Merchant Marine Circular

Panama Maritime Authority
General Directorate of Merchant Marine
Control and Compliance Department

MERCHANT MARINE CIRCULAR MMC-336

To: Ship-owners/Operators, Legal Representatives of Panamanian Flagged Vessels, Panamanian Merchant Marine Consulates, Inspectorates, Authorized Offices, Regional Documentation Offices of the Panama Maritime Authority, Recognized Organizations (RO's) and Seafarers.

Subject: Maritime Labour Convention (MLC, 2006), amendments Regulations 2.5 (repatriation) and 4.2 (ship-owner´s liability).

Reference: Law No. 2 January 6, 2009 - Maritime Labour Convention, 2006, as amended (MLC).
Executive Decree No. 86 on February 2013.

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1. Background

The ILO adopted amendments to the Maritime Labour Convention on 11 June 2014, which have the aim to improve the protection of seafarers against financial risks in possible hazardous situations. For the first time, the amendments contain standards for financial protection of seafarers' entitlements when abandoned by the ship owner. In addition, the amendments of the Maritime Labour Convention provide minimum requirements for financial security (P&I Club or insurer) for compensation claims for the death or disability of seafarers due to occupational accidents, diseases or hazards. The amendments of the Maritime Labour Convention will enter into force on 18 January 2017.

2. Amendments to the Code implementing Regulation 2.5 – Repatriation of the MLC,2006.

2.1 Financial Security for cases of abandonment -Regulation 2.5 - The amendments to the Code implementing Regulation 2.5-Repatriation are intended to better address the specific problems faced in cases of abandonment of seafarers with expeditious and effective financial security system to assist seafarers in the event of their abandonment.

3. The seafarer shall be deemed to have been abandoned where, in violation of the requirements of this Convention or the terms of the seafarers' employment agreement, the ship owner:

- fails to cover the cost of the seafarer's repatriation; or
- has left the seafarer without the necessary maintenance and support; or
- has otherwise unilaterally severed their ties with the seafarer including failure to pay contractual wages for a period of at least two months.

3.1 The ship-owner has to maintain a financial security (P&I Club or insurer) for cases of abandonment.

3.2 The insurance policy must cover the necessary support for seafarers which shall include: adequate food, accommodation, drinking water supplies, essential fuel for survival on board the ship and necessary medical care.

3.3 The financial security (P&I Club or insurer) must provide that the crew members may assert their claims directly to insurer or crew management.

3.4 Is an obligation to ensure that all ships are covered by financial security (P&I Club or insurer) in accordance with the Convention as amended, from the date when the amendments enter into force.

4. Having regard to Regulations 2.2 and 2.5, assistance provided by the financial security system shall be sufficient to cover the following:

- outstanding wages and other entitlements due from the ship-owner to the seafarer under their employment agreement, the relevant collective bargaining agreement or the national law of the flag State, limited to four months of any such outstanding wages and four months of any such outstanding entitlements;
- all expenses reasonably incurred by the seafarer, including the cost of repatriation referred to in paragraph 3 of this circular; and
- the essential needs of the seafarer including such items as: adequate food, clothing where necessary, accommodation, drinking water supplies, essential fuel for survival on board the ship, necessary medical care and any other reasonable costs or charges from the act or omission constituting the abandonment until the seafarer's arrival at home.

5. The costs to be borne by the Ship-owners for repatriation Seafarers must include at least the following:

5.1 Fare to one of the following destinations, selected by the Seafarer:

- The place at which the Seafarer agreed to the engagement;
- The place stipulated by a collective agreement;
- The country of residence of the Seafarer; or
- Any other place agreed between the parties upon hiring.

5.2 The repatriation must be organized by the Shipowner to be through appropriate andfast means. The means of transportation must be by air when the distance so requires it.

5.3 Accommodation and food from the moment when the Seafarer leaves the vessel, until they reach at the point of destination chosen for repatriation.

5.4 The pay and allowances Seafarer from the moment the Seafarer leave the vessel, until they reach the repatriation destination.

5.5 Transportation for 30 kg of the Seafarer's personal luggage, to the repatriation destination.

5.6 Medical treatment when necessary until the Seafarers are medically fit him/her to travel to the repatriation destination.

6. <u>Amendments to the Code implementing Regulation 4.2 – Shipowners' liability of the MLC, 2006.</u>

6.1 Implementing -Regulation 4.2 – Ship-owners' liability of the MLC, 2006. The amendments to the Code require further providing financial security to assure compensation in the event of the death or long-term disability of seafarers due to an occupational injury, illness or hazard. The ship-owners shall maintain an financial security (P&I Club or insurer) which compensate crew members or their survivors in case of disability or death of crew members due to occupational accidents or diseases, according to the Executive Decree No. 86 of the 2013 (whereby the Maritime Labour Convention, 2006 is regulated), ***Article 172: "Ship-owners must provide insurance coverage in order to guarantee the payment of an indemnity in the event of death or long-term disability of Seafarers, as a result of a workaccident, illness or occupational risk".***

7. On board of the Panamanians Ships shall require a certificate or other documentary evidence of financial security (P&I Club or insurer). A copy shall be posted in a conspicuous place on board where it is available to the seafarers. Where more thanone financial security (P&I Club or insurer) provides cover, the document provided by each provider shall be carried on board.

8. <u>Declaration of Maritime Labour Compliance (DMLC).</u>

8.1 The DMLC issued from January 18, 2017 will have to include the amendments inboth Parts.

- **Financial Security for Repatriation (Regulation 2.5- Abandonment)**
  - All vessels must be under the obligation to provide a financial security in order to ensure that Seafarers are duly repatriated. Executive Decree No. 86, February 22, 2013. Title III. Chapter Eight.

- **Financial Security relating to Ship-owner´s Liability (Regulation 4.2)**
  - Ship-owners must provide insurance coverage in order to guarantee the payment of an indemnity in the event of death or long-term disability of Seafarers, as a result of a work accident, illness or occupational risk. Executive Decree No. 86, February 22, 2013. Title Five. Chapter II.

9. <u>Transitional measures relating to the entry into force of the amendments to the Maritime Labour Convention, 2006</u>

9.1 The ILO Resolution adopted in April 2014, on the transitional measures relating to the entry into force of the amendments concerning financial security requirements in respect of abandonment of seafarers and for ship-owners' liability, states the following:

i. Requests Members to recognize the need for a transitional period to issue or renew Maritime Labour Certificates and the related declarations of maritime labour compliance in accordance with the requirements of the Convention as amended;

ii. Urges Members to ensure that the Maritime Labour Certificates and the declarations of maritime labour compliance are issued or renewed so as to comply with the requirements of the Convention as amended, on ships that fly their flag, no later than the date of the first renewal inspection following entry into force of the amendments.

10. All Panamanian Flag Vessels shall maintain on board both financial security (P&I Club or insurer) -Regulations 2.5 –Repatriation- and 4.2 –Ship-owner´s Liability- which shall be verified during the first intermediate inspection carried out on or after January 18, 2017. The RO should include in the correspondent MLC check list the verification of the two (2) financial securities (P&I Club or insurer) and verified these requirements during the initial, intermediate and renewal inspections.

11. The ship-owner is free to choose the P & I Club of his convenience as per the list posted in our Circular MMC-202, however, once the MLC amendments (A2.5.2 and A4.2.1), enter into force, the ship-owner or operator is required to keep the policies or financial securities on board and at the disposal of the competent authority.

12. When a ship changes from a P & I Club or Insurer, the ship-owner or operator must notify the General Directorate of the Merchant Marine by sending an email to the MLC Section in the accounts mlc@segumar.com or mlcassist@segumar.com and must attach the new duly updated financialsecurities.

13. The term "ship-owner" is defined comprehensively in Article II, paragraph 1(j) of the MLC, 2006 as "the owner of the ship or another organization 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 ship-owners in accordance with the Convention, regardless of whether any other organizations or persons fulfil certain of the duties or responsibilities on behalf of the ship-owner.

14. While another person supplying a seafarer to the ship may have concluded an employment contract with that seafarer and be responsible for implementing that contract, including payment of wages, the ship-owner will still have the overall responsibility the seafarer. Such an employer could therefore only sign the SEA as a representative of the ship-owner (assuming that the employer has a signed power of attorney from the ship-owner) or in addition to the ship-owner.

15. The financial securities required under the Standard A2.5.2 and the Standard A4.2.1shall including the name of the ship-owner or of the registered owner if different from the ship-owner defined by the MLC 2006 amended.

August, 2026*- Paragraph 13 amended and 14 and 15 added.*
June, 2022 *- Modified the Paragraphs 11 and 12.*
December, 2020 *- Inclusion of the New Paragraphs 2, 3 and 4.*
July, 2018 *- Paragraph 9.*
March, 2018 *- New Paragraph 8*
September, 2017 *- Modification Paragraph 5 and 7.*
July, 2017 *– Deleted the Paragraphs 1.3 and 3*
December, 2016 – *Additional Paragraph 9*
October, 2016 - *Modification of Paragraph 8.*
September, 2016.

Inquiries concerning the subject of this Merchant Marine Circular or any other request should be forward to:

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