



MGN 487 (M)

Amendment 1

Maritime Labour Convention, 2006: On-shore Complaints

Notice to all Ship owners, Operators, Masters, Officers and all Seafarers on merchant ships and large yachts

This notice should be read with regulation 13 the Merchant Shipping (Maritime Labour Convention) (Survey and Certification) Regulations 2013 (S.I. 2013/1785), and MSN 1849 (M) regarding on-board complaints and procedures. Regulations 5.1.4, 5.2.1 and 5.2.2 of the Maritime Labour Convention, 2006 and the Guidelines for Port State Control Officers published by the ILO are also relevant.

Summary

This note provides guidance to owners, operators and seafarers on the UK provisions on the MCA's handling of complaints made to the MCA relating to the Maritime Labour Convention, 2006 (MLC).

Regulation 13 of the Merchant Shipping (Maritime Labour Convention) (Survey and Certification) Regulations 2013 (S.I. 2013/1785) makes provision for seafarers on UK ships to raise a complaint relating to the MLC with the MCA.

However, any seafarer on any ship in a UK port may complain to an MCA surveyor and the MCA will handle that complaint in the manner set out in this note.

Key points

The MLC makes provision for seafarers or other interested parties to make a complaint alleging a breach of the requirements of the Convention (including seafarers' rights) to an authorised officer.

Complaints may be raised by seafarers on UK ships, where MCA is the certifying authority, or by seafarers on non-UK ships in UK ports.

Such complaints will be investigated by the MCA and may lead to an inspection, which will be limited to the scope of the complaint.

However, if there is evidence which indicates that the ship may not be compliant with the MLC the MCA may widen the scope of the inspection.

Amendment 1 updates contact details. There are no other substantive changes.

1. Introduction

- 1.1 Regulation 13 of the Merchant Shipping (Maritime Labour Convention) (Survey and Certification) Regulations 2013 (S.I. 2013/1785) ("the Survey & Certification regulations") implements in UK law regulation 5.1.4 of the Maritime Labour Convention, 2006 on complaints for UK ships, including a provision for seafarers to refer a complaint to the



MCA, and regulation 18 ensures the same protection for seafarers on non-UK ships in UK waters.

- 1.2 The Convention allows for a seafarer or a professional body, an association, a trade union or generally any person with an interest in the safety of a particular ship, including an interest in safety or health hazards to seafarers, to make a complaint to an authorised officer.
- 1.3 Each State that ratifies the MLC is required to adopt procedures enabling seafarers on ships calling at ports in their territory to register complaints alleging breaches of the requirements of the Convention (including seafarers' rights) to an authorised officer in the port concerned, in order to facilitate a prompt and practical means of redress.
- 1.4 The procedures must include a power for the authorised officer to investigate the complaint, including, where appropriate, to carry out an inspection of the ship. However, the authorised officer must where appropriate, seek to promote a resolution of the complaint at the shipboard level.

2. Complaints in UK ports

- 2.1 A complaint in a UK port may be made to an MCA surveyor. It may relate to a UK ship (in which case MLC Regulation 5.1.4 will be relevant) or to a foreign ship (in which case MLC Regulation 5.2.2 will be relevant).
- 2.2 Where any complaint is received by an MCA surveyor regardless of the source, appropriate steps will be taken to safeguard the confidentiality of complaints made by or on behalf of seafarers.

3. Complaint made by a seafarer, a professional body, an association, a trade union or any person with an interest in the safety of the ship (MLC, 2006 Regulation 5.1.4 and 5.2.1) in association with a Port State Control inspection

- 3.1 When a complaint is received by a MCA surveyor, the surveyor will record the time that it was received, the details of the ship in question and the nature of the complaint.
- 3.2 The surveyor will then check to ensure that the complaint relates to requirement of the Maritime Labour Convention, 2006. (Complaints are not limited to the 14 areas listed in either Appendix A5-1 or Appendix A5-III of the Convention- they may relate to a breach of any requirement of the Convention, including seafarers' rights under Article III and Article IV). If so, an initial investigation will be carried out.
- 3.3 Depending upon the circumstances, the surveyor may or must decide to carry out a more detailed inspection as detailed in paragraph 81 of the ILO Guidelines of Port State Control Officers. A more detailed inspection **must** be carried out if the living and working conditions alleged to be defective could constitute a clear hazard to the safety, health or security of seafarers where there are grounds.
- 3.4 Any inspection associated with a complaint will generally be limited to matters within the scope of the complaint. However, any information gained either from the complaint itself or during the ensuing inspection may indicate that the ship does not comply with the Convention. Under these circumstances, a more detailed inspection may be carried out in order to ascertain whether there are breaches of Convention requirements. (MLC Standard A.5.2.1, paragraph 3).
- 3.5 If it is decided not to carry out a more detailed inspection and the complaint has been lodged by a seafarer then the procedure described in section 4 below will be followed.



4. Complaint made by a seafarer (MLC Reg 5.2.2)

4.1 Upon receipt of a complaint the MCA surveyor will undertake an initial investigation in order to ascertain whether a more detailed inspection is necessary. If it is, the procedure set out in section 3 above should be followed.

4.2 In all other cases the inspector should;

- seek to promote a resolution of the complaint at ship-board level;
- ascertain whether the on-board complaints procedure has been used.

4.2.1 If the surveyor finds that the on-board complaints procedure has not been used, and there is no good reason for this, the surveyor should advise the seafarer to make use of the procedure ("Good reason" would include the inadequacy of or undue delay in, the internal procedures or the complainant's fear of reprisal for lodging a complaint.) If this advice is acted upon, no further action by the surveyor is required.

4.3 During the investigation the master, the shipowner and any other person involved in the complaint should be given a proper opportunity to express their views.

5. Unresolved complaints in UK ports – UK ships

5.1 If a complaint made under section 3 or section 4 above cannot be resolved at ship-board level, the MCA surveyor concerned will notify MCA ISM/ISO Policy Branch who will then contact the shipowner and discuss the complaint and how it can be resolved. If necessary, the shipowner will be required to provide a corrective plan of action which is acceptable to the MCA.

6. Unresolved complaints in UK ports – foreign ships

6.1 If a complaint under section 3 or section 4 cannot be resolved at ship-board level the MCA will advise the ship's flag State who will be requested, within a prescribed deadline, to give advice and provide a corrective plan of action.

6.2 In the event that the relevant authority of the ship's flag State demonstrates that it will handle the matter and that it has effective procedures and has submitted an acceptable plan of action, the surveyor may refrain from any further involvement in the complaint.

6.3 However, if the complaint is not resolved by the flag State, then the surveyor's inspection report must be transmitted to the Director General of the ILO. The recognised UK shipowners and seafarers' organisations will be informed.

7. Provision for detention of a ship

7.1 If, following a detailed inspection, the surveyor has clear grounds for believing that;

(a) a ship in respect of which a complaint has been received is not in compliance with the Convention; and

(b) (i) the conditions on board are clearly hazardous to the safety, health or security of seafarers, or

(ii) the non-compliance represents a serious breach or the latest in a series of repeated breaches of UK regulations implementing the Maritime Labour Convention or the requirements of the Maritime Labour Convention (including the rights of seafarers referred to in Articles III and IV of the Maritime Labour Convention which are secured by it), the surveyor may detain the ship (regulations 17 and 20) of the MLC Survey & Certification Regulations).



More Information

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