



Maritime Labour Notice (MLN) – 011(b)
Supersedes MLN 011(a)

To: Ship owners, Masters, Operators, Recognised Organisations, and Certifying Authorities

MLC Title 2.5 - Repatriation

This MLN provides guidance on compliance with Gibraltar regulations which give effect to MLC 2006 Title 2.5. Implementation of these guidelines will be taken as evidence of compliance with the Gibraltar regulations.

The guidelines do not preclude an organisation from demonstrating an equivalent or higher standard as an “alternative method” of evidence of compliance.

Associated requirements referred to in this notice:

- Maritime Labour Convention (MLC) 2006 (as amended)
- Gibraltar Merchant Shipping (Maritime Labour Convention) Regulations 2013 (as amended)
- ILO Repatriation of Seamen Convention, 1926 (No.23)
- International Convention on Arrest of Ships, 1999
- Repatriation of Seafarers Convention (revised), 1987 (No.166)
- MLC 2006 – Title 2.5, Regulation 2.1/Standard A2.1

Most regulations and notices are available on the Gibraltar Government website www.gibraltarship.com

1. Introduction

- 1.1. The International Labour Organisation’s (ILO) Maritime Labour Convention 2006 (MLC) replaces the ILO Repatriation of Seamen Convention, 1926 (No.23) and the Repatriation of Seafarers Convention (revised), 1987 (No.166) which required ratifying countries to set out in national laws or regulations the particulars to be provided for the repatriation of seafarers.
- 1.2. The Gibraltar Maritime Administration designates and recognizes seafarers as key workers and requires ship-owners to facilitate their safe movement when travelling in connection with their employment or work, including, but not limited to, access to shore leave, repatriation, crew changes and medical care ashore.
- 1.3. MLC Regulation 2.5 and Standard A2.5 require members to set out in national laws, regulations, other measures, or within collective agreements, the requirements and entitlements in respect of the repatriation of seafarers.

- 1.4. Gibraltar MLC regulations place the MLC ship-owner responsible for the repatriation of seafarers they employ (i.e. seafarers requiring a seafarer's employment agreement), in a manner which excludes discrimination on any grounds.
- 1.5. For the purposes of the Gibraltar Merchant Shipping (Maritime Labour Convention) Regulations, and MLC 2006, the term "ship-owner" is to be taken to mean:
 - 1.5.1. the owner of the ship, or another organisation or person such as the manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on ship-owners in accordance with MLC, regardless of whether any other organisation or persons fulfil certain of the duties or responsibilities on behalf of the ship-owner.
- 1.6. In respect of ships of 500 gross tonnes and over which are subject to the requirements of SOLAS Chapter IX and the International Safety Management (ISM) Code, the ship-owner is to be taken to mean the ISM Company.

2. Gibraltar requirements / seafarer entitlement in respect of repatriation

- 2.1. Seafarers shall in a manner which excludes discrimination on any grounds be entitled to be repatriated when:
 - 2.1.1. their SEA expires when they are anywhere other than their repatriation destination;
 - 2.1.2. the period of notice required to be given to terminate an SEA by the ship-owner or by the seafarer expires;
 - 2.1.3. the seafarer terminates their SEA because they are no longer able to carry out their duties under their SEA or cannot be expected to carry them out in the following circumstances:
 - 2.1.3.1. the seafarer's SEA is terminated by the ship-owner;
 - 2.1.3.2. in the event of illness or injury or other medical condition which requires their repatriation when found medically fit to travel;
 - 2.1.3.3. in the event of shipwreck;
 - 2.1.3.4. in the event of the ship-owner not being able to continue to fulfil their legal or contractual obligations as an employer of the seafarer by reason of insolvency, sale of ship, change of ship's registration or any other similar reason;
 - 2.1.3.5. in the event of a ship being bound for a war zone as defined by the United Kingdom Warlike Operations Committee or the seafarer's SEA, to which the seafarer does not consent to go;
 - 2.1.3.6. 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; and
 - 2.1.3.7. compassionate or other urgent reasons as prescribed within MLN 2.1 – SEAs (as amended).

Seafarer's entitlement to repatriation may lapse if the seafarers concerned do not claim it within a reasonable period of time as determined by the Maritime Administrator or collective agreements, except where they are held captive on or off the ship as a result of acts of piracy¹ or armed robbery² against ships.

2.2. Maximum duration of service periods on board

- 2.2.1. The maximum duration of service periods on board following which a seafarer is entitled to repatriation shall not exceed 12 months.

2.3. Repatriation arrangements

2.3.1. The ship-owner is responsible under Gibraltar MLC regulations in respect of the following arrangements for repatriation:

2.3.1.1. the mode of transport which shall be by the most appropriate and expeditious means, and where the normal mode of transport shall be by air; and

2.3.1.2. seafarers must be repatriated to one of the following destinations:

2.3.1.2.1. the place at which the seafarer agreed to enter into the engagement;

2.3.1.2.2. the place stipulated by a collective agreement;

2.3.1.2.3. the seafarer's country of residence; or

2.3.1.2.4. such other place as may be mutually agreed at the time of engagement.

2.4. Repatriation costs

2.4.1. The ship-owner is responsible for covering the costs of repatriation until the seafarer has reached the repatriation destination as stated in their SEA noting section 2.3.1.2.

2.4.2. The costs of repatriation are to include as a minimum the following:

2.4.2.1. passage to the destination selected for repatriation;

2.4.2.2. accommodation and food from the moment the seafarers leave the ship until they reach the repatriation destination;

2.4.2.3. transportation of up to 30 kg of the seafarer's personal luggage to the repatriation destination;

2.4.2.4. sufficient money to meet minor ancillary costs likely to be incurred by the seafarer for their relief and maintenance from the moment they leave the ship until they reach the repatriation destination;

2.4.2.5. medical treatment when necessary until the seafarers are medically fit to travel to the repatriation destination; and,

2.4.2.6. pay and allowances from the moment the seafarers leave the ship until they reach the repatriation destination.

2.5. Prohibition in respect to advanced payments or recovering costs of repatriation

2.5.1. Under no circumstances shall there be any provisions or actions on part of the ship-owner 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.

2.6. Repatriation of young seafarers

2.6.1. Should during their first foreign-going voyage become apparent that a seafarer under the age of 18 years is unsuited to life at sea, they shall be given the opportunity of being repatriated from the first suitable port of call at no expense to themselves.

2.6.2. In respect of 2.6.1, notification of repatriation including reasons must be provided to the authority associated with the young seafarer taking up sea-going employment.

2.7. Lapse of repatriation entitlement

2.7.1. A seafarer's entitlement to repatriation will lapse if the seafarer does not claim it within 90 days, except where they are held captive on or off the ship as a result of acts of piracy¹ or armed robbery² against ships.

2.8. Third-party contractual arrangements

2.8.1. The Gibraltar MLC regulations do not prejudice any right of the shipowner to recover the cost of repatriation under third-party contractual arrangements.

2.9. Repatriation regulations

2.9.1. Access to Gibraltar MLC repatriation regulations and associated Maritime Labour Notices in their most up-to-date versions shall be provided to all seafarers employed on Gibraltar registered ships.

3. Repatriation provisions incorporated within collective bargaining agreements (CBAs)

3.1. MLC 2006, Title 2.5 – Repatriation, and the Gibraltar MLC regulations allow collective agreements to prescribe the terms and conditions of the repatriation of seafarers.

3.2. Competent authorities required to ensure that collective bargaining agreements are in accordance with MLC Regulation 2.5/Standard A2.5.1.

3.3. In this respect, the Gibraltar Maritime Administration requires that CBA's as a minimum contain clear information in respect of:

3.3.1. the circumstances in which seafarers are entitled to repatriation in accordance with MLC Standard A2.5.1 paragraphs 1(b) and (c);

3.3.2. the maximum duration of service periods on board following which a seafarer is entitled to repatriation which in all cases is not to exceed 12 months; and,

3.3.3. 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.

3.4. The costs to be borne by the shipowner for repatriation under section 2.3.3 shall as a minimum include:

3.4.1. passage to the destination selected for repatriation;

3.4.2. accommodation and food from the moment the seafarers leave the ship until they reach the repatriation destination;

3.4.3. transportation of up to 30 kg of the seafarer's personal luggage to the repatriation destination; and,

3.4.4. medical treatment when necessary until the seafarers are medically fit to travel to the repatriation destination.

3.5. Under no circumstances shall there be any provisions or actions on part of the ship-owner 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.

4. Financial Security

4.1. The shipowner shall in accordance with MLC 2006, Regulation 2.5 / Standard A2.5.2 (as amended), and the Gibraltar Merchant Shipping (Maritime Labour Convention) Regulations 2013 (as amended), provide an expeditious and effective financial security system to assist seafarers in the event of their abandonment.

- 4.2. For the purposes of this section, a seafarer shall be deemed to have been abandoned where, in violation of the requirements of MLC 2006 (as amended), the Gibraltar Merchant Shipping (Maritime Labour Convention) Regulations 2013 (as amended), or the terms of the seafarers' employment agreement, the shipowner:
- 4.2.1. fails to cover the cost of the seafarer's repatriation; or
 - 4.2.2. has left the seafarer without the necessary maintenance and support; or
 - 4.2.3. has otherwise unilaterally severed their ties with the seafarer including failure to pay contractual wages for a period of at least two months.
- 4.3. Evidence of financial security must be readily available for inspection on all Gibraltar ships subject to the requirements of MLC 2006 (as amended) and the Gibraltar Merchant Shipping (Maritime Labour Convention) Regulations 2013 (as amended), in the English language, or when not in English, accompanied by an English translation.

5. Further information

- 5.1. Requests for further information related to this MLN should be directed to the GMA Survey Division via; maritime.survey@gibraltar.gov.gi

¹ *piracy shall have the same meaning as in the United Nations Convention on the Law of the Sea, 1982*

² *armed robbery against ships means any illegal act of violence or detention or any act of depredation, or threat thereof, other than an act of piracy, committed for private ends and directed against a ship or against persons or property on board such a ship, within a State's internal waters, archipelagic waters and territorial sea, or any act of inciting or of intentionally facilitating an act described above.*

Steve Gomez – Chief Surveyor

For & on behalf of the Maritime Administrator

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