

CIRCULAR

OUTLINE

- This circular sets out details of the arrangements that will be made by the Club to assist owners to comply with the MLC financial security requirements applicable from January 2017
- A detailed FAQ accompanies this circular
- This circular relates to Circular 13/16, Circular 10/13 and Circular 8/13

TO THE MEMBERS

MARITIME LABOUR CONVENTION 2006 AS AMENDED (MLC) FINANCIAL SECURITY REQUIREMENTS

Reference is made to the Circular 13/16 dated 30/06/2016, which informed Members of the amendments to the Maritime Labour Convention 2006 which will enter into force on 18 January 2017. After this date, ships that are subject to the MLC will be required to display certificates issued by an insurer or other financial security provider confirming that insurance or other financial security is in place for liabilities in respect of

- outstanding wages and repatriation of seafarers together with incidental costs and expenses in accordance with MLC Regulation 2.5, Standard A2.5.2 and Guideline B2.5, and
- compensation for death or long-term disability in accordance with Regulation 4.2., Standard A4.2. and Guideline B4.2.

The Boards of all Clubs in the International Group have decided that Clubs should provide the necessary certification. The purpose of this Circular is to provide an update to Members regarding the steps which are being taken to enable Members to meet the financial security requirements. The Circular contains the most important information while more details are provided in the accompanying FAQs.

Ships requiring MLC Certificates

Ships will require MLC Certificates if they are

- registered in a state where MLC is in force; or
- calling at a port in a jurisdiction where MLC is in force

Details of States which are party to MLC can be found in the MLC Database maintained by the International Labour Organisation.

MLC Certificates are not required by ships registered in States which are not party to MLC and which will not call at States which are party to MLC.

More information about the categories of ships to which MLC applies can be found on the Club's website FAQs on MLC.

Process

All Clubs in the international Group will shortly provide information to Members about the process for obtaining Certificates. The Certificates will be sent to Members by their Clubs in PDF format based upon the

wordings in Annexes 1 and 2 of this Circular. Members must then print the Certificates and ensure that they are posted in a conspicuous place on board where they are available to seafarers no later than 18 January 2017.

Once the Certificates are issued, they will be recorded on the ship search facility on the Club website.

The Certificates are provided by the Club and there is no need to apply for State issued Certificates. However, some States may require shipowners on their register to supply copies of the Certificates for their records.

Members who intend to renew their P&I Cover with the UK Club at 20th February 2017 will be able to obtain Certificates which are valid up to 20 February 2018.

Insurance

Some of the liabilities arising under the Certificates will fall within the scope of standard P&I cover for crew. For example, UK Club Rules will normally cover compensation for death or long term disability. Similarly, repatriation costs and wages following a shipwreck form part of standard cover. However other liabilities fall outside the scope of P&I cover, in particular repatriation costs and wages arising from the abandonment provisions set out in Standard 2.5.2 of the MLC, as amended.

Clubs are able to provide Certificates on the basis set out in the MLC Extension Clause which appears in Annex 3. This provides that the Club will pay claims advanced by seafarers which fall within the scope of the Regulations and Standards specified in the Certificates. The Clause also provides that if such payments fall outside the scope of standard cover, Members will be obliged to reimburse the Club.

Reinsurance

Claims which fall outside the scope of P&I cover will also fall outside of the scope of the International Group's pooling and reinsurance arrangements. The Group has arranged additional reinsurance cover for liabilities arising under the MLC Extension Clause and falling outside the scope of cover. The reinsurance placement is at an advanced stage and will be at a level which is sufficient for all Members, with the possible exception of a small number of fleets with exceptionally high crew numbers.

General

The MLC financial security requirements raise many challenges for shipowners, insurers, Flag States and Port States. Although there is some resemblance to the compulsory insurance system under IMO Conventions, there are considerable differences. For example, MLC does not stipulate a prescribed wording for the security. In addition, individual States have a degree of flexibility as to how they implement and enforce MLC from both a Flag State and a Port State perspective. At the time of writing 79 States have ratified the Convention. The International Group has been instrumental in establishing an informal Correspondence Group of 18 States who have been consulted and given the opportunity to comment on the proposed steps taken by the International Group. The aim has been to provide a system for security which meets with the requirements of MLC and is accepted in all States where MLC is in force. Further updates will be provided in due course.

All International Group Clubs have issued a similar circular.

Yours faithfully

THE MANAGERS

For more information

Members requiring further information should contact Nigel Carden at nigel.carden@thomasmiller.com or telephone +44 20 7204 2147

ANNEX 1

CERTIFICATE OF INSURANCE OR OTHER FINANCIAL SECURITY IN RESPECT OF SHIPOWNERS' LIABILITY AS REQUIRED UNDER REGULATION 4.2 STANDARD A4.2 PARAGRAPH 1 (b) OF THE MARITIME LABOUR CONVENTION 2006 AS AMENDED

Name of Ship:

Port of Registry:

Call sign:

IMO number of the ship:

Name, full address and website of the provider of insurance or other financial security:

Contact details of the persons or entity responsible for handling seafarers' request for relief:

Name of the shipowner on whose behalf financial security has been provided:

Period of validity of the financial security: _____ to _____

THIS IS TO CERTIFY that there is in force a policy of insurance or other financial security in respect of the above-named ship while in the above ownership which meets the financial security requirements of Standard A4.2 paragraph 1(b) of the Maritime Labour Convention 2006 as Amended, where it is in force and applicable

Provided always that the insurer or provider of financial security may cancel this Certificate in accordance with Standard A4.2.12 by giving at least 30 days' written notice to the competent authority of the flag state whereupon the liability of the insurer hereunder shall cease as from the date of expiry of the said period of notice but only as regards events arising thereafter.

The policy of insurance is subject to certain conditions and limitations details of which can be found on the provider's website under "Maritime Labour Convention Extension Clause 2016".

This certificate has been issued for and on behalf of the above-named provider of insurance or other financial security.

Date:

Authorised Signatory

By
[Managers of the above Association]

ANNEX 2

CERTIFICATE OF INSURANCE OR OTHER FINANCIAL SECURITY IN RESPECT OF SEAFARER REPATRIATION COSTS AND LIABILITIES AS REQUIRED UNDER REGULATION 2.5.2, STANDARD A2.5.2 OF THE MARITIME LABOUR CONVENTION 2006, AS AMENDED

Name of Ship:

Port of Registry:

Call sign:

IMO number of the ship:

Name, full address and website of the provider of insurance or other financial security:

Contact details of the persons or entity responsible for handling seafarers' request for relief:

Name of the shipowner on whose behalf financial security has been provided:

Period of validity of the financial security: _____ to _____

THIS IS TO CERTIFY that there is in force a policy of insurance or other financial security in respect of the above-named ship while in the above ownership which meets the financial security requirements of Regulation 2.5 paragraph 2 of the Maritime Labour Convention 2006 as Amended, where it is in force and applicable.

Provided always that the insurer or provider of financial security may cancel this Certificate in accordance with Standard A2.5.2.11 by giving at least 30 days' written notice to the competent authority of the flag State whereupon the liability of the insurer hereunder shall cease as from the date of expiry of the said period of notice but only as regards events arising thereafter.

The policy of insurance is subject to certain conditions and limitations details of which can be found on the provider's website under "Maritime Labour Convention Extension Clause 2016".

This certificate has been issued for and on behalf of the above-named provider of insurance or other financial security.

Date:

Authorised Signatory

By
[Managers of the above Association]

ANNEX 3

MARITIME LABOUR CONVENTION EXTENSION CLAUSE 2016

1. Subject only to the other provisions of this MLC Extension (“the Extension”), the Association shall discharge and pay on the Member’s behalf under the 2006 Maritime Labour Convention as amended (MLC 2006) or domestic legislation by a State Party implementing MLC 2006:
 - (a) Liabilities in respect of outstanding wages and repatriation of a seafarer together with costs and expenses incidental thereto in accordance with Regulation 2.5, Standard A2.5 and Guideline B2.5; and
 - (b) Liabilities in respect of compensating a seafarer for death or long-term disability in accordance with Regulation 4.2, Standard A4.2 and Guideline B4.2.
2. The Member shall reimburse the Association in full:
 - (a) any claim paid under paragraph 1(a) save to the extent that such claim is in respect of liabilities, costs or expenses recoverable under Rule 2, Sections 2, 3, 4(A), or 6, and
 - (b) any claim paid under paragraph 1(b) save to the extent that such claim is in respect of liabilities, costs or expenses recoverable under Rule 2, Sections 2 or 3.
3. There shall be no payment under paragraph 1(a) or paragraph 1(b) if and to the extent that the liability, cost or expense is recoverable under any social security scheme or fund, separate insurance or any other similar arrangement.
4. The Association shall not discharge or pay any liabilities, costs or expenses under paragraph 1(a) or paragraph 1(b), irrespective of whether a contributory cause of the same being incurred was any neglect on the part of the Member or the Member’s servants or agents, where such liabilities, costs or expenses were directly or indirectly caused by or contributed to by or arise from:
 - (a) Any chemical, biological, bio-chemical or electromagnetic weapon
 - (b) The use or operation, as a means for inflicting harm, of any computer system, computer software programme, computer virus or process, or any other electronic system.
5.
 - (a) The Extension may be cancelled in respect of War Risks by the Association on 30 days’ notice to the Member (such cancellation becoming effective on the expiry of 30 days from midnight of the day on which notice of cancellation is issued).
 - (b) Whether or not such notice of cancellation has been given the Extension hereunder shall terminate automatically in respect of the War Risks:
 - (i) Upon the outbreak of war (whether there be a declaration of war or not) between any of the following: United Kingdom, United States of America, France, the Russian Federation, the People’s Republic of China;
 - (ii) In respect of any ship, in connection with which cover is granted hereunder, in the event of such ship being requisitioned either for title or use.
 - (c) The Extension excludes loss, damage, liability or expense arising from:
 - (i) The outbreak of war (whether there be a declaration of war or not) between any of the following: the UK, the USA, France, The Russian Federation, the People’s Republic of China;
 - (ii) Requisition for title or use.
6. The Extension shall be subject to Rules 5(F) and 5(V).

7. Without prejudice to paragraph 5, cover under the Extension shall cease 30 days after notice of termination in accordance with Regulation 2.5, Standard A2.5.2.11 or Regulation 4.2, Standard A4.2.12.
8. Any dispute arising out of or in connection with the Extension shall be resolved in accordance with Rule 40.
9. For the purpose of the Extension:
 - “Member” means any insured party who is liable for the payment of calls, contributions, premium or other sums due under the terms of entry.
 - “Seafarer” shall have the same meaning as in MLC 2006.
 - “War Risks” means the risks set out in Rule 5(E).