



**SHIPOWNERS**

St Clare House | 30-33 Minories  
London EC3N 1BP

**T** +44 207 488 0911  
**F** +44 207 480 5806  
**W** [www.shipownersclub.com](http://www.shipownersclub.com)

## ▶ MARITIME LABOUR CONVENTION 2006 AS AMENDED (MLC) – UPDATE ON THE CLUB’S NON-POOLED PLAIN LANGUAGE LIABILITY INSURANCE POLICIES (E.G. YACHT, DIVE BOAT, SMALL PASSENGER)

### Financial security requirements

Reference is made to the Circular dated 30 June 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 MLC 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 A4.2.1 and Guideline B4.2.

The purpose of this Circular is to provide you, as Plain Language policy holders, with an update regarding the steps which are being taken to enable you to meet the financial security requirements. This Circular contains the most important information. If you require further clarification please contact the Club.

### Ships requiring MLC Certificates

**It is important for you to note that MLC certificates are not required for all vessels. Please refer to the extract from the Maritime Labour Convention below for further details.** <sup>1</sup>

Otherwise, 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.

### Process

The MLC Certificates will be sent to you by us in PDF format. The MLC Certificates that you will receive will be determined by the inception date of your Policy. You must print the MLC Certificates and ensure that they are posted in a conspicuous place on board where they are to be available to seafarers no later than 18 January 2017.

Once the MLC Certificates are issued, they will be recorded on the ship search facility on our website. We provide the MLC Certificates and there is no need to apply for State issued MLC Certificates. However,

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<sup>1</sup> MARITIME LABOUR CONVENTION – DEFINITIONS AND SCOPE OF APPLICATION Article II

4. *Except as expressly provided otherwise, this Convention applies to all ships, whether publicly or privately owned, ordinarily engaged in commercial activities, other than ships engaged in fishing or in similar pursuits and ships of traditional build such as dhows and junks. This Convention does not apply to warships or naval auxiliaries.*

some States may require shipowners on their register to supply copies of the MLC Certificates for their records.

## **Insurance**

We are able to provide MLC Certificates at Annexes 1(a) and 2(a) on the basis set out in the Maritime Labour Convention Certificates Clause - Interim which appears at Annex 3(a). We are able to provide MLC Certificates at Annexes 1(b) and 2(b) on the basis set out in the Maritime Labour Convention Certificates Clause which appears at Annex 3(b). These documents provide that the Club will pay claims advanced by seafarers which fall within the scope of the Regulations and Standards specified in the MLC Certificates.

The MLC Certificates sent to you will vary between our Interim (at Annexes 1(a) and 2(a)) and standard documentation (at Annexes 1(b) and 2(b)), for the following reason. The Maritime Labour Convention confers on providers of financial security (e.g. insurers) the right to recover payments made under the new MLC Certificates in certain circumstances. These provisions will be incorporated into updated versions of our plain language policies (via the standard documentation referred to above). In the meantime, for Members on pre existing policies which do not contain such rights of recovery, Interim documentation will be provided as necessary. When the Interim documentation expires, it will be replaced by the Club's standard documentation. In order to prepare well in advance, we have decided to issue you with standard documentation if you are a Member with a Policy which incept or has a renewal date on or after 18<sup>th</sup> November 2016.

## **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.