

The ILO Maritime Labor Convention, 2006

To all Owners, Managers, Representatives of ships under the Vanuatu Flag and Recognized Organizations

Subject: Compliance with of the Maritime Labor Convention of 2006

1. PURPOSE:

The Government of the Republic of Vanuatu via Vanuatu Maritime Services Ltd. (VMSL) has agreed to comply with the Maritime Labor Convention, 2006 (MLC, 2006) for its International Registry of Vessels.

The MLC, 2006 (the Convention) comes into force 12 months after the date in which there have been registered ratifications by at least 30 Countries with a total share in the world gross tonnage of ships of 33 per cent. The two elements have been fulfilled and the date of enforcement is set for 20 August 2013

The purpose of this Circular is to inform Owners, Managers and Representatives of ships under Vanuatu Flag, of the requirements of the Vanuatu Maritime Services, Ltd. (VMSL) regarding the implementation of the MLC, 2006.

2. APPLICATION:

2.1 SHIP

The MLC, 2006 applies to all ships, (irrespective of tonnage) whether publicly or privately owned, ordinarily engaged in commercial activities. However, MODUs and other mobile units and offshore installations such as Jack-up Rigs, Semi-submersibles and non-self-propelled barges will be not be considered ships for the purpose of the MLC 2006.

Commercial activity conducted by a ship is considered to be any maritime activity undertaken for the purpose of generating revenue which includes but is not limited to activities such as maritime transport, trade, transit, chartering, towing, salvage, offshore supply, offshore support, accommodation, exploration/exploitation/processing of seabed mineral resources, research etc.

The MLC, 2006 does not apply to ships engaged in fishing or in similar pursuits and ships of traditional build, to warships or naval auxiliaries, and to ships which navigate exclusively in inland waters or waters within, or closely adjacent to, sheltered waters or areas where port regulations apply.

3. SEAFARER

The MLC, 2006 applies to all Seafarers on all Ships covered by the MLC, 2006

A Seafarer is any person who is employed or engaged or works in any capacity on board a ship to which the MLC, 2006 applies. In the event of doubt as to whether any categories of persons are to be regarded as seafarers, the matter will be determined by

VMSL, in consultation with the Shipowners; seafarers' organizations and Resolution VII. In considering such matters, VMSL will consider the following issues:

1. The duration of stay on board of the persons concerned;
2. The frequency of the periods of work spent on board;
3. The location of the person's principal place of work;
4. The purpose of the person's work on board;
5. The protection that would normally be available to the persons concerned with regard to their labor and social conditions, to ensure that it is comparable to that provided under the Convention.

a) Definition of Seafarer for Vanuatu Vessels is as follows:

"An individual engaged or employed in a capacity onboard a vessel."

b) Exceptions to the above are as follows and not limited to:

1. Scientific personnel
2. Instructors
3. Cadet
4. Industrial Personnel
5. Charterer's Personnel
6. ROV personnel
7. Catering Personnel Serving Project Personnel
8. Operation and/or Installation Manager
9. Health Care providers taking care of Project Personnel
10. Technical Maintenance of Project Equipment
11. Project Security Personnel
12. DP Personnel
13. Laboratory Personnel
14. Researchers
15. Film Personnel
16. Entertainers
17. Shoreside Technicians
18. Pilots (docking, channel or seaway)
19. Ship's Agents and or Chandlers
20. Air crews
21. Divers and support personnel
22. All Personnel not required to hold a STCW certificate working on board the vessel.

Special factors and circumstances in a certain situation may lead VMSL to determine whether a person is or is not a Seafarer.

6. Maritime Labor Convention Std.1.1.2 Adopted – Minimum Age.

The minimum age for seafarers working on board vessels entered into the international registry for the Republic of Vanuatu is 18 years of age except for a person enrolled in an approved training program. No person under the age of 16 will be allowed to be signed on as a seafarer in any capacity.

7. Repatriation includes travel expenses to and from the vessel.

3.2 Medical certification (Regulation 1.2)

a) Maritime Act CAP 131, Maritime Regulation 54(2) except that the validity of the medical certifications is 2 years and for seafarers and under 18 years of age, one year.

b) Maritime Act CAP 131 Maritime regulation 54(4-6) inclusive.

4. RECOGNISED ORGANIZATIONS:

4.1 VMSL delegates according its inspection and certification functions under the MLC, 2006 to the following Recognized Organizations (ROs):

1. American Bureau of Shipping (ABS)
2. Bureau Veritas (BV)
3. China Classification Society (CCS)
4. Det Norske Veritas (DNV)
5. Germanischer Lloyd (GL)
6. Korean Register of Shipping (KR)
7. Lloyds Register (LR)
8. Nippon Kaiji Kyokai (NK)
9. Polski Rejestr Statkow (PRS)
10. Registro Navale Italiano (RINA)
11. Russian Maritime Register of Shipping (RS)
12. Bulgarian Registry of Shipping (BRS)
13. Limdal Marine Services (LMS)
14. NavCom Inspection & Consultancy B.V. (radio equipment inspections)
15. Hermans Marine Survey

*** Note: The list may expand or contract as per Section 9 of Cap 131(Subsidiary)

4.2 The inspection and certification functions include the following:

1. Approval of Drawings and Specifications;
2. Approval of Declaration of Maritime Labor Compliance Part II;
3. Interim inspection and issuance of Certificate;
4. Initial inspection and issuance of Certificate;
5. Intermediate inspection and endorsement of Certificate;
6. Renewal inspection and renewal of Certificate;
7. Withdrawal of a Certificate;
8. Require rectification of deficiencies found during inspections;
9. Inspections at the request of a Port State for rectification of deficiencies found during Port State Control Inspections.
10. Investigate Complaints if specifically authorized by VMSL, but, responsibility for resolution of a complaint, remains with the VMSL.

5. INSPECTION AND CERTIFICATION

5.1 GENERAL

All ships under the Vanuatu flag to which the MLC, 2006 applies, of 500gt or over that are engaged in international voyages and ships of 500gt or over that fly the Vanuatu flag and

operate from a port or between ports of another country, must be certified for compliance with the 14 areas set out in Appendix A5-1 of the Convention which are subject to mandatory inspection.

All ships under Vanuatu flag to which the Convention applies, but are not required to be certified (under 500gt not engaged in international voyages, or not operating from a port or between ports of another country) are still subject to inspection at intervals not exceeding three years, in accordance with the same requirements, as for certified ships.

At the request of the Ship owner to VMSL, a ship which is not required to be certified may be certified (provided all requirements for a certified ship are met). All inspections will be carried out in accordance with the ILO document, "Guidelines for flag State inspections under the Maritime Labor Convention, 2006".

5.2 APPROVAL OF DRAWINGS AND SPECIFICATIONS

5.2.1 Existing ships

Existing ships (which were constructed before the entry into force of the MLC, 2006), must have been constructed and equipped in compliance with ILO C92 and C133 as applicable.

In the case of existing ships not constructed in compliance with MLC 2006, or ILO C92 and C133 as applicable, VMSL must be contacted for instructions.

5.2.2 New Ships

New ships (constructed on or after the date of entry into force of the MLC, 2006), must be constructed and equipped in compliance with MLC, 2006 Title 3 requirements, as implemented by national legislation. VMSL must be Consulted for any exemptions.

For ships under construction that have been or are to be registered under the Vanuatu flag, the ship owner shall submit to the RO of the ship, for examination and approval, drawings and specifications with relation to the following MLC, 2006 requirements .

Waivers may be granted on a case by case basis at the discretion of VMSL.

- 1. Regulation 3.1: Seafarer Accommodation and Recreational Facilities**
- 2. Regulation 3.2: Food and Catering**
- 3. Regulation 4.3: Health and Safety Protection and Accident Prevention**

5.2.3 Where major modifications are made

Drawings and specifications regarding modifications must be submitted to the RO of the ship, for examination and approval.

(A ship is deemed to have been constructed on the date when its keel is laid or when it is at a similar stage of construction)

5.3 DECLARATION OF MARITIME LABOR COMPLIANCE (DMLC)

The Declaration of Maritime Labor Compliance (DMLC) must be attached to the Maritime Labor Certificate (MLC). It shall have two parts: Part I & Part II.

The DMS will commence to issue the Declaration of Maritime Labor Compliance Part I (DMLC Part I) to ships under Vanuatu flag, as from the date of issue of this Circular.

5.3.1 DMLC Part I will be duly completed by VMSL and shall generally contain the following:

- 1. List of matters to be inspected (Appendix A5-I of the Convention)**
- 2. Reference to the legal national provisions as well as concise information on the content of the national requirements in each of the matters listed in Appendix A5-I of the Convention**
- 3. Reference to ship-type specific requirements under national legislation**
- 4. Record of substantially equivalent provisions under paragraph 3&4 of Article VI of the Convention as applicable**
- 5. Record of exemptions if granted under Title 3 of the Convention.**

5.3.2 Part II must be completed by the ship owner and must identify the measures adopted to ensure ongoing compliance with the national requirements between inspections and the measures proposed to ensure that there is continuous improvement.

5.3.3 The RO of the ship must ascertain compliance with the national requirements and the requirements of the Convention, by examination of the DMLC Part II.

The examination of the DMLC Part II is a two-step process:

Step 1: Verification that the proposed measures satisfy the Convention requirements. It shall include examination amongst other documents, of:

It shall include examination amongst other documents, of:

**Seafarers Employment Agreements (SEA);
Collective Bargaining Agreements (CBA) if any;
Ship owner's management systems manuals.**

Step 2: Successful completion of an initial onboard inspection (see next paragraph) to verify that the ship owner has implemented the proposed measures documented in DMLC Part II

5.3.4 If the RO is satisfied that all requirements are met:

- 1. The RO of the ship certifies Part II;**
- 2. A copy of the DMLC must be posted at a conspicuous place on board which is accessible to the seafarers**
- 3. A copy of the DMLC must be made available upon request to seafarers, Flag State Inspectors, PSC Officers and ship owners' and seafarers' representatives;**
- 4. The results of all subsequent inspections must be recorded to the DMLC**

5.4 INITIAL INSPECTION AND ISSUANCE OF THE MARITIME LABOUR CERTIFICATE

All existing ships under Vanuatu flag to which the MLC, 2006 applies, and new ships having completed an interim inspection shall undergo an initial inspection and receive a Maritime Labor Certificate (MLC), within the period commencing upon ratification of the Convention by at least 30 States with a total share in the world gross tonnage of ships of 33 per cent, until 12 months after that date.

- 1. An initial inspection shall be carried out to verify the proposed measures documented in DMLC Part II by the ship owner for ensuring initial compliance with the Convention and the national requirements implementing the Convention ;**
- 2. A MLC shall be issued by the RO, on completion of a satisfactory initial inspection;**

3. A Declaration of Maritime Labor Compliance (DMLC) must be attached to the MLC for it to be valid
4. The MLC shall be issued for a period not exceeding five years.

5.5 INTERMEDIATE INSPECTION AND ENDORSEMENT OF THE MLC

The validity of the MLC will be subject to an intermediate inspection. The scope and depth of the intermediate inspection shall be equal to an inspection for renewal of the MLC.

1. It shall be carried out between the second and third anniversary dates of the MLC (Anniversary date means the day and month of each year which will correspond to the date of expiry of the MLC);
2. The MLC shall be endorsed by the RO, following satisfactory intermediate inspection;
3. When the intermediate inspection is not carried out as required, (between the second and third year) the MLC will cease to be valid - If it is subsequently requested, VMSL shall be contacted by the Ship owner or the RO for instructions.

5.6 RENEWAL INSPECTION AND RENEWAL OF THE MLC

For a Maritime Labor Certificate renewal inspection, all national requirements (as per initial inspection) implementing the Convention need to be verified.

1. When the renewal inspection has been completed within three months before the expiry date of the existing MLC, the new certificate will be valid for a period of five years from the date of expiry of the existing MLC;
2. When a renewal inspection is completed more than three months before the expiry date of the existing MLC, the new MLC shall be valid for a period not exceeding five years, starting from the date of completion of the renewal inspection;
3. When the renewal inspection is not carried out as required, (within three months before the MLC expires) the DMS shall be contacted by the ship owner or the RO for instructions.

5.7 INTERIM INSPECTION AND ISSUANCE OF AN INTERIM MLC

5.7.1 Interim inspections shall be carried out, (on new and existing ships) if one of the following conditions exists:

1. New ship on delivery;
2. New ship to the Company;
3. Ship changes flag to Vanuatu;
4. Reactivation of a laid- up ship;

Existing vessels, to which any one of the above conditions does not apply, are not required to undergo an interim inspection.

At the time of the interim inspection, the DMLC (Parts I and II) is not required to be onboard. A draft DMLC may be available onboard during the inspection.

5.7.2 The inspection shall include verification that:

1. The ship complies as far as is reasonable and practicable to the matters listed in Appendix A5-I of the Convention;
2. The ship has adequate procedures to comply with the Convention;
3. The Master is familiar with the requirements of the Convention and the responsibilities for implementation;
4. A draft DMLC Part II has been submitted to the RO of the ship for review;

An interim certificate shall be issued following satisfactory completion of an interim inspection for a period not exceeding six (6) months.

Unless so authorized by the DMS, interim certificates shall not be extended or reissued.

5.8 CESSATION OF CERTIFICATES

A MLC and a DMLC shall cease to be valid if any one of the following situations arises:

1. Required inspections as stated above are not carried out;
2. MLC is not endorsed at the intermediate inspection;
3. A ship changes Company;
4. A ship changes flag;
5. Substantial modifications made to the structure or equipment.

5.9 CHANGE OF FLAG

When a ship registered in Vanuatu changes flag and the other State concerned has ratified the Convention, the RO of the ship on behalf of and upon notification of the Registrar of Vanuatu Ships shall transmit as soon as possible to the Competent Authority of the other Member State, copies of the MLC and DMLC carried by the ship before the change of flag, and, if applicable, copies of the relevant inspection reports if the Competent Authority requests them within three months after the change of flag has taken place

5.10 MLC AND DMLC WITHDRAWAL

The RO of the ship shall withdraw the MLC and the DMLC if there is evidence of serious or frequent deficiencies and the required corrective action has not been taken. The RO will contact the Administration for further instruction prior to removal of the MLC and DMLC.

6. ON-BOARD COMPLAINT PROCEDURES

6.1 The ship owner must establish on-board procedures for the fair, effective and expeditious handling of seafarers' complaints alleging breaches of the requirements of the Convention, including seafarers' rights, in accordance with the national requirements and the requirements of the Convention. The ship owner must develop and provide all seafarers, with a copy of the on-board complaint procedures in English and in the working language of the ship.

In developing such procedures the following shall be taken into account:

1. Victimization of a seafarer for filing a complaint is prohibited;
2. Such procedures, shall seek to resolve complaints at the lowest level possible;
3. Seafarers shall have the right to complain directly to the Master and where they consider it necessary, externally i.e. to the Company, to VMSL, to the authorized RO, and/or port state authorities;
4. Seafarers filing complaints will not abolish the right to seek redress through other legal means;
5. Such procedures shall nominate another seafarer to advise or accompany or represent, during the complaint procedure, the complainant seafarer;
6. All complaints and the decisions on them should be recorded and a copy should be given to the seafarer concerned.

5.2 The on-board complaint procedures shall contain at least the following:

6.2.1 Contact Information

- 1. Contact information for the Company's MLC, 2006 Designated Person (DP) or any other person appointed by the Company;**
- 2. Contact information at VMSL (MLC, 2006 Contact Point);**
- 3. Contact information for the Competent Authority in the seafarer's country of residence;**
- 4. Name of a person or persons on board the ship who can on a confidential basis advise and assist the seafarer to follow the complaint procedures.**

5.2.2 Complaint Process

- 1. The complainant seafarer shall submit in writing his complaint to his superior officer or to the head of the department;**
- 2. Where a solution cannot be found at this level, the superior officer shall refer the complaint to the head of the department;**
- 3. The head of the department shall interview the seafarer as soon as it is convenient with a view to solving the complaint within prescribed time limits;**
- 4. If the complainant seafarer is not satisfied with the way his complaint has been handled, he may request for an interview with the Master, who shall then handle the case personally;**
- 5. If no satisfactory result is achieved, the seafarer concerned may appeal to the management of the Company/ MLC, 2006 Designated Person or any other person appointed by the Company;**
- 6. If no satisfactory result is achieved the seafarer concerned may appeal to VMSL (VMSL – MLC, 2006 Contact Point) or if it is more convenient, to a Consular Officer of the Republic abroad.**

7. ON-SHORE COMPLAINT PROCEDURES

VMSL, (MLC, 2006 Contact Point) will submit a Corrective Action Plan whenever it is notified by a foreign port authority, that a seafarer serving on a ship under Vanuatu flag reported a complaint to that authority.

8. RECRUITMENT AND PLACEMENT SERVICES (MANNING AGENTS)

Ship owners who use Manning Agents based in a State party to the MLC, 2006, for the employment of seafarers to work on board Vanuatu flag ships, shall only use Licensed or Certified or regulated Manning Agents in accordance with MLC, 2006 Standard A1.4 requirements. The License or Certificate issued by the State where the Manning Agent(s) providing seafarers to the ship, is/are established must be on board.

If Manning Agents based in a State not party to the MLC, 2006 are used, these shall conform to MLC, 2006 Standard A1.4.5 and Standard A1.4.9. For these Manning Agent(s), either one of the following must be on board:

- 1) Company's Own Audit Report for Manning Agent (Stating that they have verified compliance with the Standard A.1.4). Company Auditors must be approved by VMSL.**
- 2) Copy of the Manning Agency's Audit by an RO or authorized inspector approved by VMSL**

9. FINANCIAL SECURITY

Ship owners are required to arrange financial security, arising under the MLC, 2006 Ratification Law of 2012, and MLC, 2006 Regulations: 2.5: Repatriation 2.6: Seafarer compensation for the ship's loss or foundering and 4.2: Ship owners' liability. A P&I Club "Certificate of Entry" is deemed to satisfy this requirement.

10. HEALTH AND SAFETY PROTECTION AND ACCIDENT PREVENTION

Ship owners are required to develop and implement occupational safety and health policies and programs on ships, including risk evaluation as well as training and instruction of seafarers, in accordance with Regulation 4.3 of the MLC, 2006. In developing such programs ship owners shall take into account IMO MSC-MEPC.2 / Circ.3 of 5 June, 2006 "Guidelines on the Basic Elements of a Shipboard Occupational Health and Safety Program".

Note: The elements of the occupational safety and health program may be integrated in the ISM Code's Safety Management System of the Company.

11. PROCEDURE FOR THE ISSUANCE OF THE DMLC PART I

The ship owner shall submit to VMSL - MLC, 2006 Contact Point electronically (E-Mail: email@vanuatuships.com) a request for a DMLC PART I. The general format of the DMLC PART I will be available on the website. <http://www.vanuatumaritimships.com/>

VMSL based on the information submitted by the ship owner, will issue the particular DMLC Part I for the ship. The DMLC Part I will be duly completed by VMSL and the Part II will have to be completed by the ship owner.

The DMLC Part I will be sent by mail to the ship owner, or collected from VMSL premises. The ship owner shall prepare the DMLC Part II and request an authorized RO to approve it and then proceed with the inspection and the issue of the Maritime Labor Certificate (MLC).

12. DOCUMENTS REQUIRED TO BE CARRIED ON BOARD

The documents required by MLC, 2006 can be downloaded from our website and should be available to Flag Inspectors and PSCO's when requested.

1. Standard Medical Certificate;
2. Seafarer's Identification and Sea Service Record Book;
3. Seafarer Employment Agreement - SEA;
4. Collective Bargaining Agreement - CBA (if any);
5. Copy of National Repatriation Provisions;
6. Standardized Table of Shipboard Working Arrangements;
7. Standardized Table of Hours of Rest;
8. Safe Manning Document;
9. Standard Medical Report Form for Seafarers;

10. Report Form of Personal Injury or loss of Life;
11. Model for On-Board Complaint Procedures;
12. Risk Assessment Form;
13. P&I Club "Certificate of Entry"

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In the case of Seafarers Employment Agreement, this administration has determined that all employment agreements will be sealed under the witness of the seafarer. Once sealed this document will be placed in a secure location and can only be opened at the request of Port State Control and in the presence of said Seafarer. Seafarer will take employment agreement with them upon departure.

13. PUBLICATIONS REQUIRED TO BE CARRIED ON BOARD

The following publications must be placed on board and should be available to Flag Inspectors and PSCOs when requested.

1. A copy of the MLC, 2006;
2. International Medical Guide for Ships, 3rd Edition (WHO);
3. Medical First Aid Guide for use in Accidents Involving Dangerous Goods (MFAG), 2004 Edition (IMO) / (IMO/WHO/ILO) (Ships that carry or might carry Dangerous Goods);
4. International Code of Signals, 2005 Edition (IMO);
5. IAMSAR Manual Vol.3 (Latest Edition);
6. IMO MSC-MEPC.2 / Circ.3 of 5 June, 2006 "Guidelines on the Basic Elements of a Shipboard Occupational Health and Safety Program";
7. ISM Code
8. STCW 95 (where applicable)

Note: A complete list of required publications can be found on the VMSL Vessel Annual Inspection form.

14. Substantial Equivalencies

All vessel owners, after a review of the Part 1, are requested to provide this Administration with all requests for the following:

1. Substantial Equivalencies
2. Exemptions

15 The MLC, 2006 Contact Point should be used for:

1. Asking questions regarding the implementation of the Convention;
2. Submission of Applications for the issue of the DMLC Part I;
3. Requests for information from PSC Authorities;
4. Reporting complaints from seafarers serving on Vanuatu flag ships.

MLC, 2006 CONTACT POINT

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