

**HELLENIC COAST GUARD HEADQUARTERS
BRANCH B' (MARITIME AFFAIRS) – C' (SHIP INSPECTION)
DIRECTORATE FOR MARITIME LABOR -
DIRECTORATE FOR THE MONITORING OF
SHIP AND PORT FACILITY SECURITY MANAGEMENT**

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MLC, 2006/ 05

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SUBJECT: "Amendment – Supplement to a Circular Letter relating to the implementation of requirements of the Maritime Labor Convention 2006 (MLC 2006) of the International Labor Organization – Amendments 2014".

REF: a) Circular Letter No.3257.1.2/01/2013/10-09-2013 MLC, 2006/01 (Online Publication No (ADA): ΒΛ9ΞΟΠ-16Υ)
b) Circular Letter No.2242.7.2.1/6244/2017 MLC, 2006/03 (Online Publication No (ADA): 753Ζ4653ΠΩ-ΗΛΖ)

1. General – Historical background

- 1.1 At the 103th session of the International Labor Conference which took place on June 2014 amendments to the Code of the MLC 2006 were adopted, where said Convention has been ratified by Greece by virtue of L.4078/2012 (A' 179) with the aim to deal in a more efficient manner with cases of abandonment of seafarers and compensation for claims for death or long-term disability (Amendments 2014 to the MLC 2006). These amendments were adopted by Greece by virtue of Presidential Decree No. 3/2017 (A' 6), thus, supplementing the aforementioned ratifying Law.
- 1.2 Furthermore, a Resolution on transitional measures relating to the entry into force of the amendments to the Maritime Labor Convention 2006. In accordance with the said Resolution which was adopted by Greece, the Amendments 2014 to the Maritime Labor Convention 2016 do not intend to affect the validity of Maritime Labor Certificates or declarations of maritime labor compliance already issued at the time when the amendments enter into force. Moreover, the above Resolution recognizes the need for a transitional period to issue or renew Maritime Labor Certificates in accordance with the requirements of the Convention, as amended, and in addition it requests Members to acknowledge that entry into force of the amendments should not in any way serve to invalidate Maritime Labor

Certificates or declarations of maritime labor compliance that have been duly issued previously and which are still in effect no later than the date of the first renewal inspection following entry into force of the Amendments 2014 (18 January 2017).

2. Scope of National Requirements

The Regulation on the implementation of requirements set out in Maritime Labor Convention 2006 Under Joint Ministerial Decision No. 2242.7-2.1/5625 (B' 159), which was adopted pursuant to Joint Ministerial Decision No. 3522/2.8.2013, B' 1671 (hereinafter referred to as "the Regulation") was amended – supplemented under Joint Ministerial Decision No. 2242.7-2.1/5625 (B' 159).

2.1 Financial security in case of abandonment of seafarers

Article 10(a) which was added to the Regulation is intended to better address the specific problems faced in cases of abandonment of seafarers by putting in place an expeditious and effective financial security system to assist seafarers in the event of their abandonment.

2.1.1 What is meant by "abandonment"

The seafarer shall be deemed to have been abandoned, where in violation of the requirements of the MLC 2006 or the terms of the seafarer's employment agreement, the ship owner:

- a) fails to cover the cost of the seafarer's repatriation; or
- b) has left the seafarer without the necessary maintenance and support, such as adequate food, accommodation, drinking water supplies, essential fuel for survival on board the ship and necessary medical care, or
- c) has otherwise unilaterally severed their ties with the seafarer including failure to pay contractual wages for a period of at least two (2) months.

2.1.2 Financial security coverage – limitation of shipowner's liability (Article 10a, paragraphs 9, 10)

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; such assistance shall be sufficient to cover the following:

- a) outstanding wages and other entitlements due from the shipowner to the seafarer, limited to four months of any such outstanding wages and four months of any such outstanding entitlements;
- b) all expenses reasonably incurred by the seafarer, including the cost of repatriation, and

- 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, etc.

2.1.3 Evidence of financial security – Information – Period of validity

- a) In the context of implementing the financial security system specified here above, ships shall carry on board a valid certificate or other documentary evidence of financial security, such as a performance bond issued by a bank or other financial institution, an attestation, agreement and/or certificate issued by a mutual protection & indemnity association that is a member of the International Group of P & I Clubs, and/or other effective form of insurance cover for the purpose of covering a ship's obligations. A list with mutual Protection & Indemnity Clubs is attached hereto. Pertinent information is updated at all times and is available at <http://www.igpandi.org/article/list-principal-clubs> . In addition, other acceptable financial security providers are credit institutions and insurance companies legally operating in Greece and engaging in the insurance sector, which are under the supervision of the Bank of Greece. To this end, a related attestation shall be submitted by the Department of Private Insurance Supervision (*abbreviated "DEIA" in Greek*) of the Bank of Greece. Financial security providers not falling within the cases specified herein may be approved by the Secretary-General of the Ministry of Shipping and Insular Policy.
- b) The certificate or other documentary evidence of financial security shall contain the information required in Annex 8 of the Regulation and shall be drawn up in English or accompanied by an English translation. A copy of the certificate 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.
- c) 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 thirty (30) days to the Directorate for Maritime Labor, while for ships falling within the scope of Article 31(1) of the Regulation notification shall also be given to the competent authority or Recognized Organization having issued the Maritime Labor Certificate.

2.2 Shipowner's liability

Furthermore, Article 28 of the Regulation was amended – supplemented so that the financial security system ensuring compensation for contractual claims, as provided for under paragraph 3 of the said Article, meets at least certain requirements such as payment of compensation in full and without delay, as well as a provision for provisional payment in order to avoid undue inconvenience in cases where the nature of a seafarer's long-term disability makes the assessment of compensation difficult, etc. Similarly, the certificate or other documentary evidence of financial security issued by a financial security provider shall contain the information required under Annex 8 to the Regulation; it shall be drawn up in English or accompanied by an English translation and available on board ship at all times, while a copy thereof shall be posted in a conspicuous place on board where it is available to the seafarers. Where financial security is provided by more than one financial security providers, the certificate issued by each such provider shall be available on board.

2.3 Flag State Control – Steps taken by Port Authorities

- 2.3.1 For Greek-flagged ships, the requirements described here above constitute an element which is subject to inspection and/or documentation - certification and/or survey as far as **seafarers** employed on said ships falling within the scope of Article 1 of the Regulation are concerned.
- 2.3.2 Such inspections and/or surveys, further to those conducted by bodies responsible for the issuance of Maritime Labor Certificates, are carried out by Port Authorities within the territory Greece and by Naval Attaché Offices outside Greece for all ships, in the context of regular and/or extraordinary inspections, either general or targeted ones, including those following the filing of a complaint, in accordance with the provisions of Regulations 1 and 2 which were adopted pursuant to Joint Ministerial Decision No. 4113.305/01/2013 (B' 1553) as in force at present, as well as in the context of acts of granting a ship permission to sail from port.
- 2.3.3 The persons conducting the above-mentioned inspections – surveys may board ships freely in order to perform any inspection, test or investigation they may deem necessary in order to establish that the standards in question are duly met, as well as to require the taking of corrective action for any deficiencies identified; where the said persons have reason to believe that such deficiencies constitute a serious violation, they may deny a ship permission to leave port until all corrective actions are duly taken.

2.3.4 Acknowledging that, for the effective implementation of the Regulation's new requirements, the parties concerned shall have to undertake appropriate action for a considerable number of ships, and taking into account the need for a smooth transition to the new circumstances, Port Authorities which conduct inspections up until 31 August 2017 shall have discretion, where deficiencies are detected, to propose recommendations in the context of a practical and realistic approach and to advise shipowners accordingly.

3. Port State Control – Action undertaken by Port Authorities

3.1 Foreign-flagged ships shall be inspected and/or surveyed as appropriate for the sake of establishing their compliance with the requirements of the MLC 2006, including the Amendments 2014 thereto, in the context of:

- a) Regulations 4 and 5 which were approved pursuant to Joint Ministerial Decision No. 4113.305/01/2013 (B' 1553) as in force each time, or
- b) The Paris Memorandum of Understanding and Directive 2009/16/EC, as in force each time.

3.2 It is pointed out that, in any event, for ships required¹ to carry on board a Maritime Labor Certificate and a Declaration of Maritime Labor Compliance, irrespective of flag, the Resolution on transitional measures shall be accepted in accordance with paragraph 1.2 hereof.

3.3 An updated list of the countries having accepted the Amendments 2014 to the MLC 2006 is available on the official website of the ILO for the MLC 2006, at:

http://ilo.org/dyn/normlex/en/f?p=1000:11301::NO:RP,11301:P11301_INSTRUMENT_AMENDMENT_ID:3256971 .

In this connection, it is pointed out that during the conduct of inspections under Regulation 4, in the event of a ship flying the flag of a State included in the above-mentioned list, Port Authorities, in accordance with an Explanatory Note to Article XV, paragraph 8(b) of MLC 2006 regarding a specified period of time, shall accept the Maritime Labor Certificate and the DMLC for the period of time in question as *prima facie evidence* of the ship's compliance with the requirements of the Convention.

3.4 Moreover, taking into account the provisions of Article V, paragraph 7 of MLC 2006, it is reminded that ships flying the flag of any State not having ratified the Convention and the amendments thereto shall not receive more favorable treatment than the ships flying the flag of any State that has ratified it, such as Greece, and shall be inspected and/or surveyed in accordance with what is laid down in the Convention, without prejudice to paragraphs 3.2 and 3.3. hereof.

4. The D.I.D.EP. (Directorate for e-Governance and Communications) whereto this document is forwarded, shall ensure that this document is posted on the dedicated site of the official website of the Hellenic Coast Guard for the Maritime Labor Convention 2006.
5. Shipowners Associations and Seafarers' Unions are requested to take due note of the above and advise their members accordingly.

THE MINISTER
Panagiotis KOUROUMLIS

¹ a) Ships of 500 gross tonnage or over engaging in voyages from a country to a port outside such country;
b) ships of 500 gross tonnage or over operating from a port or between ports of Greece, c) on any ship upon request of the shipowner.