



Department of Economic Development

Isle of Man Ship Registry

Consultation:

Proposed Amendments to the Merchant Shipping (Maritime Labour Convention) Regulations 2013 (SD0234/13)

The Maritime Labour Convention 2006 ('MLC') is given effect in Manx Law by the Merchant Shipping (Maritime Labour Convention) Regulations 2013. These Regulations apply to all seafarers working on commercial vessels, with the exception of those working on fishing vessels, naval ships, ships of traditional build such as dhows and junks, and Manx vessels operating exclusively within 60nm of the Isle of Man.

The purpose of this document is for the Department to consult on updates to its MLC Regulations. The proposed changes are broken down in the following sections:

- Section 1) 2014 Amendments to MLC approved by the 103rd session of the International Labour Conference in Geneva on 11th June 2014, with entry into force date of 18th January 2017;
- Section 2) Transposition Table for 2014 Amendments to MLC noting Isle of Man Interpretations;
- Section 3) Other Minor Amendments.

Responses

If you have any feedback, our preferred method of receiving this is via email, but it can also be submitted via post or fax. Please address any feedback to:

Martyn Oates
Policy & Research Officer
martyn.oates@gov.im

Isle of Man Ship Registry
St Georges Court
Upper Church Street
Douglas
Isle of Man
British Isles
IM1 1EX

Tel: + 44 (0) 1624 688500
Fax + 44 (0) 1624 688501

Please note that this consultation will close at 1700hrs on 4th October 2016

Section 1 – 2014 Amendments to MLC approved by the 103rd session of the International Labour Conference in Geneva on 11th June 2014, with entry into force date of 18th January 2017

Introduction

The 2014 amendments to MLC were discussed and agreed at the first meeting of the Special Tripartite Committee (STC) established under MLC 2006, held on 7th-11th April 2014. The amendments were then approved by the 103rd session of the International Labour Conference in Geneva on 11th June 2014.

The amendments will enter into force on 18th January 2017, this date being six months after the end of the two year consultation period, which has recently closed.

The 2014 amendments relate primarily to shipowner's obligations in respect of seafarers repatriation (regulation 2.5) and shipowner's liability for seafarers who suffer from sickness, injury or death (regulation 4.2). The amendments stipulate requirements for a financial security scheme that must be in place to cover these obligations.

Regulation 2.5

The amendments to Regulation 2.5 establish requirements to ensure the provision of an expeditious and effective financial security system to assist seafarers in the event of their abandonment. The amendments also provide the basis on which it should be determined when a seafarer has been 'abandoned'.

The amendments require the financial security system to provide direct access, sufficient coverage and expedited financial assistance to abandoned seafarers. The financial security system must provide abandoned seafarers with cover for outstanding wages of up to four months, all expenses reasonably incurred, including repatriation, food, water and shelter.

Regulation 4.2

Regulation 4.2 provides minimum standards for the financial security required under paragraph 1(b) of MLC. The purpose of the financial security is to assure compensation in the event of the death or long-term disability of seafarers due to an occupational injury, illness or hazard.

The minimum standards establish, for instance, that the financial security must allow for claims to be submitted directly by the seafarer and that there must be no pressure for seafarers to accept a payment less than the contractual amount.

Form of Financial Security

We envisage that the financial security required by the amended regulations 2.5 and 4.2 will primarily be in the form of an insurance policy, however we would be grateful to receive information on any other similar arrangements which may be considered by shipowners.

Responsibility of Shipowner

The MLC amendments specify various requirements for the financial security. Where this is the case, our proposed Regulations place the obligation on the shipowner to ensure that

they have financial security in place that meets the requirements of MLC 2006, as amended; we do not intend to apply the Regulations directly to financial security providers, since they are largely located outside the jurisdiction of the Department. In addition, it should be noted that the amendments to Appendix A2-I and Appendix A4-I require the financial security provider to provide a certificate with an attestation that the financial security meets the requirements of the amended Standards A2.5.2 and A4.2.1 – therefore it is envisaged that most of the practical compliance measures will be undertaken by the financial security provider in order that they can provide this attestation to shipowners.

Evidence of Compliance

We propose to ensure shipowners comply with the MLC amendments by requiring them to submit an amended DMLC Part II to the Department prior to 18th January 2016, the entry into force date of the amendments. The amended DMLC Part II must specify how the shipowner intends to comply with the new Regulations.

Certification Process

Existing MLC Certificates will need to be reissued to reflect changes to each vessel's DMLC Part I & II. It is proposed that Certificates will only be reissued at the vessel's next intermediate or renewal survey. Until the Certificate has been amended, vessels should carry an updated DMLC Part I & II appended to their certificate as evidence of compliance with the MLC amendments. The Department will make available an updated DMLC Part I on the Ship Registry website in due course. A new MLN will also be issued to explain in more detail the documentation and certification process to ensure a smooth application of the new requirements.

Summary of Main Consultation Points

- In Section 2, you will find a table which contains the full text of the 2014 amendments to Regulation 2.5 and 4.2 (amendments are shown in red and the original text in black). Where appropriate, we have added a paragraph detailing our proposed interpretations of the new regulations. We invite feedback on these interpretations.
- Regulations A2.5.2.1 and A4.2.8 require shipowners to establish a financial security system. We would be grateful for feedback on whether shipowners are considering anything other than an insurance policy as a means of complying with this requirement.

Section 2 - Transposition Table for 2014 Amendments to MLC noting Isle of Man Interpretations

Throughout this section, the amendments to MLC 2006 are shown in red:

Regulation No.	MLC Text (amendments in red)	Interpretation
	Purpose: To ensure that seafarers are able to return home	
	Regulation 2.5 - Repatriation	
R2.5.1	1. Seafarers have a right to be repatriated at no cost to themselves in the circumstances and under the conditions specified in the Code.	
R2.5.2	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.	
A2.5.1	Standard 2.5 - Repatriation	
A2.5.1	1. Each Member shall ensure that seafarers on ships that fly its flag are entitled to repatriation in the following circumstances:	
A2.5.1(a)	(a) if the seafarers' employment agreement expires while they are abroad;	
A2.5.1(b)	(b) when the seafarers' employment agreement is terminated:	
A2.5.1(b)(i)	(i) by the shipowner; or	
A2.5.1(b)(ii)	(ii) by the seafarer for justified reasons; and also	
A2.5.1(c)	(c) when the seafarers are no longer able to carry out their duties under their employment agreement or cannot be expected to carry them out in the specific circumstances.	
A2.5.2	2. Each Member shall ensure that there are appropriate provisions in its laws and regulations or other measures or in collective bargaining agreements, prescribing:	
A2.5.2(a)	(a) the circumstances in which seafarers are entitled to repatriation in accordance with paragraph 1(b) and (c) of this Standard;	
A2.5.2(b)	(b) the maximum duration of service periods on board following which a seafarer is entitled to repatriation – such periods to be less than 12 months; and	

A2.5.2(c)	(c) the precise entitlements to be accorded by shipowners for repatriation, including those relating to the destinations of repatriation, the mode of transport, the items of expense to be covered and other arrangements to be made by shipowners.	
A2.5.3	3. Each Member shall prohibit shipowners from requiring that seafarers make an advance payment towards the cost of repatriation at the beginning of their employment, and also from recovering the cost of repatriation from the seafarers' wages or other entitlements except where the seafarer has been found, in accordance with national laws or regulations or other measures or applicable collective bargaining agreements, to be in serious default of the seafarer's employment obligations.	
A2.5.4	4. National laws and regulations shall not prejudice any right of the shipowner to recover the cost of repatriation under third-party contractual arrangements.	
A2.5.5	5. If a shipowner fails to make arrangements for or to meet the cost of repatriation of seafarers who are entitled to be repatriated:	
A2.5.5(a)	(a) the competent authority of the Member whose flag the ship flies shall arrange for repatriation of the seafarers concerned; if it fails to do so, the State from which the seafarers are to be repatriated or the State of which they are a national may arrange for their repatriation and recover the cost from the Member whose flag the ship flies;	
A2.5.5(b)	(b) costs incurred in repatriating seafarers shall be recoverable from the shipowner by the Member whose flag the ship flies;	
A2.5.5(c)	(c) the expenses of repatriation shall in no case be a charge upon the seafarers, except as provided for in paragraph 3 of this Standard.	
A2.5.6	6. Taking into account applicable international instruments, including the International Convention on Arrest of Ships, 1999, a Member which has paid the cost of repatriation pursuant to this Code may detain, or request the detention of, the ships of the shipowner concerned until the reimbursement has been made in accordance with paragraph 5 of this Standard.	

A2.5.7	7. Each Member shall facilitate the repatriation of seafarers serving on ships which call at its ports or pass through its territorial or internal waters, as well as their replacement on board.	
A2.5.8	8. In particular, a Member shall not refuse the right of repatriation to any seafarer because of the financial circumstances of a shipowner or because of the shipowner's inability or unwillingness to replace a seafarer.	
A2.5.9	9. Each Member shall require that ships that fly its flag carry and make available to seafarers a copy of the applicable national provisions regarding repatriation written in an appropriate language.	
	<i>Following paragraph 9 of the present Standard A2.5, add the following heading and text:</i>	
	Standard A2.5.2 – Financial security	
A2.5.2.1	1. In implementation of Regulation 2.5, paragraph 2, this Standard establishes requirements to ensure the provision of an expeditious and effective financial security system to assist seafarers in the event of their abandonment.	Nothing to add
A2.5.2.2	2. For the purposes of this Standard, a seafarer shall be deemed to have been abandoned where, in violation of the requirements of this Convention or the terms of the seafarers' employment agreement, the shipowner:	Nothing to add
	(a) fails to cover the cost of the seafarer's repatriation; or	Note that the seafarer will only be entitled to the repatriation costs that they are entitled to under their Seafarers Employment Agreement (SEA) or Collective Bargaining Agreement (CBA).
	(b) has left the seafarer without the necessary maintenance and support; or	Note that 'maintenance and support' is defined in A2.5.2.5 of the MLC amendments.

	(c) has otherwise unilaterally severed their ties with the seafarer including failure to pay contractual wages for a period of at least two months.	The Department considers that failure to pay contractual wages for at least two months (from the date of the last payment) will constitute abandonment.
A2.5.2.3	3. Each Member shall ensure that a financial security system meeting the requirements of this Standard is in place for ships flying its flag. The financial security system may be in the form of a social security scheme or insurance or a national fund or other similar arrangements. Its form shall be determined by the Member after consultation with the shipowners' and seafarers' organizations concerned.	The Department would accept a financial security system in the form of insurance (for example P&I insurance) or other similar arrangement. We would be interested in views from industry on whether they intend to use other similar arrangements, and if so what these arrangements are likely to be.
A2.5.2.4	4. The financial security system shall provide direct access, sufficient coverage and expedited financial assistance, in accordance with this Standard, to any abandoned seafarer on a ship flying the flag of the Member.	The Regulations apply to all Isle of Man registered vessels to which MLC applies. Throughout these amendments it will be the responsibility of the shipowner to ensure that the financial security provided meets the requirements laid down in the amendment. However, it should be noted that the amendments to Appendix A2-I require the financial security provider to give an attestation that the financial security meets the requirements of the amended Standard A2.5.2– therefore it is envisaged that most of the practical

		compliance measures will be undertaken by the financial security provider in order that they can provide this attestation.
A2.5.2.5	5. For the purposes of paragraph 2(b) of this Standard, necessary maintenance and support of seafarers shall include: adequate food, accommodation, drinking water supplies, essential fuel for survival on board the ship and necessary medical care.	Nothing to add
A2.5.2.6	6. Each Member shall require that ships that fly its flag, and to which paragraph 1 or 2 of Regulation 5.1.3 applies, carry on board a certificate or other documentary evidence of financial security issued by the financial security provider. A copy shall be posted in a conspicuous place on board where it is available to the seafarers. Where more than one financial security provider provides cover, the document provided by each provider shall be carried on board.	While MLC applies this requirement to ships over 500gt engaged on international voyages, the Department intends to require all ships, regardless of size or voyage, to carry on board a certificate or other documentary evidence.
A2.5.2.7	7. The certificate or other documentary evidence of financial security shall contain the information required in Appendix A2-I. It shall be in English or accompanied by an English translation.	Nothing to add
A2.5.2.8	8. Assistance provided by the financial security system shall be granted promptly upon request made by the seafarer or the seafarer's nominated representative and supported by the necessary justification of entitlement in accordance with paragraph 2 above.	Nothing to add
A2.5.2.9	9. Having regard to Regulations 2.2 and 2.5, assistance provided by the financial security system shall be sufficient to cover the following:	Nothing to add
A2.5.2.9(a)	(a) outstanding wages and other entitlements due from the shipowner to the seafarer under their employment agreement, the relevant collective bargaining agreement or the national law of the flag State , limited to four months of any such outstanding wages and four months of any such outstanding entitlements;	Nothing to add

A2.5.2.9(b)	(b) all expenses reasonably incurred by the seafarer, including the cost of repatriation referred to in paragraph 10; and	Nothing to add
A2.5.2.9(c)	(c) the essential needs of the seafarer including such items as: adequate food, clothing where necessary, accommodation, drinking water supplies, essential fuel for survival on board the ship, necessary medical care and any other reasonable costs or charges from the act or omission constituting the abandonment until the seafarer's arrival at home.	Nothing to add
A2.5.2.10	10. The cost of repatriation shall cover travel by appropriate and expeditious means, normally by air, and include provision for food and accommodation of the seafarer from the time of leaving the ship until arrival at the seafarer's home, necessary medical care, passage and transport of personal effects and any other reasonable costs or charges arising from the abandonment.	It should be noted that this section states 'home' which might be different to the repatriation destination stated in SEA.
A2.5.2.11	11. The financial security shall not cease before the end of the period of validity of the financial security unless the financial security provider has given prior notification of at least 30 days to the competent authority of the flag State.	The Department will be the competent authority who should be notified.
A2.5.2.12	12. If the provider of insurance or other financial security has made any payment to any seafarer in accordance with this Standard, such provider shall, up to the amount it has paid and in accordance with the applicable law, acquire by subrogation, assignment or otherwise, the rights which the seafarer would have enjoyed.	Nothing to add
A2.5.2.13	13. Nothing in this Standard shall prejudice any right of recourse of the insurer or provider of financial security against third parties.	Nothing to add
A2.5.2.14	14. The provisions in this Standard are not intended to be exclusive or to prejudice any other rights, claims or remedies that may also be available to compensate seafarers who are abandoned. National laws and regulations may provide that any amounts payable under this Standard can be offset against amounts received from other sources arising from any rights, claims or remedies that may be the subject of compensation under the present Standard.	The Isle of Man Regulations will provide that any amounts payable under this standard can be offset against amounts received from other sources.
	Guideline B2.5	

B2.5.1	1. Seafarers should be entitled to repatriation:	
B2.5.1(a)	(a) in the case covered by Standard A2.5, paragraph 1(a), upon the expiry of the period of notice given in accordance with the provisions of the seafarers' employment agreement;	
B2.5.1(b)	(b) in the cases covered by Standard A2.5, paragraph 1(b) and (c):	
B2.5.1(b)(i)	(i) in the event of illness or injury or other medical condition which requires their repatriation when found medically fit to travel;	
B2.5.1(b)(ii)	(ii) in the event of shipwreck;	
B2.5.1(b)(iii)	(iii) in the event of the shipowner not being able to continue to fulfil their legal or contractual obligations as an employer of the seafarers by reason of insolvency, sale of ship, change of ship's registration or any other similar reason;	
B2.5.1(b)(iv)	(iv) in the event of a ship being bound for a war zone, as defined by national laws or regulations or seafarers' employment agreements, to which the seafarer does not consent to go; and	
B2.5.1(b)(v)	(v) in the event of termination or interruption of employment in accordance with an industrial award or collective agreement, or termination of employment for any other similar reason.	
B2.5.1.2	2. In determining the maximum duration of service periods on board following which a seafarer is entitled to repatriation, in accordance with this Code, account should be taken of factors affecting the seafarers' working environment. Each Member should seek, wherever possible, to reduce these periods in the light of technological changes and developments and might be guided by any recommendations made on the matter by the Joint Maritime Commission.	
B2.5.1.3	3. The costs to be borne by the shipowner for repatriation under Standard A2.5 should include at least the following:	
B2.5.1.3(a)	(a) passage to the destination selected for repatriation in accordance with paragraph 6 of this Guideline;	
B2.5.1.3(b)	(b) accommodation and food from the moment the seafarers leave the ship until they reach the repatriation destination;	

B2.5.1.3(c)	(c) pay and allowances from the moment the seafarers leave the ship until they reach the repatriation destination, if provided for by national laws or regulations or collective agreements;	
B2.5.1.3(d)	(d) transportation of 30 kg of the seafarers' personal luggage to the repatriation destination; and	
B2.5.1.3(e)	(e) medical treatment when necessary until the seafarers are medically fit to travel to the repatriation destination.	
B2.5.1.4	4. Time spent awaiting repatriation and repatriation travel time should not be deducted from paid leave accrued to the seafarers.	
B2.5.1.5	5. Shipowners should be required to continue to cover the costs of repatriation until the seafarers concerned are landed at a destination prescribed pursuant to this Code or are provided with suitable employment on board a ship proceeding to one of those destinations.	
B2.5.1.6	6. Each Member should require that shipowners take responsibility for repatriation arrangements by appropriate and expeditious means. The normal mode of transport should be by air. The Member should prescribe the destinations to which seafarers may be repatriated. The destinations should include the countries with which seafarers may be deemed to have a substantial connection including:	
B2.5.1.6(a)	(a) the place at which the seafarer agreed to enter into the engagement;	
B2.5.1.6(b)	(b) the place stipulated by collective agreement;	
B2.5.1.6(c)	(c) the seafarer's country of residence; or	
B2.5.1.6(d)	(d) such other place as may be mutually agreed at the time of engagement.	
B2.5.1.7	7. Seafarers should have the right to choose from among the prescribed destinations the place to which they are to be repatriated.	
B2.5.1.8	8. The entitlement to repatriation may lapse if the seafarers concerned do not claim it within a reasonable period of time to be defined by national laws or regulations or collective agreements.	
	Guideline B2.5.2 – Implementation by Members	

B2.5.2.1	1. Every possible practical assistance should be given to a seafarer stranded in a foreign port pending repatriation and in the event of delay in the repatriation of the seafarer, the competent authority in the foreign port should ensure that the consular or local representative of the flag State and the seafarer's State of nationality or State of residence, as appropriate, is informed immediately.	
B2.5.2.2	2. Each Member should have regard to whether proper provision is made:	
B2.5.2.2(a)	(a) for the return of seafarers employed on a ship that flies the flag of a foreign country who are put ashore in a foreign port for reasons for which they are not responsible:	
B2.5.2.2(a)(i)	(i) to the port at which the seafarer concerned was engaged; or	
B2.5.2.2(a)(ii)	(ii) to a port in the seafarer's State of nationality or State of residence, as appropriate; or	
B2.5.2.2(a)(iii)	(iii) to another port agreed upon between the seafarer and the master or shipowner, with the approval of the competent authority or under other appropriate safeguards;	
B2.5.2.2(b)	(b) for medical care and maintenance of seafarers employed on a ship that flies the flag of a foreign country who are put ashore in a foreign port in consequence of sickness or injury incurred in the service of the ship and not due to their own wilful misconduct.	
B2.5.2.3	3. If, after young seafarers under the age of 18 have served on a ship for at least four months during their first foreign-going voyage, it becomes apparent that they are unsuited to life at sea, they should be given the opportunity of being repatriated at no expense to themselves from the first suitable port of call in which there are consular services of the flag State, or the State of nationality or residence of the young seafarer. Notification of any such repatriation, with the reasons therefore, should be given to the authority which issued the papers enabling the young seafarers concerned to take up seagoing employment.	
	B. Amendments relating to Guideline B2.5	

	<i>At the end of the present Guideline B2.5, add the following heading and text:</i>	
	Guideline B2.5.3 – Financial security	
B2.5.3	1. In implementation of paragraph 8 of Standard A2.5.2, if time is needed to check the validity of certain aspects of the request of the seafarer or the seafarer’s nominated representative, this should not prevent the seafarer from immediately receiving such part of the assistance requested as is recognized as justified.	Nothing to add
	C. Amendment to include a new appendix	
	<i>Before Appendix A5-I, add the following appendix:</i>	
A2-I	Appendix A2-I	
	Evidence of financial security under Regulation 2.5, paragraph 2	Shipowners will need to supply the Department with this information prior to the entry into force date, however certificates will not be reissued until the next intermediate or renewal MLC inspection.
	The certificate or other documentary evidence referred to in Standard A2.5.2, paragraph 7, shall include the following information:	Nothing to add
	(a) name of the ship;	Nothing to add
	(b) port of registry of the ship;	Nothing to add
	(c) call sign of the ship;	Nothing to add
	(d) IMO number of the ship;	Nothing to add
	(e) name and address of the provider or providers of the financial security;	Nothing to add
	(f) contact details of the persons or entity responsible for handling seafarers’ requests for relief;	Nothing to add
	(g) name of the shipowner;	Nothing to add
	(h) period of validity of the financial security; and	Nothing to add
	(i) an attestation from the financial security provider that the financial security meets the requirements of Standard A2.5.2.	Nothing to add
	D. Amendments relating to Appendices A5-I, A5-II and A5-III	

	<i>At the end of Appendix A5-I, add the following item:</i>	
A5-I	Financial security for repatriation	Nothing to add
	<i>In Appendix A5-II, after item 14 under the heading Declaration of Maritime Labour Compliance – Part I, add the following item:</i>	
A5-II	15. Financial security for repatriation (Regulation 2.5)	Nothing to add
	<i>In Appendix A5-II, after item 14 under the heading Declaration of Maritime Labour Compliance – Part II, add the following item:</i>	
A5-II	15. Financial security for repatriation (Regulation 2.5)	Nothing to add
	<i>At the end of Appendix A5-III, add the following area:</i>	
A5-III	Financial security for repatriation	Nothing to add

Regulation No.	MLC Text (amendments in red)	Interpretation
	Purpose: To ensure that seafarers are protected from the financial consequences of sickness, injury or death occurring in connection with their employment	
	Regulation 4.2 - Shipowners' liability	
R4.2.1	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.	
R4.2.2	2. This Regulation does not affect any other legal remedies that a seafarer may seek.	
	Standard A4.2 - Shipowners' liability	
A4.2.1	1. Each Member shall adopt laws and regulations requiring that shipowners of ships that fly its flag are responsible for health protection and medical care of all seafarers working on board the ships in accordance with the following minimum standards:	
A4.2.1(a)	(a) shipowners shall be liable to bear the costs for seafarers working on their ships in respect of sickness and injury of the seafarers occurring between the date of commencing duty and the date upon which they are deemed duly repatriated, or arising from their employment between those dates;	
A4.2.1(b)	(b) shipowners shall provide financial security to assure compensation in the event of the death or long-term disability of seafarers due to an occupational injury, illness or hazard, as set out in national law, the seafarers' employment agreement or collective agreement;	
A4.2.1(c)	(c) shipowners shall be liable to defray the expense of medical care, including medical treatment and the supply of the necessary medicines and therapeutic appliances, and board and lodging away from home until the sick or injured seafarer has recovered, or until the sickness or incapacity has been declared of a permanent character;	

A4.2.1(d)	(d) shipowners shall be liable to pay the cost of burial expenses in the case of death occurring on board or ashore during the period of engagement.	
A4.2.2	2 National laws or regulations may limit the liability of the shipowner to defray the expense of medical care and board and lodging to a period which shall not be less than 16 weeks from the day of the injury or the commencement of the sickness.	
A4.2.3	3. Where the sickness or injury results in incapacity for work the shipowner shall be liable:	
A4.2.3(a)	(a) to pay full wages as long as the sick or injured seafarers remain on board or until the seafarers have been repatriated in accordance with this Convention; and	
A4.2.3(b)	(b) to pay wages in whole or in part as prescribed by national laws or regulations or as provided for in collective agreements from the time when the seafarers are repatriated or landed until their recovery or, if earlier, until they are entitled to cash benefits under the legislation of the Member concerned.	
A4.2.4	4. National laws or regulations may limit the liability of the shipowner to pay wages in whole or in part in respect of a seafarer no longer on board to a period which shall not be less than 16 weeks from the day of the injury or the commencement of the sickness.	
A4.2.5	5. National laws or regulations may exclude the shipowner from liability in respect of:	
A4.2.5(a)	(a) injury incurred otherwise than in the service of the ship;	
A4.2.5(b)	(b) injury or sickness due to the wilful misconduct of the sick, injured or deceased seafarer; and	
A4.2.5(c)	(c) sickness or infirmity intentionally concealed when the engagement is entered into.	
A4.2.6	6. National laws or regulations may exempt the shipowner from liability to defray the expense of medical care and board and lodging and burial expenses in so far as such liability is assumed by the public authorities.	
A4.2.7	7. Shipowners or their representatives shall take measures for safeguarding property left on board by sick, injured or deceased seafarers and for returning it to them or to their next of kin.	

	<i>Following paragraph 7 of the present Standard A4.2, add the following:</i>	
A4.2.8	8. National laws and regulations shall provide that the system of financial security to assure compensation as provided by paragraph 1(b) of this Standard for contractual claims, as defined in Standard A4.2.2, meet the following minimum requirements:	The Regulations apply to all Isle of Man registered vessels to which MLC applies. Throughout these amendments it will be the responsibility of the shipowner to ensure that the financial security provided meets the requirements laid down in the amendments. However, it should be noted that the amendments to Appendix A4-I require the financial security provider to give an attestation that the financial security meets the requirements of the amended Standard A4.2.1 – therefore it is envisaged that most of the practical compliance measures will be undertaken by the financial security provider in order that they can provide this attestation.
A4.2.8(a)	(a) the contractual compensation, where set out in the seafarer’s employment agreement and without prejudice to subparagraph (c) of this paragraph, shall be paid in full and without delay;	Nothing to add
A4.2.8(b)	(b) there shall be no pressure to accept a payment less than the contractual amount;	Nothing to add
A4.2.8(c)	(c) where the nature of the long-term disability of a seafarer makes it difficult to assess the full compensation to which the seafarer may be entitled, an interim payment or payments shall be made to the seafarer so as to avoid undue hardship;	Nothing to add

A4.2.8(d)	(d) in accordance with Regulation 4.2, paragraph 2, the seafarer shall receive payment without prejudice to other legal rights, but such payment may be offset by the shipowner against any damages resulting from any other claim made by the seafarer against the shipowner and arising from the same incident; and	Nothing to add
A4.2.8(e)	(e) the claim for contractual compensation may be brought directly by the seafarer concerned, or their next of kin, or a representative of the seafarer or designated beneficiary.	Nothing to add
A4.2.9	9. National laws and regulations shall ensure that seafarers receive prior notification if a shipowner's financial security is to be cancelled or terminated.	The Department intends to make it the shipowner's responsibility to inform the crew. It is proposed to require that seafarers should receive a minimum of 30 days' notice prior to financial security being cancelled or terminated. Note that Regulation A4.2.12 already requires 30 days' notice to be given to the Department by the financial security provider.
A4.2.10	10. National laws and regulations shall ensure that the competent authority of the flag State is notified by the provider of the financial security if a shipowner's financial security is cancelled or terminated.	The Department will be the competent authority who should be notified.
A4.2.11	11. Each Member shall require that ships that fly its flag carry on board a certificate or other documentary evidence of financial security issued by the financial security provider. A copy shall be posted in a conspicuous place on board where it is available to the seafarers. Where more than one financial security provider provides cover, the document provided by each provider shall be carried on board.	Nothing to add

A4.2.12	12. The financial security shall not cease before the end of the period of validity of the financial security unless the financial security provider has given prior notification of at least 30 days to the competent authority of the flag State.	Nothing to add
A4.2.13	13. The financial security shall provide for the payment of all contractual claims covered by it which arise during the period for which the document is valid.	Nothing to add
A4.2.14	14. The certificate or other documentary evidence of financial security shall contain the information required in Appendix A4-I. It shall be in English or accompanied by an English translation.	Nothing to add
A4.2.2	Standard A4.2.2 – Treatment of contractual claims	
A4.2.2.1	1. For the purposes of Standard A4.2.1, paragraph 8, and the present Standard, the term “contractual claim” means any claim which relates to death or long-term disability of seafarers due to an occupational injury, illness or hazard as set out in national law, the seafarers’ employment agreement or collective agreement.	Nothing to add
A4.2.2.2	2. The system of financial security, as provided for in Standard A4.2.1, paragraph 1(b), may be in the form of a social security scheme or insurance or fund or other similar arrangements. Its form shall be determined by the Member after consultation with the shipowners’ and seafarers’ organizations concerned.	The Department would accept a financial security system in the form of insurance (for example P&I insurance) or other similar arrangement. We would be interested in views from industry on if they intend to use other similar arrangements, and if so what these arrangements are likely to be.
A4.2.2.3	3. National laws and regulations shall ensure that effective arrangements are in place to receive, deal with and impartially settle contractual claims relating to compensation referred to in Standard A4.2.1, paragraph 8, through expeditious and fair procedures.	Nothing to add
	Guideline B4.2.1 - Shipowners' liability	

B4.2.1	1. The payment of full wages required by Standard A4.2.1 , paragraph 3(a), may be exclusive of bonuses.	
B4.2.2	2 National laws or regulations may provide that a shipowner shall cease to be liable to bear the costs of a sick or injured seafarer from the time at which that seafarer can claim medical benefits under a scheme of compulsory sickness insurance, compulsory accident insurance or workers' compensation for accidents.	
B4.2.3	3 National laws or regulations may provide that burial expenses paid by the shipowner shall be reimbursed by an insurance institution in cases in which funeral benefit is payable in respect of the deceased seafarer under laws or regulations relating to social insurance or workers' compensation.	
B4.2.2	Guideline B4.2.2 – Treatment of contractual claims	
B4.2.2.1	1. National laws or regulations should provide that the parties to the payment of a contractual claim may use the Model Receipt and Release Form set out in Appendix B4-I.	The Department will not specify the form of the Receipt and Release form. The form in Appendix B4-I may be used.
	C. Amendment to include new appendices	
	<i>After Appendix A2-I, add the following appendix:</i>	
Appendix A4-I	Appendix A4-I	
	Evidence of financial security under Regulation 4.2	Nothing to add

	The certificate or other documentary evidence of financial security required under Standard A4.2.1, paragraph 14, shall include the following information: (a) name of the ship; (b) port of registry of the ship; (c) call sign of the ship; (d) IMO number of the ship; (e) name and address of the provider or providers of the financial security; (f) contact details of the persons or entity responsible for handling seafarers' contractual claims; (g) name of the shipowner; (h) period of validity of the financial security; and (i) an attestation from the financial security provider that the financial security meets the requirements of Standard A4.2.1.	Nothing to add
	<i>After Appendix A2-I, add the following appendix:</i>	
Appendix B4-I	Appendix B4-I	
	Model Receipt and Release Form referred to in Guideline B4.2.2	
	Ship (name, port of registry and IMO number):.....	Nothing to add
	Incident (date and place):.....	Nothing to add
	Seafarer/legal heir and/or dependant:	Nothing to add
	Shipowner:.....	Nothing to add
	I, [Seafarer] [Seafarer's legal heir and/or dependant]* hereby acknowledge receipt of the sum of [currency and amount] in satisfaction of the Shipowner's obligation to pay contractual compensation for personal injury and/or death under the terms and conditions of [my] [the Seafarer's]* employment and I hereby release the Shipowner from their obligations under the said terms and conditions.	Nothing to add

	<p>The payment is made without admission of liability of any claims and is accepted without prejudice to [my] [the Seafarer’s legal heir and/or dependant’s]* right to pursue any claim at law in respect of negligence, tort, breach of statutory duty or any other legal redress available and arising out of the above incident.</p> <p>Dated: Signed For acknowledgement Shipowner/Shipowner representative Signed Financial security provider Signed *Delete as appropriate.</p>	Nothing to add
	D. Amendments relating to Appendices A5-I, A5-II and A5-III	Nothing to add
	<i>At the end of Appendix A5-I, add the following item:</i>	
A5-I	Financial security relating to shipowners’ liability	Nothing to add
	<i>In Appendix A5-II, as the last item under the heading Declaration of Maritime Labour Compliance – Part I, add the following item:</i>	
A5-II	16. Financial security relating to shipowners’ liability (Regulation 4.2)	Shipowners will need to supply the Department with this information prior to the entry into force date, however certification will not be reissued until the next intermediate or renewal MLC inspection.
	<i>At the end of Appendix A5-III, add the following area:</i>	
A5-III	Financial security relating to shipowners’ liability	Nothing to add

Section 3 - Other Minor Amendments

Clarifications to the Merchant Shipping (Maritime Labour Convention) Regulations 2013

In addition to the main amendments made to the Merchant Shipping (Maritime Labour Convention) Regulations 2013 (the Regulations) the Department is taking this opportunity to make some minor clarifications to the Regulations.

1. Restricted and prohibited tasks for young seafarers (MLC Title 4.3)

The following tasks which are currently listed as prohibited tasks for young seafarers in regulation 115(1)(d) to (f) of the Regulations will be reclassified as restricted tasks -

- work involving the risk of accidents that may be assumed cannot be recognised or avoided by the young seafarer owing to his or her insufficient attention to safety or lack of experience or training;
- work in which there is a risk to health from extreme cold, heat, noise or vibration;
- work requiring entry into an enclosed space (including boilers, tanks and cofferdam).

The effect of the Regulations is not changing, however it has become apparent that it is confusing to list these tasks as prohibited tasks when in fact the Regulations permit them to be undertaken by young seafarers subject to the following conditions -

- the task is an indispensable part of his or her training programme;
- the task is performed under the supervision of a competent person; and
- the task is carried out so that the young person's health and safety is ensured as far as reasonably practicable.

In addition regulation 114(3) which provides that a young seafarer does not need to be supervised and instructed when undertaking a restricted task if they are "recognised as fully qualified to perform that task" will be amended.

The amendment will clarify that a young person does not need to be supervised and instructed each time they perform a restricted task if they are "recognised as fully competent" to perform the task. This is because the existing term "qualified" may be misleading and suggest that an actual qualification is required. This is not really practicable as the majority of the tasks specified as restricted tasks do not have actual qualifications associated with them. Regulation 114(3) will therefore be amended as follows (amendments are shown in red with the original text in black) –

"The supervision and instruction of a young seafarer in carrying out a restricted task in accordance with paragraph (1), is not required if the young seafarer is recognised as fully **competent** to perform that task".

2. Inspection of certain items by a Recognised Organisation (MLC Title 4.1 and 4.3)

Regulation 90(1) will be amended to make it clear that an RO as well as the Department may make inspections of medical care facilities –

“Regulation 90 Medical care facilities:

A ship must carry a medicine chest, medical equipment and a medical guide all of which are subject to inspection by the Department **or RO.**”

Regulation 104(3)(j) Safety officer will be amended to make it clear that records must be made available upon request to an RO as well as the Department -

“Regulation 104(3)(j) Safety officer:

(3) It is the responsibility of the safety officer to.....

(j) make the records kept in accordance with paragraph (3)(h) or (i) available on request to a safety representative, the safety committee, the master, the Department **or RO;**”

The records kept in accordance with paragraph 3(h) and (i) are: records of accidents and incidents, investigations, complaints, inspections and records of any representations or recommendations made to the master and/or shipowner about any deficiency in the ship relating to the ship’s occupational health and safety policies and programmes together with any outcome.

3. Crew Accommodation (MLC Title 3.1)

MLC 3.1 permits an exemption to be issued to special purpose ships from the requirement that an individual sleeping room must be provided for each seafarer.

The ability to issue this exemption is in Regulation 70(2) (sleeping accommodation) but the reference to special purpose ships was omitted in error from Regulation 65 which sets out the conditions upon which a crew accommodation exemption may be granted and will be corrected.