

## MLN 2.5

Revision No 1



DEPARTMENT OF ECONOMIC DEVELOPMENT

### MLC Title 2.5 Repatriation

This MLN provides guidance on compliance with Isle of Man (IOM) regulations which give effect to MLC 2006 Title 2.5. Implementation of these guidelines will be taken as evidence of compliance with the Isle of Man regulations.

The guidelines do not preclude the shipowner from demonstrating an equivalent or higher standard as an "alternative method" of evidence of compliance.

Documents referred to in this notice:

Maritime Labour Convention 2006;

ILO Repatriation of Seamen Convention, 1926 (No.23);

Repatriation of Seafarers Convention (revised), 1987 (No.166); and

Seafarer's Employment Agreements.

Most regulations and notices are available on the Isle of Man Government website: [www.iomshipregistry.com](http://www.iomshipregistry.com) or by contacting [marine.survey@gov.im](mailto:marine.survey@gov.im)

### **Repatriation**

1. The International Labour Organisation's (ILO) Maritime Labour Convention 2006 (MLC) replaces the ILO Repatriation of Seamen Convention, 1926 (No.23) and the Repatriation of Seafarers Convention (revised), 1987 (No.166) which required ratifying countries to set out in national laws or regulations the particulars to be provided for the repatriation of seafarers.
2. The MLC Regulation 2.5 and Standard A2.5 – Repatriation replaces ILO No.23 and No.166, and requires ratifying countries to set out in national laws and regulations or other measures or in collective agreements the circumstances and entitlements to be provided for the repatriation of seafarers.
3. MLC uses the term "shipowner" to mean the owner of the ship or another organisation or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on shipowners in accordance with MLC, regardless of whether any other organisation or

persons fulfil certain of the duties or responsibilities on behalf of the shipowner. In the majority of cases this will be the ISM Code DOC holder, but it does not have to be.

### **Repatriation provisions in collective agreements (CAs)**

4. Where MLC 2006 allows collective agreements to prescribe the terms and conditions of the repatriation of seafarers, this will be reflected in Isle of Man (IOM) MLC regulations.

This will mean that where a seafarer's conditions of employment incorporates a CA and the CA includes provisions relating to repatriation as set out in MLC then those provisions will apply to the seafarer's repatriation.

However if a seafarer's conditions of employment does not incorporate a CA, then the IOM provisions for repatriation as prescribed in IOM MLC regulations and below in this MLN will apply to that seafarer.

### **IOM Provisions for repatriation**

#### **Seafarer's entitlement to repatriation**

5. Seafarers will be entitled to be repatriated when:
  - a. their SEA expires when they are anywhere other than their repatriation destination;
  - b. the period of notice required to be given to terminate an SEA by the shipowner or by the seafarer expires;
  - c. the SEA because they are no longer able to carry out their duties under their SEA or cannot be expected to carry them out in the following circumstances:
    - i. in the event of illness or injury or other medical condition which requires their repatriation when found medically fit to travel;
    - ii. in the event of shipwreck;
    - iii. in the event of the shipowner not being able to continue to fulfil their legal or contractual obligations as an employer of the seafarer by reason of insolvency, sale of ship, change of ship's registration or any other similar reason;
    - iv. in the event of a ship being bound for a war zone as defined by the United Kingdom Warlike Operations Committee or the seafarer's SEA, to which the seafarer does not consent to go;
    - v. in the event of termination or interruption of employment in accordance with an industrial award or collective agreement, or termination of employment for any other similar reason; and
    - vi. compassionate or other urgent reasons (as described in MLN 2.1 SEAs).

#### **Maximum duration of service periods on board**

6. The maximum duration of service periods on board following which a seafarer is entitled to repatriation must be less than 12 months.

### **Repatriation arrangements**

7. The shipowner is responsible under IOM MLC regulations for making the following arrangements for repatriation:
  - a. the mode of transport shall be by the most appropriate and expeditious means and the normal mode of transport shall be by air; and
  - b. seafarers must be repatriated to one of the following destinations:
    - i. the place at which the seafarer agreed to enter into the engagement;
    - ii. the place stipulated by a collective agreement;
    - iii. the seafarer's country of residence; or
    - iv. such other place as may be mutually agreed at the time of engagement.

### **Repatriation costs**

8. The IOM MLC regulations make the shipowner responsible for covering the costs of repatriation until the seafarer has reached the repatriation destination as stated in their SEA (destination must be from the list in 8.b. above)
9. The costs of repatriation must include at least the following:
  - a. passage to the repatriation destination;
  - b. accommodation and food from the moment the seafarer leaves the ship until they reach the repatriation destination;
  - c. pay from the moment the seafarer leaves the ship until they reach the repatriation destination;
  - d. sufficient money to meet minor ancillary costs likely to be incurred by the seafarer for their relief and maintenance from the moment they leave the ship until they reach the repatriation destination;
  - e. transportation of 30kg of the seafarer's personal luggage to the repatriation destination; and
  - f. medical treatment when necessary until the seafarer is medically fit to travel to the repatriation destination.

### **Prohibition on advanced payments or recovering costs of repatriation**

10. The IOM MLC regulations will not allow the shipowner to:
  - a. require that seafarers make an advance payment towards the cost of repatriation at the beginning of their employment; or
  - b. recover the cost of repatriation from the seafarer's wages or other entitlements except where the seafarer has been found, in accordance with applicable collective agreements, to be in serious default of the seafarer's employment obligations.

### **Repatriation of young seafarers**

11. If during their first foreign-going voyage it becomes apparent that a seafarer under the age of 18 years is unsuited to life at sea they should be given the opportunity of being repatriated from the first suitable port of call at no expense to themselves.

12. Where a young seafarer has been repatriated due to them being unsuited to life at sea, notification of repatriation including reasons must be provided to the authority which issued the papers enabling the young seafarers to take up sea-going employment.

#### **Loss of repatriation entitlement**

13. A seafarer who refuses to serve the agreed notice period and walks off the ship then the entitlement to repatriation will no longer be valid.

#### **Third-party contractual arrangements**

14. The new IOM MLC regulations will not prejudice any right of the shipowner to recover the cost of repatriation under third-party contractual arrangements.

#### **Repatriation regulations must be carried on board**

15. A copy of the IOM MLC repatriation regulations must be carried on board all IOM MLC ships and must be available to all seafarers.

#### **Financial Security**

16. The shipowner is responsible for providing financial security for the repatriation of seafarers in accordance with the IOM MLC regulations as described in this MLN. Evidence of financial security must be available for inspection on all IOM MLC ships in the English language.