



MONGOLIA MARITIME ADMINISTRATION

Government Building-11, J.Sambuu Street-11,
Chingeltei district, Ulaanbaatar 15141, MONGOLIA
Tel: (976-51)-26 14 89, 26 14 90, Fax: (976-11)-31 06 42
E-mail: info@monmarad.gov.mn,
Website: www.monmarad.gov.mn

Date 29 September 2020
Ref. 1/198

Marine Circular № 1/198/2020

Applicable to: Ship-owners, managers, operators, masters of vessels registered under the ship registry of Mongolia, Recognized Organizations and Registry agents

Subject: AMENDMENTS OF 2014 TO MLC 2006, NEW COMPULSORY FINANCIAL REQUIREMENTS PERTAINING TO THE REPATRIATION OF ABANDONED SEAFARERS AND WORK INJURY COMPENSATION

The purpose of present marine circular is to provide information on new requirements of Mongolia Maritime Administration (MMA) regarding the compulsory financial security enacted by Regulation 2.5 and Regulation 4.2 of the Maritime Labour Convention (MLC), 2006, as amended in 2014.

APPLICABILITY

1. These amendments will enter into force on 28th February 2021.
2. All Mongolian ships shall be required to carry on board certificates attesting that contracts of insurance or other financial security are in place to cover ship-owner's liabilities for outstanding wages and repatriation 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 MLC regulation.

INTRODUCTION ON AMENDMENTS OF 2014 TO MLC

1. The amendments to Regulation 2.5 (Repatriation) of the MLC require ship-owners to repatriate their seafarers in the event of abandonment, which is defined as:
 - a. In case the ship-owner fails to cover the cost of the seafarers repatriation; or
 - b. In case the ship-owner has left the seafarer without necessary maintenance and support; or
 - c. In case the ship-owner has otherwise unilaterally severed its ties with the seafarer, including failure to pay contractual wages for a period of at least two months;
2. Ship-owner shall have to obtain financial security to ensure that they will be able to meet their repatriation obligations. In particular, the financial security must be adequate to cover the following:
 - a. Up to four months of outstanding wages and other outstanding entitlements due from the ship-owner to the abandoned seafarer under their employment agreement and the relevant collective bargaining agreement (if applicable).

000000032

- b. All expenses reasonably incurred by the abandoned seafarers, including the cost of repatriation; and
 - c. The essential needs of the abandoned seafarer, including items such as adequate food, clothing, accommodation, drinking water supplies, essential fuel for survival on board the ship, necessary medical care and any other reasonable costs or charge from the act or omission constituting the abandonment until the seafarers arrival at his repatriation destination.
3. The amendments to Regulation 4.2 (Ship-owners' liability) of the MLC introduce new mandatory requirements to ensure that seafarers who suffer death or long-term disability due to an occupational injury, illness or hazard are compensated fairly and expeditiously. The requirements are as follows:
- a. The contractual compensation owed to the seafarer is to be paid out in full and without delay;
 - b. The seafarer or his representative must not be pressured to accept a payment less than the contractual amount;
 - c. Where the nature of the long-term disability of the seafarer makes it difficult to assess the full contractual compensation payable to him, the financial security provider must make an interim payment or payments to the seafarer;
 - d. Any contractual compensation received by the seafarer may be offset by the ship-owner against any damages resulting from any other claim made by the seafarer against the ship-owner and arising from the same incident;
 - e. The seafarer's claim for contractual compensation may be brought directly by the seafarer, his next of kin, a representative or a designated beneficiary;
 - f. The financial security provider must give at least 30 days notification to MMA and seafarers employed on board; before the financial security is cancelled or not renewed.

IMPLEMENTATION

1. Ship-owners will be required to carry on-board their ships, certificates of the contracts of insurance or other financial security covering:
 - a. The costs of crew repatriation
 - b. Contractual claims arising from the death or long-term disability of seafarers due to an occupational injury, illness or hazard
2. Where more than one financial security provider provides cover in respect of MLC ship, the certificates provided by each financial security provider must be carried on board.
4. Ship-owners must display copies of such certificates in a conspicuous place on board of their MLC ships where it is available to the seafarers.
5. The required information to be set out in such certificates can be found at **Appendix A**. The certificates must be in English and if not in English, must be accompanied with an English translation.
6. The certificates of the contracts of insurance or other financial security may be inspected by port State control officers.
7. Ship-owners may wish to review their existing financial security coverage to ensure that the above liabilities for repatriation and work injuries are insured according to the above requirements.
8. Ship-owners must provide copies of such certificates to the MMA and designated RO (if applicable) for records. Scanned or electronic copies of such certificates must be submitted to MMA via email (info@monmarad.gov.mn) not later than 7 days after the ship-owner receives the certificates from the financial security provider. Ship-owners may wish to arrange for their financial security providers to send copies of such certificates directly to MMA. These certificates do not need to be endorsed by MMA.

9. The contract of insurance or other financial security must not cease before the end of its period of validity unless the financial security provider has given at least 30 days' prior written notice to MMA. In this case, ship-owners are advised to promptly provide a plan to MMA on how financial security for their liabilities will continue to be provided for their seafarers. Such plan should also be communicated to their seafarers.
10. Ship-owners are advised to have their seafarers name in their seafarer's employment agreement their next of kin, or a representative of the seafarer or designated beneficiary for the purpose of facilitating any claims for the above mentioned liabilities.

Contracts of insurance or other financial security for liabilities relating to compensation for death or long term disability

11. Ship-owners must give at least 30 days' prior notice to their seafarers before the cancellation or termination of any contract of insurance or other financial security relating to compensation for death or long-term disability.
12. The financial security provider must notify MMA in writing of any cancellation or termination of any contract of insurance or other financial security relating to compensation for death or long-term disability at least 30 days before such cancellation or termination.
13. A seafarer, or his next of kin, or his representative or designated beneficiary must not be pressured to accept a payment of an amount less than any compensation for death or long-term disability due to the seafarer.
14. Parties to the payment of the compensation for death or long-term disability must use the Exemplary Receipt and Release Form set out in **Appendix B**.
15. Ship-owners must provide a copy of the signed form to MMA for records. Scanned or electronic copies of such signed forms must be submitted to MMA via email (info@monmarad.gov.mn) not later than 30 days after the form has been completed.
16. Any queries regarding this circular should be directed to the Ship Registration and Monitoring Department of MMA. (Email: info@monmarad.gov.mn; Tel: +976 310642)

Sincerely Yours,


TUVSHINTUR Saranjav
Director-General

APPENDIX A

EVIDENCE OF FINANCIAL SECURITY UNDER MLC REGULATION 2.5 RELATING TO REPATRIATION

The certificate or other documentary evidence of financial security required under MLC Standard A2.5.2 must include the following information:

1. Name of the ship;
2. Port of registry of the ship;
3. Call sign of the ship;
4. IMO number of the ship;
5. Name and address of the approved financial security provider;
6. Contact details of the persons or entity responsible for handling seafarers' requests for relief;
7. Name of the ship-owner;
8. Period of validity of the financial security; and
9. An attestation from the financial security provider that the financial security meets the requirements of MLC Standard A2.5.2.

EVIDENCE OF FINANCIAL SECURITY UNDER MLC REGULATION 4.2 RELATING TO DEATH OR LONG-TERM DISABILITY

The certificate or other documentary evidence of financial security required under MLC Standard A4.2.1 must include the following information:

1. Name of the ship;
2. Port of registry of the ship;
3. Call sign of the ship;
4. IMO number of the ship;
5. Name and address of the approved financial security provider;
6. Contact details of the persons or entity responsible for handling seafarers' contractual claims;
7. Name of the ship-owner;
8. Period of validity of the financial security; and
9. An attestation from the financial security provider that the financial security meets the requirements of MLC Standard A4.2.1.

**EXEMPLARY RECEIPT AND RELEASE FORM
(REFERRED TO IN MLC GUIDELINE B4.2.2)**

Ship (name, port of registry and IMO number):
Incident (date and place):
Seafarer/legal heir and/or dependant:.....
Ship-owner:

I, [Seafarer] [Seafarer's legal heir and/or dependant]* hereby acknowledge receipt of the sum of [currency and amount] in satisfaction of the Ship-owner's obligation to pay contractual compensation for personal injury and/or death under the terms and conditions of [my] [the Seafarer's]* employment and I hereby release the Ship-owner from their obligations under the said terms and conditions.

The payment is made without admission of liability of any claims and is accepted without prejudice to [my] [the Seafarer's legal heir and/or dependant's]* right to pursue any claim at law in respect of negligence, tort, breach of statutory duty or any other legal redress available and arising out of the above incident.

Dated:.....
Seafarer/legal heir and/or dependant:
Signed:.....
For acknowledgement:
Ship-owner/Ship-owner's representative:
Signed:.....
Financial security provider:
Signed:.....

* Delete as appropriate.