



Oil Companies International Marine Forum

Recommendations Relating to the Application of Requirements Governing Seafarers' Hours of Work and Rest

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The OCIMF mission is to be the foremost authority on the safe and environmentally responsible operation of oil tankers, terminals and offshore support vessels, promoting continuous improvement in standards of design and operation.

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1 Introduction

Fatigue is seen as a significant contributory factor to many incidents in the shipping industry¹. To minimise fatigue, legislation regarding seafarers' hours of rest has been in force for many years and is monitored and controlled in accordance with Flag State legislation, enforced through Port State Control procedures. However, overall enforcement measures have generally been ineffective.

Although the legislation has been in place for some considerable time, it is apparent that the associated regulatory provisions are subjected to varying interpretation by individual administrations, resulting in differing requirements for vessels operating under different flags.

With the entry into force of the 2010 Manila amendments to the STCW Convention and the 2006 Maritime Labour Convention (MLC 2006), it is expected that Port State Control procedures will pay increasing attention to ensuring compliance with the requirements. There is a risk that variations in interpretation of the regulations by Port States will increase the likelihood of deficiencies being reported and/or vessels being detained.

This information paper highlights areas of concern with regard to potential ambiguities and differing interpretations of the Conventions' requirements. The paper considers minimum expectations to ensure compliance with related provisions and recommendations are provided for the information of OCIMF members and the managers and crews of applicable vessels.

2 Legislative Background

2.1 Standards of Training, Certification and Watchkeeping (STCW) Convention - IMO

In the light of concerns associated with the impact of fatigue on the potential for incidents, the International Maritime Organization (IMO) first included requirements aimed at regulating seafarers' hours of work or rest within the Standards of Training, Certification and Watchkeeping (STCW) Convention that was drafted in 1978. These requirements entered into force in 1984.

While some flag states moved on from STCW by legislating for the International Labour Organization (ILO) Convention 180 some years ago, others will align with MLC/STCW following the entering into force of the STCW Manila amendments on 1st Jan 2012.

The main intent of the Manila amendments, as they related to seafarers' hours of work and rest, was to align STCW with the provisions of ILO 180 and MLC 2006. However, despite this attempt at alignment, differences in terminology and application remain.

2.2 Seafarers' Hours of Work and the Manning of Ships Convention - ILO

In 1996, the ILO adopted Convention 180 which contained provisions that addressed seafarers' hours of work or rest. The Convention includes the following provisions:

- Based on the principle of a normal working day being of eight hours with one day of rest per week and rest on public holidays
- applicable to all seafarers on board
- maximum hours of work shall not exceed 14 hours in any 24 hour period and 72 hours in any 7 day period, or minimum hours of rest shall not be less than 10 hours in any 24 hour period and 77 hours in any 7 day period
- hours of rest may be divided into not more than two periods, one of which is to be a minimum of 6 hours. The interval between consecutive periods of rest shall not exceed 14 hours
- musters and safety drills shall be conducted in a manner that minimises the disturbance of rest periods
- seafarers on call shall have an adequate compensatory rest period if the normal period of rest is disturbed by call-outs
- watch schedules are required to be posted and records of daily hours of rest of individual seafarers shall be maintained.
- authorities may allow exceptions if by collective agreement or arbitration award.

¹ 'Adequate Crewing and Seafarers' Fatigue: The International Perspective' - A. Smith, January 2007.

The provisions of ILO 180 have been included in the Maritime Labour Convention, 2006 which, at the date of publication of this information paper, has yet to enter into force. However, the Convention is likely to be ratified by the required number of States in the near future and will enter into force 12 months after such ratification.

Some Port State authorities, such as those under the Paris MOU, that have ratified ILO 180 have stated that vessels flying the flag of a State which is not a party to ILO 180 should receive 'no more favourable treatment' than those vessels flying the flag of a State which is a party to ILO 180.

The following table summarises the key provisions of ILO 180/MLC 2006 when compared with the STCW, as amended in 2010:

Regulation	Work/Rest in any 24 hrs	Work/Rest in 7 days	No. and Length of Rest Periods	Schedule	Records and Exceptions
ILO 180/ MLC 2006	Max 14 hrs of work OR Min 10 hrs of rest	Max 72 hrs of work OR Min 77 hrs of rest	Not more than 2 periods of rest, one of which must be at least 6 hrs. Interval between rest periods not to exceed 14 hrs.	Specific format table for all seafarers. Actual times for at sea and in port.	Daily hours records to be maintained. Competent authority may allow exception if by collective agreement.
STCW 2010 (Manila amendments)	Min 10 hrs of rest	Min 77 hrs of rest	Not more than 2 periods of rest, one of which must be at least 6 hrs. Interval between rest periods not to exceed 14 hrs.	Specific format table as ILO, but watchkeepers and safety/pollution/security positions only.	Daily hours records to be maintained. Parties may allow exceptions.

3 Ambiguities and Recommendations on Uniform Interpretation

While a good degree of commonality exists between the Conventions, a number of provisions have been subjected to varying interpretation. These are discussed below, together with recommendations aimed at providing a uniform approach to meet the minimum requirements of STCW and ILO/MLC. However, it is recognised that some national requirements, such as those under OPA90, are in place that deviate from these provisions, in which case such requirements will have to be adhered to where they are more onerous.

'any 24 hours'

the Convention texts are quite clear in that they refer to minimum rest periods *in any 24 hours* which is not related to a particular 'start' time. However, administrations have differing views as to how the 24 hour period should be assessed. Examples include the following:

- The 24 hour period should start at midnight
- the 24 hour period should commence at the time a seafarer starts work immediately after having any period of rest of one hour or more
- the period should start from the seafarers' first period of work on each calendar day
- 24 hours should be calculated from the beginning of the longest enjoyed rest period.

These variations in interpretation can lead to substantial differences in the number of non-conformances detected and recorded.

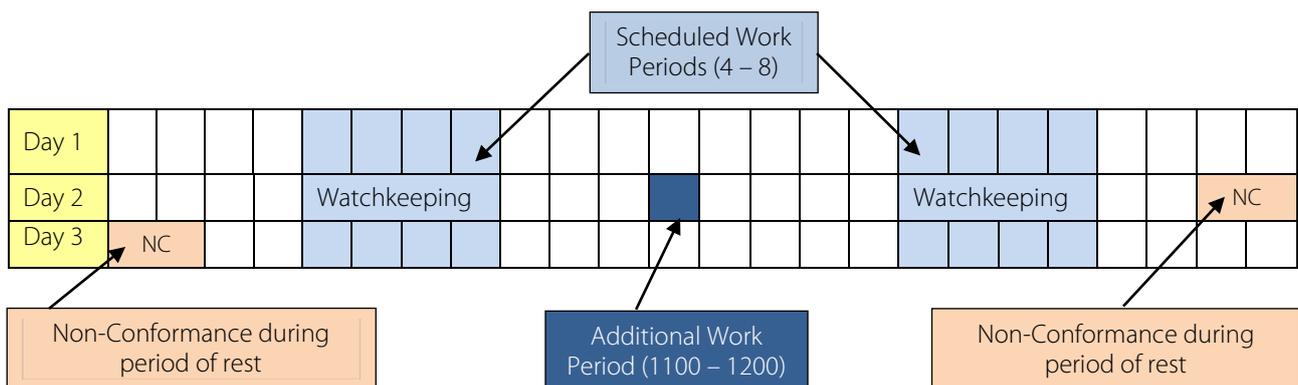
Recommendation it is recommended that the term 'any 24 hours' is interpreted and applied literally and is not linked to calendar days or a fixed time of starting work or rest.

It should be ensured that, **at any time during the working period**, in the past 24 hours the seafarer should always be in compliance with the requirements. The seafarer should have had a minimum of 10 hours rest which was divided into no more than 2 periods, one of which was of a minimum of 6 hours.

Non-conformances record keeping and analysis is aimed at identifying compliance with the regulatory requirements and any associated periods of non-conformance. The regulations do not address how non-conformances should be assessed and this has led to varying interpretations by authorities and software providers.

Recommendation non-conformances that occur during hours of work may contribute to fatigue. Technical non-conformances that occur during seafarers' hours of rest are unlikely to contribute to fatigue and should not be considered.

For example, in the following graphic, the 4 to 8 watchkeeper works an additional 1 hour on day 2 from 1100 to 1200. Under some interpretations of 'any 24 hours', this results in a non-conformance which occurs during the subsequent uninterrupted rest period from 2200 to 0400. Such non-conformance should not be recorded.



Musters and drills the text of the amended STCW is aligned with ILO/MLC in stating that musters and drills should be conducted in a manner that minimises the disturbance of rest periods. This indicates that musters and drills are to be treated as 'work'. However, some administrations have taken the text to indicate that taking part in a muster or drill should not be considered an interruption to a rest period.

Recommendation wherever possible, it is recommended that musters and drills are held so as to minimise disruption to rest periods, recognising that a non-conformance as a result of an individual's attendance may be inevitable. In cases where a rest period is interrupted, individual records should indicate the time spent as a 'work' period to ensure the seafarers are adequately rested through subsequent work periods.

Applicability STCW, as amended, applies the requirements to 'all persons who are assigned duty as officer in charge of a watch or as a rating forming part of a watch and those whose duties involve designated safety, prevention of pollution and security duties'. ILO/MLC applies the requirements to all seafarers, including the Master.

Recommendation the requirements should apply to the Master, officers and all other members of the ship's complement.

Compensatory rest the concept of 'compensatory rest' has been included within the Conventions to take account of seafarers who are on call during a normal rest period. If called out during the normal period of rest, for example, when responding to an engine-room alarm during a period when the engine-room is unmanned, the seafarer shall have an 'adequate' compensatory rest period. The term 'adequate' leads to varying interpretation.

Recommendation wherever practical, it is recommended that compensatory rest is provided as required to duty personnel when they have responded to calls that have interrupted their required rest period. The compensatory rest period should be added to the rest period to achieve the minimum rest hours required before the seafarer returns to work. Duty personnel should record the time spent undertaking rounds or responding to alarms, recognising that a non-conformance as a result of such a response may be inevitable.

Other seafarers who have their rest interrupted for shipboard operations may also be required to have extended rest periods prior to returning to work. However, such extended rest periods are not deemed as 'compensatory rest' within the Convention.

Record keeping both STCW and ILO/MLC require records of seafarers' daily hours of rest (ILO/MLC also states 'or hours of work') to be maintained on board in the format specified by ILO/MLC to allow monitoring and verification of compliance. Both Conventions are silent on the period of retention of records.

Recommendation it is recommended that records in the required format, signed by both the seafarer and the Master, are retained on board for each seafarer during their full time on board or for 12 months, whichever is the longer.

Exceptions STCW, as amended, permits parties to allow exceptions from the required hours of rest provided that:

- The exceptions are not permitted for more than two consecutive weeks
- the hours of rest may be divided into no more than three periods, one of which shall be of at least 6 hours and neither of the other two of less than one hour.

ILO/MLC permits exceptions if by collective agreement or arbitration award.

Recommendation it is recommended that exceptions are only permitted in accord with the ILO/MLC provisions, namely by collective agreement or arbitration.

Superseded text a number of administrations continue to reference some provisions of STCW 78 in their domestic legislation and may therefore use these as a basis for PSC verification on foreign flag ships in their ports. Examples include the following:

- STCW 78 states that emergencies, drills or 'other overriding operational conditions' disturbing the rest hours are acceptable
- it is permitted to reduce the minimum period of 10 hours of rest to 6 hours, provided such reduction lasts no longer than 2 days (referred to as the '2 day derogation').

Recommendation with the entry into force of the STCW 2010 amendments, it is recommended that onboard controls on hours of rest reflect the amended provisions. In particular, the relaxations of rest period requirements related to 'overriding operational conditions' and the '2 day derogation' should not be applied. It should be noted, however, that exceptions relating to emergencies apply to both the STCW and MLC Conventions.

4 Further Recommendations Relating to Practical Compliance

In addition to the above guidance addressing a common approach to the ambiguities within the existing regulations, the following general recommendations are provided with the aim of assisting with the application of working practices and procedures.

4.1 Management of Watchkeeping and Working Routines

In an attempt to better manage work and rest periods to facilitate compliance with the legislative requirements, operators have conducted trials with various alternative watch routines. In adopting any alternative, due account should be given to the potential disruption to 'normal' work/rest routines that may impact unfavourably on individuals.

Generally, the three watch system such as 4 on/ 8 off, provides an optimal approach although non-conformances will be triggered by periods of additional work if they are not properly planned and managed.

A two watch system, such as 6 on/ 6 off, will provide short-term compliance although technical non-conformances will occur during each rest period under both the STCW and MLC Conventions. In addition, any period of additional work will result in significant non-conformances during subsequent work periods. As a result, it is recommended that any period of 6 on/ 6 off is limited to a short duration and the impact of any recurrence should be taken into account. Where 6 on/6 off watch systems are regularly employed, other mitigating measures should be considered, such as short tours of duty or the provision of extra manning. It should also be recognised that some administrations may consider the practice unacceptable.

Dayworkers are generally viewed as being relatively straightforward when managing their work/rest periods. However, callouts and the response to alarms will impact on their ability to comply with minimum rest period requirements. In addition, the need to undertake routine rounds will further complicate matters. Good planning and, where necessary, the adoption of compensatory rest periods will serve to limit the number of recorded non-conformances.

Experience has shown that the levels of non-conformance on a vessel can be significantly reduced by enhanced awareness and management on board. It should be ensured that adequate provision is made for the management of routine tasks, such as cargo operations, in order that over-reliance is not placed on one individual, risking adverse impact on normal rest period requirements.

4.2 Provision of Additional Personnel

In anticipation of periods of potential high workload, ship operators often assign additional personnel to vessels.

If additional personnel are placed on board, they should be fully competent to undertake duties in order that they will have a direct and beneficial impact on the work/rest routines of critical staff. Onboard staff should have confidence in the ability of assigned personnel and should be willing to delegate their responsibilities to them.

4.3 Role of Shore Management

Shore management has a responsibility to ensure that the Safety Management System gives proper guidance on the management of fatigue, its impact on safety and the regulation of hours of work/rest. The SMS should encourage seafarers to alert their onboard managers should they be working, or at risk of working, in non-conformance. The SMS should also provide clear guidance to Masters on the actions to be taken in the event of significant non-conformance. Such action may include the suspension of operations until personnel are suitably rested.

Managers should also be aware of, and react to, planned or expected periods of high intensity operations and ensure that staffing on board is adequate in good time prior to the planned operations, for example, STS transfers or pre-refit preparations.

Given the importance attached to ensuring the proper management and recording of seafarers' hours of work and rest, it is recommended that purpose-developed software is used. However, the basis for calculating hours of rest should be demonstrated as being consistent with the Conventions' requirements and, where applicable, with the recommendations in this paper.

Although the regulations only require monitoring of hours to be undertaken on board, it is important that managers ashore have access to meaningful summary data that enables them to monitor the work and rest hours of individuals. This could be presented on a monthly basis and include, for example, an indication of the percentage of work hours each individual has worked while in non-conformance. The company should consider setting trigger levels for the proportion of non-conformance for prompting investigation and the possible need to consider staffing levels and work routines. The summary records will also assist managers to build a long-term view of trends for individuals, ranks and vessels.

4.4 OPA 90

For the purposes of this paper, OPA 90 working hour restrictions have been considered as being a 'Flag State interpretation'. The OPA 90 limitation of no more than 15 hours work in any 24 hours will be met by complying with the ILO/MLC requirements. However, the OPA 90 restriction of no more than 36 hours work in any 72 hours may result in a non-conformance not identified by compliance with ILO/MLC requirements. Any system used to track work/rest hours should therefore take account of OPA 90 restrictions where vessels are likely to trade to the relevant area.