



MARITIME (MARITIME LABOUR CONVENTION - MLC) RULES, 2014 NO.1

155/14

18 December 2014

335

CONTENTS

- 1 Title and Commencement
 - 2 Interpretation
 - 3 Purpose
 - 4 Convention Incorporated by Reference
 - 5 Application
 - 6 Compliance with Convention Obligations
 - 7 Non-Compliance
 - 8 Matters required to be specified by the Convention
 - 9 Amendments to Convention
-

1 Title and Commencement

- (1) These Rules may be cited as the Maritime (MLC) Rules.
- (2) These Rules will come into force on the day after notice of their making is given in the Gazette.

2 Interpretation – In these rules, -

“Act” means the Maritime Transport Act 2008;

“Competent Authority” for the purposes of Flag State matters means the Administrator appointed under the Ship Registration Act 2007 for the time being and for the purposes of Port and Coastal state matters means the Ministry of Transport or such other entity of the Cook Islands Government that has competency;

“Convention” means, the Maritime Labour Convention 2006;

“Registrar” means the Registrar of Ships appointed under section 11 of the Ship Registration Act, 2007;

“Seafarer Recruitment and Placement Service” has the same meaning as prescribed in the Convention



**MARITIME (MARITIME LABOUR CONVENTION - MLC) RULES,
2014 NO.1**

155/14

18 December 2014

336

“Vessel” means a vessel registered pursuant to the Ship Registration Act, 2007 and includes a vessel within the Cook Islands’ territorial sea to which the Convention applies;

3 Purpose – The purpose of these Rules is to –

- (1) Implement Flag State obligations under the Convention as if the Cook Islands were a State Party;
- (2) Enforce compliance with those obligations and standards by way of investigation and enforcement under the Act.

4 Convention incorporated by reference – The Convention is incorporated into and forms part of these Rules.

5 Application – These Rules shall apply to a Seafarer Recruitment and Placement Service, a vessel and the vessels owner and master to the extent that the Convention applies to any of them.

6 Compliance with Convention obligations –

- (1) Where the Convention imposes obligations upon a Flag State and the discharge of the obligations requires compliance by a Seafarer Recruitment and Placement Service, vessel, owner or the master then, the Seafarer Recruitment and Placement Service, vessel, owner or the master, as the case may be, must comply to the extent that the obligations apply to them so that the obligations are discharged.
- (2) If the Convention does not provide for or there is uncertainty about the manner in which flag state obligations are to be discharged then, Seafarer Recruitment and Placement Service, vessel, owner or the master (as the case may be), will comply in the manner directed by the Registrar.
- (3) Where the Convention imposes obligations on a Flag State and the discharge of the obligation does not require compliance under subclause (1), these obligations will be discharged by the Competent Authority in the manner prescribed by the Convention.

7 Non-Compliance – A person who fails to comply with either of Rules 6 (1) or 6 (2) commits an offence against the Act, and is liable to prosecution under the Act.



MARITIME (MARITIME LABOUR CONVENTION - MLC) RULES, 2014 NO.1

155/14

18 December 2014

337

8 Matters required to be specified by the Convention

- (1) Minimum Notice -
 - a) Minimum Notice Period as required by Standard A2.1 (5) of the Convention shall not be less than 7 days.

 - b) Minimum Notice Period may be reduced to less than 7 days in the case of serious misconduct or other urgent reasons by the seafarer or shipowner.
- (2) The manner in which the length of service is calculated for the purpose of calculating annual leave shall be specified in the employment agreement between the shipowner and the seafarer.
- (3) Shipowners shall provide financial security to a level that will satisfy their obligations under the Convention including repatriation as required by Standard A2.5 and Shipowners Liability as set out in Standard A4.2. This financial security can be in the form of a certificate of entry issued by an International Group P&I Club Member or other Competent Authority approved insurer.
- (4) Shipowners may limit their liability to the extent permitted under Standard A4.2.
- (5) Seafarer employment agreements must contain a disputes settlement clause that includes the jurisdiction under which any dispute will be adjudicated and must include the following stages -
 - a) The parties in the first instance shall try to resolve the dispute between them.
 - b) Where the parties cannot resolve the dispute themselves, the parties shall refer the dispute to mediation. The parties shall mutually agree to the mediator, and any mediation guidelines.
 - c) Where a resolution is not reached, the parties may take additional action in the mutually agreed jurisdiction.

9 Amendments to Convention



**MARITIME (MARITIME LABOUR CONVENTION - MLC) RULES,
2014 NO.1**

155/14

18 December 2014

338

- (1) Except as provided by subclause (2) all amendments and modifications to the Convention and all instruments made through the Convention from time to time are incorporated into these Rules;
 - (2) The Minister may by notice in the Gazette exclude from these Rules any instrument amendment or modification which but for the notice would be incorporated into these Rules under subclause (1).
-