



BERMUDA MERCHANT SHIPPING GUIDANCE NOTICE

MLC 2018 Amendments - Piracy and Armed Robbery

2020-11

Application

Ship Owners, Managers, Masters and Officers of Bermuda Registered ships

Summary

This notice is to inform Owners and Managers of Bermuda registered ships that the 2018 amendments to the Maritime Labour Convention (MLC) are expected to enter into force on the 26th December 2020.

These amendments relate to new Maritime Labour Convention standards A 2.1.7 and A 2.2.7.

This Notice was issued on 6th October 2020.

1. Introduction

(1) The amendments include a new requirement for seafarer's employment agreements (SEA's) to remain in force for the period that a seafarer is held captive on or off a ship as a result of acts of piracy or armed robbery against the ship. This applies regardless of whether the SEA expires during this time, or if either party has given notice to suspend or terminate the SEA.

(2) During the period that a seafarer is held captive wages and all other entitlements under the SEA (including allotments) are to continue to be paid until the seafarer is released and repatriated.

2. Action Required by Shipowners

(1) Shipowners should review their policies and procedures to ensure that they are compliant with the above requirements.

(2) BSMA does not require any changes to be made to company Declarations of Maritime Compliance (DMLC II) or individual seafarer SEA's; however shipowner's may need to amend these documents if they contain statements that contradict the above requirements.

Third meeting of the Special Tripartite Committee established by the Governing Body in accordance with Article XIII of the Maritime Labour Convention, 2006, as amended (MLC, 2006)

Text of the amendments adopted on 27 April 2018

Amendments to the Code of the MLC, 2006, relating to Regulation 2.1

Standard A2.1 – Seafarers’ employment agreements

Insert new paragraph 7:

7. Each Member shall require that a seafarer’s employment agreement shall continue to have effect while a seafarer is held captive on or off the ship as a result of acts of piracy or armed robbery against ships, regardless of whether the date fixed for its expiry has passed or either party has given notice to suspend or terminate it. For the purpose of this paragraph, the term:

- (a) *piracy* shall have the same meaning as in the United Nations Convention on the Law of the Sea, 1982;
- (b) *armed robbery against ships* means any illegal act of violence or detention or any act of depredation, or threat thereof, other than an act of piracy, committed for private ends and directed against a ship or against persons or property on board such a ship, within a State’s internal waters, archipelagic waters and territorial sea, or any act of inciting or of intentionally facilitating an act described above.

Amendments to the Code of the MLC, 2006, relating to Regulation 2.2

Standard A2.2 – Wages

Insert a new paragraph 7:

7. Where a seafarer is held captive on or off the ship as a result of acts of piracy or armed robbery against ships, wages and other entitlements under the seafarers’ employment agreement, relevant collective bargaining agreement or applicable national laws, including the remittance of any allotments as provided in paragraph 4 of this Standard, shall continue to be paid during the entire period of captivity and until the seafarer is released and duly repatriated in accordance with Standard A2.5.1 or, where the seafarer dies while in captivity, until the date of death as determined in accordance with applicable national laws or regulations. The terms *piracy* and *armed robbery against ships* shall have the same meaning as in Standard A2.1, paragraph 7.

**Amendments to the Code of the MLC, 2006,
relating to Regulation 2.5 – Repatriation**

Guideline B2.5.1 – Entitlement

Replace paragraph 8 by the following:

8. The entitlement to repatriation may lapse if the seafarers concerned do not claim it within a reasonable period of time to be defined by national laws or regulations or collective agreements, except where they are held captive on or off the ship as a result of acts of piracy or armed robbery against ships. The terms *piracy* and *armed robbery against ships* shall have the same meaning as in Standard A2.1, paragraph 7.