation with Shipowners and Seafarers organizations**
- **Amount set by the Joint Maritime Commission as a reference**





Regulation 2.3 – Hours of work and hours of rest

- **Hours of work – means time during which seafarers are required to do work on account of the ship.**
- **Hours of rest means time outside hours of work; this term does not include short breaks.**
- **What is deemed to be a short break?**
 - ✓ **1 hour for meals**
 - ✓ **15 minutes after 2 hours of work**



Regulation 2.3 – Hours of work and hours of rest

- **There is no definition of hours of work or rest in STCW.**
- **Watchkeeper – means all persons who are assigned duty as officer in charge of a watch or as a rating forming part of a watch**
- **Minimum Safe Manning Document or Equivalent – means a document issued by the Administration as evidence of compliance with SOLAS Reg V/14.**
- **UMS – means Unattended Machinery Space(s). A class notation whereby certain controls are in place allowing the ship to operate with the machinery space(s) unattended.**



Regulation 2.3 – Hours of work and hours of rest

The maximum hours of work shall not exceed:

- 14 hours in any 24 hour period; and
- 72 hours in any seven day period

Minimum hours of rest must not be less than:

- 10 hours in any 24-hour period; and
- 77 hours in any seven-day period.

Hours of rest may be divided into no more than two periods:

- one of the periods must be at least six hours in length; and
- the interval between consecutive periods must not exceed 14 hours.



Regulation 2.3 – Hours of work and hours of rest

Normal working hours' standard based on:

- an eight-hour day;
- one day rest per week;
- rest on public holidays.

That applies to **all seafarers** as defined in the MLC, 2006



Regulation 2.3 – Hours of work and hours of rest

All persons with designated safety, prevention of pollution and security duties (as per STCW) must be provided with:

- A minimum of 10 hours rest in any 24 hour period; and
- 77 hours of rest in any 7 day period.

Hours of rest may be divided in to no more than 2 periods.

One rest period must be at least 6 hours long.

Intervals between consecutive rest periods shall not exceed 14 hours.

That **does not** apply to all seafarers.



Regulation 2.3 – Hours of work and hours of rest

Musters, fire-fighting and lifeboat drills and other prescribed drills must be conducted in a manner that minimises the disturbance of rest periods and does not induce fatigue.





Regulation 2.3 – Hours of work and hours of rest

Rest periods need not be maintained in the case of an emergency or in other overriding operational conditions.





Regulation 2.3 – Hours of work and hours of rest

Tables of working arrangements must:

- Be posted in an easily accessible place
- Contain for every position at least:
 - ✓ the schedule of service at sea and service at port; and
 - ✓ the minimum hours of rest or maximum hours of work required by national laws or regulations or applicable collective agreements.
- Be in a standardised format in the ship's working language(s) and English.

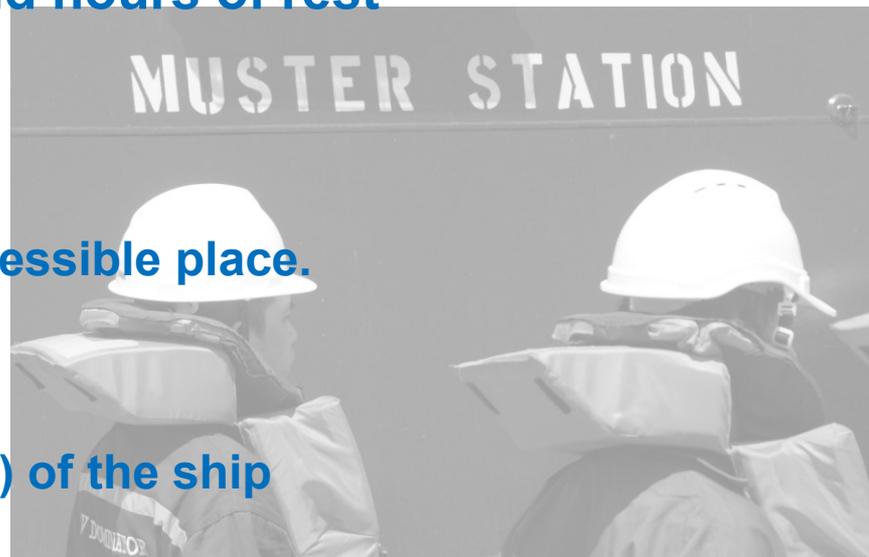




Regulation 2.3 – Hours of work and hours of rest

Watch schedules:

- **Must be posted up in an easily accessible place.**
- **Shall be in a standardised format.**
- **Shall be in the working language(s) of the ship and in English.**
- **What is considered to be an easily accessible place?**





Regulation 2.3 – Hours of work and hours of rest

- Seafarers on call, such as when a machinery space is unattended, must have adequate compensatory rest period if the normal period of rest is disturbed by call-outs to work
- How should compensatory rest be recorded?





Regulation 2.3 – Hours of work and hours of rest

Records under the MLC, 2006

- Maintained for seafarers in a standardized format in the ship's working language(s) and English
- Endorsed by the Master or authorized person and by the seafarer concerned
- The seafarers must receive a copy of the records pertaining to them.





Regulation 2.3 – Hours of work and hours of rest

The Master:

- Has the right to require a seafarer to perform any hours of work necessary for the immediate safety of the ship, persons on board or cargo, or for the purpose of giving assistance to other ships or persons in distress at sea.
- May suspend the schedule of the schedule of hours or rest/work in these situations.

Adequate period of rest for seafarers' affected as soon as practicable after the event.





Regulation 2.3 – Hours of work and hours of rest

A Member may have regulations/procedures to authorise collective agreements permitting exceptions to the limits.

Exceptions should follow should follow the provisions of A2.3.

More frequent or longer leave periods/granting of compensatory leave should be taken in to account.





Regulation 2.3 – Hours of work and hours of rest

“A reduction in physical and/or mental capability as the result of physical, mental or emotional exertion which may impair nearly all physical abilities including: strength; speed; reaction time; co-ordination; decision making; or balance” (IMO, MSC/Circ.813)



Regulation 2.3 – Hours of work and hours of rest (Signs of fatigue)

- Vacant stare with sunken, bloodshot eyes
- Eye strain, sore or 'heavy' eyes, dim or blurred vision
- Droning and humming in the ears
- Paleness of skin
- Slurred speech
- Headaches
- Feeling cold compared with others in the same room
- Faintness and dizziness
- Lack of energy, drowsiness
- Unstable posture/swaying, dropping chin, nodding head
- Loss of muscular strength, stiffness, cramps
- Loss of manual dexterity/difficulty making fine movements



Regulation 2.4 – Entitlement to leave

To ensure that seafarers have adequate leave...

... but difficult to prohibit workers from taking consecutive employment





Regulation 2.4 – Entitlement to leave

Flag State must:

- **Establish laws and regulations determining minimum leave**
- **Require that seafarers are given paid leave**
- **Determine the concept of leave (calculation, public holidays, periods)**





Regulation 2.4 – Entitlement to leave

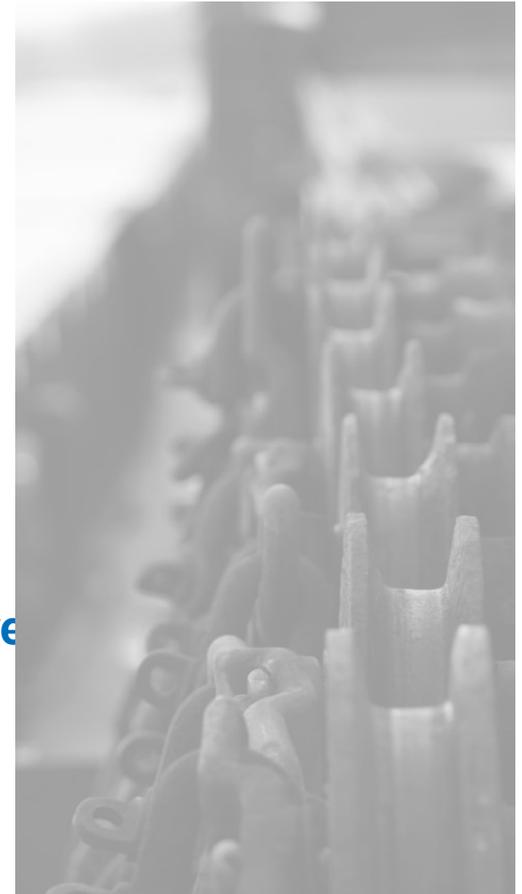
- **2.5 calendar days per month of employment**
- **Are seafarers obliged to take leave (rather than money)?**
- **What is the maximum period on work on board?**
- **Guideline B2.4**





Regulation 2.5 – Repatriation

- **Who pays?**
- **Conditions for travel?**
- **What if there is a default?**
- **Shipowners to provide financial security**
- **Facilitate the repatriation of seafarers**
- **Not refuse the right of repatriation to any seafarer because of the financial circumstances of a shipowner**
- **Difficulties to inspect**





Regulation 2.6 – Seafarer compensation for the ship's loss or foundering

- Dealing with the consequences of abandonment





Regulation 2.7 – Manning levels

- To ensure that seafarers work on board ships with sufficient personnel for the safe, efficient and secure operation of the ship
- MLC, 2006, STCW and SOLAS





Regulation 2.8 – Career and skill development and opportunities for seafarers' employment

- To promote career and skill development and employment opportunities for seafarers
- A flag State responsibility





Practical case

1. During a PSC inspection you find the following on board a small product tanker which was on short sea passages:
2. Deck officers keeping watches 6 hours on / 6 hours off
3. Engineer officers keeping watches 12 hours on / 12 hours off
4. A couple of minor anomalies in the records of hours of rest for an engineer and a deck officer
5. Seafarers Employment Agreements (SEAs) valid for 12 months and 2 of the crew have been on board for 12 months and 10 days and are being signed off in that port
6. Seafarers have to pay for their flights while joining the ship
7. 2 of the deck crew have 2 months wages outstanding
8. Seafarers are placed by a recruiting agency based in a non-ratifying country.

What actions will you take as a PSCO? What are the questions you would like answered?

Accommodation, recreational facilities, food and catering



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

The most relevant provisions for seafarers and shipowners





Regulation 3.1 – Accommodation and recreational facilities

The most tangible provisions of the Convention, and the most difficult areas to rectify if deficiencies since they relate to ship construction and design





Regulation 3.1 – Accommodation and recreational facilities

- **What is adequate?**
- **What is decent?**
- **What is feasible?**



Regulation 3.1 – Accommodation and recreational facilities

**Binding requires
existing ships**





Regulation 3.1 – Accommodation and recreational facilities

Design and construction

Ventilation

Heating

Lighting

Sleeping rooms

Mess rooms

Sanitary accommodation

Hospital accommodation

**Bedding, mess utensils and
miscellaneous provisions**

**Recreational facilities, mail
and ship visit arrangements**

**Prevention of noise &
vibration**

Group discussion on Standard A3.1



Regulation 3.1 – Accommodation and recreational facilities

Consultation with Shipowners and Seafarers

Elaborate inspection obligations

Set flexibility (but not subjectivity)



Regulation 3.1 – Accommodation and recreational facilities

- **Check the construction plan of the ship showing dimensions identifying the use to be made of each room or other area**
- **Compare the crew list with the number of sleeping rooms and berths are available**
- **Records of inspections**



Regulation 3.1 – Accommodation and recreational facilities

Difficulties of inspection

Flexibility by Flag States





Regulation 3.2 – Food and Catering



Good quality food and drinking water provided under regulated hygienic conditions

Free of charge

Ship's cook trained and qualified



Regulation 3.2 – Food and Catering



- **Quantity**
- **Nutritional value**
- **Variety**
- **Area for complaints**



One of the most difficult issues for a globalized work force...





Regulation 4.1 – 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
- Interaction with Title 2, title 3 and STCW
- Seafarers **MUST** receive adequate Social Security protection
- Protection and care is ‘in principle’ at no cost to the seafarer but, with limitations?



Regulation 4.1 – Medical care on board ship and ashore

- **Access to:**
 - ✓ **Medical facilities**
 - ✓ **Essential dental care**
 - ✓ **Medicines**



Regulation 4.1 – Medical care on board ship and ashore

- **Medical chest**
- **Medical equipment / Medical guide**
- **Qualified medical doctor (Ships carrying more than 100 persons, engaged on international voyages of more than three days)**
- **Seafarers trained to provide medical first aid (STCW)**
 - **Able to provide medical aid**
 - **Administering medicine**



Regulation 4.2 – Shipowners' liability

**** Presentation on 2014 Amendments**



Regulation 4.3 – Health and ship safety protection and accident prevention



What is to be expected on board?

‘Safety first’



Regulation 4.3 – Health and ship safety protection and accident prevention

Guideline B4.3

Machinery

Low or high temperature surfaces

Effects of noise and vibration

Loading and unloading equipment

Fire prevention and Fire-fighting

Anchors, chains and lines

Personal protective equipment

Work on enclosed spaces

Effects of fatigue

Effects of drugs and alcohol

HIV / AIDS protection and prevention

Emergency and accident response



Regulation 4.3 – Health and ship safety protection and accident prevention

Guideline B4.3.10 Safety and health education of young seafarers

Types of work which may be restricted:

- **Lifting, moving or carrying heavy loads or objects**
- **Entry into boilers, tanks or cofferdams**
- **Handling mooring or tow lines and anchoring equipment**
- **Work aloft or on deck in heavy weather**
- **Nightwatch duties**
- **Servicing electrical equipment**



Regulation 4.4 – Access to shore-based welfare facilities

- **Obligation to assist by the port State?**
- **Facilitating the right to come ashore**
- **Welfare facilities and services?**



Regulation 4.5 – Social Security

- **The most challenging requirement of the Convention**
- **Practical difficulties**
- **How to provide social security coverage?**
- **Long-term and short-term protection**



Regulation 4.5 – Social Security

Full social security protection:

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



Two aspects:

- **Port State control inspection (Regulation 5.2.1) - Information submitted by a seafarer, a professional body, an association, a trade union or generally any person with an interest in the ship.**
- **A Seafarer exercises their right to complain to officers on shore (Regulation 5.2.2)**

Onshore complaint-handling procedures



Seafarers have a right to report complaints concerning alleged breaches of the Convention (including seafarers' rights) to an authorized officer in a port State in order to facilitate a prompt and practical means of redress.

Appropriate steps shall be taken to safeguard the confidentiality of seafarers making a complaint (Standard A5.2.2 para. 7)





Is there a procedure whereby a seafarer or seafarers can complain using the internal procedure as defined in MLC, 2006 Reg 5.1.5 to the ships on board management.

This complaint remains an internal procedure and should not involve the PSCO.

Nevertheless, the existence of a functioning procedure can be checked during a More Detailed Inspection.



Step 1:

- **Determine whether the complaint should be handled under the PSC procedure.**
- **Carry out an initial assessment to ascertain whether the complaint relates to the MLC, 2006.**
- **Depending upon the outcome, the PSCO should decide whether or not to carry out a More detailed inspection**



Step 1 (Cont.):

- **Seek to resolve the complaint at ship board level.**
- **Check to see in the on-board complaints system has been used.**
- **The master, shipowner or any other person involved should be given the opportunity to make their views known.**
- **If any non-conformity found falls within the scope of A5.2.1 then the procedure is the same as for those found during a port State inspection (Standard A5.2.2, para 4).**
- **Seek advice from the flag State/competent authority**



Step 2 – Inspection process:

- **Check whether the on board complaint procedure has been used.**
- **If it has not been used without justification, the PSCO should advise that in the first instance the procedure should be used.**
- **Otherwise the PSCO should seek to resolve the complaint at ship board level.**



Step 2 – Inspection process:

- **The master, owner or any person or organisation with a legitimate interest in the shipboard working and living conditions shall be permitted to express their views.**
- **If a deficiency relating to the complaint has been recorded and depending upon its seriousness the PSCO should take the appropriate action.**



Step 2 – Inspection process:

- **If the complaint cannot be resolved at shipboard level, or the complaint refers to other areas than listed in annex A5-III, the flag State should be informed and requested to provide (within a prescribed deadline) advice and a corrective plan of action.**



Step 3 - Dealing with an unresolved complaint

- **If the flag State advises that it will deal with the complaint then the PSCO will not have any further involvement.**
- **If the flag State does not resolve the complaint within the prescribed timescale, then the PSCO should forward the inspection report to the ILO & inform the social partners of that port state.**
- **Keep track of any correspondence with the flag State**

Deficiencies and actions to be taken



Examples of deficiencies in the 14 areas

Minimum age	Art IV.4 Regulation 1.1
Person under the age of 16 working on board ship	Standard A 1.1. para.1
Seafarer under the age of 18 regularly working at night (except exemption in case of training program) on board	Standards A 1.1. para. 2 and A 1.1. para. 3
Seafarer under the age of 18 carrying out tasks on board liable to jeopardize his/her health or safety on board	Standard A 1.1. para. 4

Deficiencies and actions to be taken



Examples of deficiencies in the 14 areas

Medical certificate	Art IV.4, Regulation 1.2
Seafarers on board without a valid medical certificate* *In urgent cases, the competent authority may permit a seafarer to work without a valid medical certificate until the next port of call where the seafarer can obtain a medical certificate from a qualified medical practitioner, provided that: (a) the period of such permission does not exceed three months; and (b) the seafarer concerned is in position of an expired medical certificate of recent date.	Standards A 1.2. para. 1, A 1.2. para. 8 and A 1.2. para.9
Medical certificates not provided in English language	Standard A 1.2. para. 10
Evidence that the medical certificate was not issued by a duly qualified medical practitioner	Standard A 1.2. para. 4
Seafarer working on the ship or performing tasks contrary to a restriction on a medical certificate	Standard A 1.2. para-5-1

Deficiencies and actions to be taken



Examples of deficiencies in the 14 areas

Qualifications of seafarers For more precision, the PSCO should refer to the PSCC instruction concerning manning and qualifications	Art IV.1, Regulation 1.3
Seafarers not trained and not certified according to STCW 78 as amended	Regulation 1.3. para. 3
Seafarer who is not trained or certified or otherwise qualified to perform required duties working on board the ship	Regulation A 1.3. para. 1
Certificates or endorsements are not up to date or have expired	Regulation 1.3. para. 1
Absence of a valid dispensation issued under STCW, where needed	Regulation 1.3. para. 3
Seafarer who has not completed on board training for personal safety working on board the ship	Regulation 1.3. para 2
Certificate fraudulently obtained	Regulation 1.3 para 3

Deficiencies and actions to be taken



Examples of deficiencies in the 14 areas

Seafarer's employment agreements SEA	Art IV.2, Regulation 2.1
Seafarers do not have a written employment agreement signed both by the seafarer and the ship owner or a representative of the shipowner	Standard A 2.1. para 1 (a)
A seafarer, with a SEA that does not contain all the required items	Standard A2.1, para 4.
A seafarer with a SEA that is inconsistent with the MLC, 2006 requirements.	Standard A 2.1.para. 4
Seafarers have not received a document containing a record of their employment on board the ship.	Standard A 2.1. para. 1 (e)
A collective bargaining agreement that forms all or part of the SEA is either not on board or, if on board, the portions of the collective bargaining agreement that are subject to a port State inspection under Regulation 5.2 not in English	Standard A 2.1. para. 2
The SEA contains clauses that violate seafarers' rights	Regulation 2.1.

Deficiencies and actions to be taken



Examples of deficiencies in the 14 areas

Use of any licensed or certified or regulated private recruitment and placement service	Art IV.2, Regulation 1.4
Seafarers on board recruited by unlicensed, uncertified or unregulated private recruitment and placement service(s) operating in the territory of a State which is party to the Convention	Regulation 1.4 para. 2
Seafarers on board recruited by private recruitment and placement service(s) operating in a country which is not party to the Convention, in cases where the ship owner cannot support the conclusion of consistency with the MLC, 2006	Regulation 1.4 para. 3
No documentary evidence available to indicate that the private service or private agency is operated in accordance with the MLC, 2006	Standard A 1.4.para. 2
Use of a private recruitment and placement service requiring the seafarer to pay a fee or other charge for employment services	Standard A 1.4.para. 5

Deficiencies and actions to be taken



Examples of deficiencies in the 14 areas

Hours of work or rest For more precision, the PSCO should refer to the PSCC instruction concerning Work and Rest hours.	Art IV.3, Regulation 2.3
The standardized table in the working language and in English with shipboard working arrangements is not available, not posted (not easily accessible to the crew) or does not contain the required information	Standard A 2.3. para. 10 and 11
Records of hours of work or rest are not available, not reasonably up to date, not properly maintained for all seafarers, incorrect, deliberately forged, not signed by the master or his representative and by the seafarer	Standard A2.3.para.12
The maximum hours of work are exceeded (Standard A 2.3. Para. 5a and 14), <u>or</u> the minimum hours of rest are not reached, or are split into more than 2 periods, one of them less than 6 hours, or interval between rest periods exceeds 14 hours Provisions for exceptions (Standard A 2.3. Para.13)	Standard A 2.3. para. 5b. 6, 7, 13 and 14
Evidence of exceeding the limits of work and a record of suspension of the schedule, in accordance with Standard A2.3, paragraph 14, has not been noted in a logbook or other document	Standard A2.3, paragraph 14
Exception to maximum hours of work or minimum hours of rest permitted by the competent authority or registered in a collective agreement which does not guarantee countervailing measures (more frequent or longer leave period, compensatory leave for watch keeping seafarers or seafarers working on board ship on short voyages)	Standard A 2.3. para.13
The table with the shipboard working arrangements does not contain for every position the maximum hours of work or the minimum hours of rest required by national laws or regulations or applicable collective agreements	Standard A 2.3 para 10
A seafarer's work schedule does not conform to the applicable standards	Standard A2.3.para.12.

Deficiencies and actions to be taken



Examples of deficiencies in the 14 areas

Manning levels for the ship For more precision, the PSCO should refer to the PSCC instruction concerning manning and qualifications	Art IV.4, Regulation 2.7
The manning level for the ship is not in accordance with the Minimum Safe Manning Document	Standard A2.7 para1
Numbers and/or categories of seafarers working on board do not comply with at least the minimum specified in the safe manning document	Standard A 2.7. para.2

Deficiencies and actions to be taken



Examples of deficiencies in the 14 areas

Accommodation	Art IV.3, Regulation 3.1
The accommodation for seafarers, working or living on board, or both are not safe, or decent	Standard A 3.1. para. 1a
Location of sleeping rooms on the ship does not conform to MLC, 2006 requirements	Standard A 3.1. para. 6 c,d,e),
Number and/or size (including height) of sleeping rooms do not conform to MLC, 2006	Standard A 3.1. para. 9
There is more than one seafarer per berth	Standard A 3.1. para. 9 (d)
Heating, lighting or ventilation is inadequate or not functioning correctly	Standard A 3.1. para. 7, 8
Fittings and fixtures within seafarer accommodation areas, including the hospital, mess rooms and recreational rooms, do not conform to the MLC, 2006	Standard A 3.1. para 6.g, para 9 n and o, para 13 and 16
Separate sleeping rooms are not provided for men and women	Standard A 3.1. para. 9 (b)
Separate sanitation facilities are not provided for men and women	Standard A 3.1. para.11 (a)
Sanitary facilities are inadequate or not functioning correctly	Standard A 3.1. para. 11
Hospital is being used to accommodate persons who are not sick	Standard A 3.1. para. 12
Sleeping rooms are not properly equipped so as to facilitate tidiness	Standard A 3.1. para. 9 (c), 17
Regular inspections of seafarer accommodation are not being carried out by the master or another designated person or are not recorded	Standard A 3.1. para. 18
Laundry facilities are inadequate or not functioning correctly	Standard A 3.1. para. 13
Exposure to hazardous levels of noise and vibration and other ambient factors and chemicals in the seafarer accommodation or recreational or catering facilities	Standard A 3.1. para 6 (h).



Examples of deficiencies in the 14 areas

On-board recreational facilities	Art IV.3, Regulation 3.1
Appropriate seafarers' recreational facilities, amenities and services are not provided on board taking account Regulation 4.3 and standard A 4.3.	Standard A 3.1. para. 17
Recreational facilities do not conform to MLC, 2006 requirements	Standard A 3.1. para. 17

Deficiencies and actions to be taken



Examples of deficiencies in the 14 areas

Food and catering	Art IV.3, Regulation 3.2
Quality and quantity of food, drinking water and nutritional value are not appropriate for the intended voyage taking also the cultural and religious background into account	Standard A 3.2 para. 2.a
The areas and equipment associated with the catering department, such as galleys and store rooms, are not fit for purpose	Standard A 3.2 para. 2b
The ship's cook is under the age of 18 and/or there is no evidence of his/her training	Standard A 3.2. para. 3, para. 4, para. 6 and para. 8
Food and drinking water are not of appropriate quality, nutritional value and quantity, for the seafarers on the ship	Regulation 3.2.1, Standard A 3.2 para. 2a and A.3.2 para 1
Refrigeration temperatures are not satisfactory, not checked and not recorded,	Standard A 3.2 para. 2b
Seafarer is charged for food and/or is not provided with drinking water	Regulation 3.2.2
Seafarer who has responsibility for preparing food is not trained or not instructed as required	Standard A 3.2 para. 5
No evidence that the cook is properly trained	Standard A 3.2 para. 3
Frequent and documented inspections of the food or water, or of the preparation, storage or handling areas, are not being carried out	Standard A 3.2 para. 7
Catering facilities are not hygienic.	Standard A 3.2 para. 2b

Deficiencies and actions to be taken



Examples of deficiencies in the 14 areas

Health and safety protection and accident prevention	Art IV.1, Regulation 4.3
Conditions exist on board which may directly impair efforts to prevent accidents and exposure to harmful levels of ambient factors and chemicals	Standard A.4.3 para 1b
No evidence of on-board programs for the prevention of occupational accidents, injuries and diseases meeting the standards of MLC, 2006	Standard A 4.3. para. 1c),
No ships safety committee has been established on board a ship on which there are five or more seafarers	Standard A 4.3. para. 2D, para. 5
Personal protective equipment is in poor condition or being incorrectly used or not being used	Standard A 4.3 para. 1b
Risk assessments are missing,	Standard A 4.3. para. 8
Seafarers are unaware of the measures adopted by the management to provide occupational safety and health and to prevent accidents	Standard A 4.3. para. 1c
Risks posed to seafarers under the age of 18 have not been addressed	Standard A 4.3. para. 2b
Occupational accidents are not being investigated or reported in accordance with the ship's procedures	Standard A 4.3. para. 5

Deficiencies and actions to be taken



Examples of deficiencies in the 14 areas

On board medical care	Art IV.4, Regulation 4.1
No qualified person in charge of medical care	Standard A.4.1. para. 4c
Medical guide or medicine chest or medical equipment not in conformity with the DMLC	Standard A.4.1. para. 4a
No medical doctor on-board ships ordinarily engaged in international voyages of more than three days duration and carrying one hundred persons or more	Standard A.4.1. para. 4b
A seafarer working on the ship is denied, without justification, shore leave by the master and/or shipowner to go ashore for medical or dental care	Standard A.4.1. para. 1c
A seafarer is not provided with appropriate health protection and medical care on board ship	Standard A.4.1. para. 1d
No medical report forms on board	Standard A.4.1. para. 2
There is evidence that a seafarer is being charged for medical or dental care contrary to national law or practice	Regulation 4.1.1.d

Deficiencies and actions to be taken



Examples of deficiencies in the 14 areas

On-board complaint procedures	Art IV, Regulation 5.1.5
No evidence of an on board complaint procedure	Standard A 5.1.5 para. 2
A copy of the on-board complaint procedures applicable on the ship has not been provided to seafarers, or the copy provided is not in the working language of the ship	Standard A 5.1.5 para.4
Ship's on-board complaint procedures are not operating	Standard A 5.1.5 para. 2
Victimization of a seafarer for making a complaint	Standard A 5.1.5 para. 3

Deficiencies and actions to be taken



Examples of deficiencies in the 14 areas

Payment of wages	Art IV.2, Regulation 2.2
A seafarer has not been paid at monthly intervals in full for his/her work in accordance with the employment agreement (a seafarer is being paid in full at intervals of more than one month in accordance with the employment agreement)	Standard A2.2, para.1
A seafarer has not been given a monthly account (such as a wage slip) of wages	Standard A2.2, para.2
Seafarers are not provided with a means to transmit their earnings to their family, allotments are not being paid or are not being paid in accordance with the seafarer's instructions	Standard A2.2, para. 3 and4
Charge for converting and transmitting currencies are excessive and do not correspond to exchange rates in accordance with national requirements	Standard A2.2, para.5

Deficiencies and actions to be taken



Examples of detainable deficiencies

No follow up action listed in section 3.3 has been taken (i.e. no deficiency has been rectified before the ship departed the last port),	Art IV.1 Standard A 5.2.1. para 6.b
Minimum safe manning document or equivalent not presented or available	Art IV para 1 Standard A.2.7.
No evidence that seafarers are trained and certified as competent or otherwise qualified to perform their duties (is missing).	Art IV para 1 Regulation 1.3.1, 1.3.2 and 1.3.3
Persons under the age of 16 years working on board	Standard A.1.1. para.1
Seafarers on board under the age of 18 years (except training program) are regularly working at night, or work likely to jeopardise their health or safety.	Art IV para 3 Standard A 1.1. para 2 and 4
Several seafarers not holding valid certificate(s) attesting medical fitness	Art IV para 4 Regulation 1.2.1
Seafarers on board the same ship repeatedly not in possession of valid employment agreement or seafarers with SEAs containing clause containing denial of seafarers' rights.	Art IV para 2 Regulation 2.1. para. 1 and para. 3 Standard A.2.1 para 1
Evidence that maximum hours of work have been <u>repeatedly</u> exceeded or evidence that minimum hours of rest have <u>repeatedly</u> not been kept. Note : Excessive fatigue may occur and constitute immediate danger for the safety of the ship, the crew and/or the environment.	Art IV para 3 Regulation 2.3 and Standard A 2.3. para. 5a or Regulation 2.3 and Standard A 2.3. para. 5b

Deficiencies and actions to be taken



Examples of detainable deficiencies

No record of work or rest hours or evidence that records have been falsified to hide excessive working hours of the crew.	Art IV para 3 Standard A 2.3. para 12
Insufficient manning (number of seafarers)	Art IV para 3 Regulation 2.7 Standard A2.7
Ventilation, air conditioning and/or heating not working satisfactorily	Art IV para 3 Standard A3.1.para.7(d)
Accommodation, including catering and sanitary facilities, are unhygienic and equipment is missing or not functioning	Art IV para 3 Standard A3.1 para 11and A.3.2 para 2,
Quality and quantity of food and drinking water not sufficient for the intended voyage	Art IV para 3 Regulation 3.2 and Standard A3.2. para. 2
Required medical guide repeatedly missing or medicine chest or medical equipment, not on board, and not updated.	Art IV, para 4 Standard A4.1. para. 4, (a)
No seafarer with training in medical care (STCW 78 as amended) in charge of medical care on board for ship not carrying a medical doctor Note: According MLC, such ship requires person who is trained with "medical care" or "medical first aid".	Art IV para 4 Standard A.4.1. para. 4(c)
No medical doctor for ships ordinarily engaged in international voyages of more than three days, carrying one hundred persons or more.	Art IV para 4 Standard A.4.1. para. 4(b)
Repeated cases of non-payment of wages or the non-payment of wages	Art IV para 2 Standard A2.2, paragraphs 1 and 2

Rectification Action Plan

- **It is a document proposed by the captain and shipowner that specifies, in particular, the action required and time frame agreed to rectify a MLC, 2006 related detainable deficiency(ies) and when accepted by the PSCO.**
- **It allows the release of the ship from an MLC, 2006 related detention.**

Rectification Action Plan

When deciding whether to accept a RAP the following elements should be considered:

- the length and nature of the intended voyage or service
- the nature of the hazard to seafarers' safety, health or security
- the seriousness of the breach of the requirements of the MLC, 2006 (including seafarers' rights)
- any previous history of deficiencies or repeated deficiencies
- whether or not the appropriate work or rest periods for seafarers are being observed
- the safe manning requirements of the flag State
- the number and nature of deficiencies found during the particular inspection

It is the joint responsibility of the shipowner and the master to propose and implement a RAP.

The RAP should specify the actions required and agreed time frame acceptable to all parties, within which period the items will be rectified.

Reporting

	Appropriate Shipowners' and Seafarers' organization in the port State	Director General of the ILO	Flag State	PSC authority of next port	Report forms
Significant deficiency* or deficiency in connection with Complaint	Must be informed	May be informed and any reply from flag State should be attached	May be informed	May be informed according port State Procedure	Use Annex 5
On shore complaint not resolved	Must be informed	Must be informed	Must be informed	May be informed according port State Procedure	Use Annex 5
Ship detained due to MLC, 2006 deficiency	Must be informed	May be informed	Must be informed	May be informed (Informed by THETIS if Paris MoU port)	Using notice of detention (See PSC model forms)



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