

Entry into force of the Maritime Labour Convention, 2006 (MLC)

Dear Sirs,

Members are referred to the previous circular issued in March this year on the Maritime Labour Convention (MLC). The imminent entry into force of the MLC has brought the Convention and its requirements on shipowners into focus and in particular the financial security requirements established in the Convention.

By way of clarification and for Members' guidance, the financial security requirements on shipowners set out below will become effective with the entry into force of the MLC on 20 August 2013.

Financial Security Requirements on Shipowners

Standard A2.5 – Repatriation

This Standard and accompanying Guidelines provide that seafarers must be repatriated at no cost to themselves; outlines the circumstances in which seafarers are entitled to repatriation, and requires that shipowners shall provide financial security for the liabilities established in the Standard. Members will be aware that, in order to assist in complying with these financial security requirements, all 13 International Group (IG) Clubs have agreed to extend the scope of standard P&I cover to include repatriation in cases of insolvency and in the other circumstances listed in the MLC where seafarers are entitled to repatriation.

This Standard does not include a provision concerning outstanding unpaid wages. Liability for unpaid wages following abandonment is a feature of the principles agreed in the International Labour Organisation (ILO) in 2009, but these principles are not applicable at this stage and there is no requirement in the MLC to provide financial security by way of insurance cover for unpaid wages. The ILO principles are subject to further discussion and negotiation, and to take this forward ILO has scheduled a meeting for April 2014. It will then take several years for the principles to be considered and finalised in ILO, and then implemented in State Parties to the MLC. The current position, therefore, is that unpaid wages are not covered by the MLC and there is no requirement to provide financial security for such wages.

Regulation 4.2 – Shipowners' Liability (for sickness, injury or death)

The MLC provides that States Parties shall ensure that seafarers on vessels flying their flag are entitled to compensation in the event of death or long term disability due to an occupational injury, illness or hazard as set out in national law, the seafarer's employment agreement or collective agreement and that there must be financial security for such compensation. Such claims are generally already covered under the standard P&I cover provided by a member's P&I club, subject to the club rules.

Standard 1.4 Recruitment and Placement

The MLC does not introduce a requirement on shipowners to provide financial security in respect of the recruitment of seafarers. The MLC imposes certain duties and obligations on State Parties to the Convention; agencies involved in recruitment and placement services may be subject to specific licencing requirements, but this is a matter for each State Party to consider when implementing the Convention.

Standard 2.2 Wages

The MLC does not introduce an obligation on shipowners to maintain financial security for unpaid wages to seafarers. It does, however, introduce obligations on State Parties who will require that seafarers receive payment in accordance with their employment agreements. Such obligation to pay seafarers wages is likely to be incorporated in the existing national law of each State Party.

Accepting Certificates of Entry as Evidence of Financial Security

The IG has been in regular contact with the Competent Authority in each State Party to the MLC, to obtain confirmation that an IG club certificate of entry will be accepted as evidence of shipowners' financial security. To date 13 States have confirmed they will accept a certificate of entry, and several more are considering the issue as they develop their national implementing legislation. No State Party has refused to accept a club certificate of entry. Members should contact the club for an up-to-date list of those State Parties that have provided such a confirmation.

All clubs in the International Group have issued similar Circulars.

Any questions with regard to the above may be addressed to Sara Burgess, Gard (UK) Limited or Inger Eidem, Gard AS.

Yours faithfully,
GARD AS



Claes Isacson
Chief Executive Officer