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## Maritime Labour Convention, 2006 – On-Board Complaints Procedure

**Notice to all Ship owners, Operators, Masters, Officers and all Seafarers on merchant ships and large yachts**

*This notice should be read with the Merchant Shipping (Maritime Labour Convention)(Survey and Certification) Regulations 2013 (S.I. No. 2013/1785)*

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### Summary

This note provides details and guidance to owners and operators of UK registered ships on how to comply with the requirements of the Merchant Shipping (Maritime Labour Convention) (Survey and Certification) Regulations 2013 (S.I. No. 2013/1785) as regards on-board complaints procedures.

In addition, paragraph 3 of this Notice sets out the requirements which are referred to in regulation 13(2)(d) of those Regulations. Non-compliance with the requirements of the Regulations, including the requirements set out at paragraph 3 of this Notice, may be a criminal offence.

#### Key points:

- To comply with this regulation, every ship to which the regulations applies must have an on-board complaints procedure which must :
  - seek to resolve the complaint at the lowest level possible (regulation 13(2)(a)),
  - enable a seafarer to complain directly to the master and appropriate external authorities (regulation 13(2)(b)),
  - include the right of the seafarer to be accompanied or represented when making a Complaint (regulation (13)(2)(c)),
  - ensure that the seafarer does not suffer any detriment for making a complaint (regulation 13 (5))
- In all cases seafarers must have the right to lodge a complaint directly with the master and the Maritime and Coastguard Agency (regulation 13(2)(b) and (4))

## 1. Introduction

1.1 Regulation 13 of the Merchant Shipping (Maritime Labour Convention) (Survey and Certification) Regulations 2013 (S.I. No. 1785/2013) (“the MLC Survey & Certification Regulations”) implements in UK law regulation 5.1.5 of the Maritime Labour Convention,



2006 (MLC). In order to comply with Regulation 13 and the Convention, shipowners are required to put in place on board their ships complaints procedures for the fair, effective and expeditious handling of seafarers' complaints alleging breaches of the MLC including seafarers rights. The complaints procedures must comply with the requirements of this notice. The mandatory requirements are at section 3 of this notice.

## **2. General**

- 2.1 The on-board complaints procedure may be used by seafarers to make a complaint relating to any matter that is alleged to constitute a breach of the requirements of the MLC. This includes a breach of seafarers' rights detailed in Article III and Article IV of the Convention as implemented in UK law.
- 2.2 The on-board complaints procedure must seek to resolve complaints at the lowest level possible. However in all cases, seafarers must be given the right to complain directly to the master. Where they consider it necessary, the seafarer also has the right to complain directly to the Maritime and Coastguard Agency (MCA). The Convention also gives seafarers the right to refer a complaint to port State authorities.
- 2.3 The provision for and application of an on-board complaints procedure do not prejudice a seafarer's right to seek redress through whichever legal means the seafarer considers appropriate. In all cases, whether or not these procedures are used, a seafarer is entitled to take legal advice from advisers such as seafarers' representatives of a lawyer.
- 2.4 When undertaking MLC inspections MCA surveyors will check the on-board complaints procedure for compliance with the regulations and this notice. In addition, surveyors will look for documentary evidence that any complaints made by seafarers have been followed up and resolved in accordance with the procedure.
- 2.5 The procedure must include safeguards against the possibility of seafarers and their representatives being subjected to any detriment as a result of making complaints. "Detriment" covers any adverse effect on a seafarer as a result of having made a complaint that is not manifestly vexatious or maliciously made.
- 2.6 All seafarers are to be provided with a copy of the on-board complaints procedure applicable on the ship.
- 2.7 The procedure shall also include contact information for the MCA (as the certifying authority for the ship), for all the national authorities for the seafarers' country of residence for any seafarers working on board, and the name of the person (or persons) on board the ship who can provide confidential, impartial advice on their complaint and generally assist them in following the complaint procedure.

## **3. Minimum requirements for the purposes of regulations 13(2)(d) of the MLC Survey & Certification) Regulations**

- 3.1 The requirements for an on-board complaints procedure are as follows:
  - 3.1.1 Under regulation 13(2)(a), an on-board complaints procedure must seek to ensure resolution at the lowest level possible. In addition, the procedure must be prepared while having regard to the desirability of the following criteria:
    - Normally, complaints should be addressed to the head of the seafarer's department or to their superior officer.
    - The head of department or superior officer should be required to attempt to resolve the matter within a prescribed time limit appropriate to the seriousness of the issue.



- If either the head of department or the superior officer cannot resolve the complaint to the satisfaction of the seafarer, or the seafarer considers that the complaint is not being dealt with within the time limit laid down, the seafarer should be able to refer the matter to the master who should handle the matter personally.

*(Note: for the purposes of regulation 13(2)(d), the requirement in paragraph 3.1.1 is to have regard to the listed criteria and their desirability where preparing a procedure. It is not an absolute requirement to include these criteria in the procedure; but if the procedure does not include these criteria (or similar), the MCA may seek an explanation as to why they were not included)*

- 3.1.2 All complaints and associated decisions must be recorded and copies provided to the seafarer.
- 3.1.3 If a complaint cannot be resolved on board within an agreed time limit, the matter must be referred ashore to the shipowner in consultation with the seafarer concerned or any person they may appoint as their representative. The shipowner must provide a right to appeal if the seafarer remains unsatisfied with the outcome.
- 3.1.4 Seafarers must have the right at all times to be accompanied or to be represented by another seafarer of their choice.
- 3.1.5 In all cases seafarers must have the right to make complaints directly to the master, the shipowner and the MCA and to port state authorities.

*(Note: The requirement in paragraph 3.1.5 includes for convenience and certainty, reference to matters which are requirements in regulation 13(2)(b) and (4))*

#### **4. Supplementary guidance**

- 4.1 The on-board complaints procedure may be set out in an applicable collective agreement. This will be acceptable provided that the procedure does not contain any provisions that conflict with the requirements in this Merchant Shipping Notice, or other UK legislation safeguarding seafarer's rights in this respect.
- 4.2 If the ship has a small crew, it may be difficult to provide someone on board who is able to give impartial advice to the seafarer. In such cases, MCA will consider alternative arrangements, specified in the complaints procedure, which provide the same safeguard to the seafarer.
- 4.3 It is also recognised that, where a seafarer is employed by the shipowner's customer, the next step after the immediate Head of Department on board may be a third party ashore. Alternative arrangements of this nature should be recorded in the DMLC Part II. The seafarers' affected should have a copy of their own company complaints procedure as well as the shipowner's complaints procedure in force on board the ship.
- 4.4 When developing an on-board complaints procedure, ship owners should be guided by the section of the ACAS Code of Practice 1 entitled "*Disciplinary and grievance procedures*" covering grievances, in addition to the minimum requirements set out in Section 3 of this notice.



## **More Information**

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