

NEWSLETTER NO. 22 / 20

Maritime Labour Convention 2018 amendments

28th December 2020

The 2018 amendments to the MLC 2006 entered into force on 26th December 2020. However, these amendments do not alter shipowners' P&I coverage position. The amendments do not require financial security under the MLC Trading Certificates and each Club's Rules, as far as we are aware, will not be amended to reflect these amendments.

In practice, the amendments are designated to protect seafarers when they are held captive on or off the ship as a result of piracy or armed robbery against ships. Shipowners therefore continue to be liable for their obligations and requirements as indicated in the MLC. The new paragraphs are inserted into Regulations on the following points:

- Standard A2.1 - Seafarers' employment agreement
- Standard A2.2 - Wages
- Guideline B2.5.1 - Entitlement to repatriation

To summarise, a seafarer shall continue to receive contractual payments during the period of hijacking or piracy regardless of whether the expiry date of the Seafarer's Employment Agreement's has passed or any notice of termination was already given. The same principle is also applicable to the entitlement to repatriation; see attached for the full wording of the 2018 Amendments.

To comply with the MLC 2006 and relevant amendments it is responsibility of the shipowners, ships must carry and display on board two certificates (MLC Trading Certificates) evidencing that the financial security required under the MLC 2006 is in place. The involvement of the P&I insurers is to provide these MLC Trading Certificates confirming their acceptance of:

- a) The shipowners' liabilities for repatriation of crew, essential needs such as food, accommodation and medical care and up to four months' outstanding contractual wages and entitlements in the event of abandonment (Regulation 2.5, Standard A2.5.2 Paragraph 9); and,
- b) Contractual payments for death or long-term disability due to an occupational injury, illness or hazard set out in the employment agreement or collective agreement (Regulation 4.2, Standard A4.2.1 paragraph 1(b)).

Should you have any queries regarding the above arguments and insurance issues, please do not hesitate to get in touch with your usual P.L. Ferrari contact or get in touch via our website at <https://www.plferrari.com>

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Standard A2.1 – Seafarers' employment agreements

A new Paragraph 7 has been inserted into Regulation 2.1, which reads as follows:

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.

Standard A2.2 – Wages

A new Paragraph 7 has been inserted into Regulation 2.2, which reads as follows:

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.

Guidelines B2.5.1 – Entitlement to repatriation

Paragraph 8 of Regulation 2.5 has been replaced with the following text:

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.