

Circular 234 /2020

To: Owners, Managers and Deputy Registrars

Subject: Seafarer Employment Agreement – Maritime Labour Convention

Attachment: Model format for seafarer employment agreement

Date: 17th June 2020

This circular revokes MCI Circular 79/2014.

Summary

Regulation 2.1 of the Maritime Labour Convention sets out the standards for conditions of employment of seafarers. In particular the MLC defines the minimum requirements for the Seafarer Employment Agreement.

Seafarers' employment agreements shall in all cases contain the following particulars:

- (a) the seafarer's full name, date of birth or age, and birthplace;
- (b) the shipowner's name and address;
- (c) the place where and date when the seafarers' employment agreement is entered into;
- (d) the capacity in which the seafarer is to be employed;
- (e) the amount of the seafarer's wages or, where applicable, the formula used for calculating them;
- (f) the amount of paid annual leave or, where applicable, the formula used for calculating it;
- (g) the termination of the agreement and the conditions thereof, including:
 - (i) if the agreement has been made for an indefinite period, the conditions entitling either party to terminate it, as well as the required notice period, which shall not be less for the shipowner than for the seafarer;
 - (ii) if the agreement has been made for a definite period, the date fixed for its expiry; and
 - (iii) if the agreement has been made for a voyage, the port of destination and the time which has to expire after arrival before the seafarer should be discharged;
- (h) the health and social security protection benefits to be provided to the seafarer by the shipowner;

- (i) the seafarer's entitlement to repatriation;
- (j) reference to the collective bargaining agreement, if applicable; and
- (k) any other particulars which national law may require.

Please find attached to this circular a sample Seafarer Employment Agreement (SEA), complying with the MLC requirements, provided by ILO.

The attached sample is neither property of nor it has been produced by Maritime Cook Islands; its use is not mandatory and it is intended to be a guideline and it is provided for the benefit and use of any owner who is employing or engaging persons to work on board vessels to which the MLC, 2006 applies.

If you require further information or assistance regarding the information contained in this circular, please contact the MLC department at mlc@maritimecookislands.com

MODEL FORMAT FOR SEAFARER EMPLOYMENT AGREEMENT

THIS AGREEMENT IS BETWEEN:-

.....

(insert Seafarer's full name)

.....

(insert date of birth)

.....

(insert place of birth – town and country)

and

.....

(insert Shipowner's name)

.....

(insert Shipowner's full address)

CAPACITY IN WHICH SEAFARER IS TO BE EMPLOYED

The capacity in which you are initially employed is

.....

(insert capacity)

PLACE OF WORK

You will be employed on

.....

(insert name of vessel or state any vessel owned , managed or chartered by the shipowner)

WAGES

Your wages will be *(insert amount and currency)* per week/month/year (delete as appropriate) or formula for determining wages

MEANS OF PAYMENT OF WAGES

Your wages will be payable by..... *(insert method of payment)* at weekly/monthly *(delete as appropriate)* intervals on the*(insert number)* day of each week/month *(delete as appropriate)*

(Overtime hours i.e. hours worked outside of normal working hours will be paid at a rate of *(insert overtime rate)* *(Delete this sentence if not applicable)*

PAID ANNUAL LEAVE

You are entitled to take *(insert number)* working days as paid leave in each year of employment.

If your employment commenced or terminates part way through the holiday year, your entitlement to paid annual leave will be assessed on a pro rata basis. Deductions from final salary due to you on termination of employment will be made in respect of any paid annual leave taken in excess of your entitlement.

There is no provision for the transfer of paid annual leave from one year to the next. All paid annual leave must be taken in the year in which it accrues. There is also no provision for payment to be made in lieu of untaken leave except where paid annual leave has accrued but has not been taken at the date of termination of employment.

NOTICE OF TERMINATION OF EMPLOYMENT *(Delete whichever is not applicable)*

Definite Period Agreement

Your employment is for a period commencing on *(insert date)* and ending on *(insert date)* unless it is terminated for justified reasons in advance of this point or the ship is at sea at that point of time in which event it will continue until its arrival in port at which point it will terminate.

or

Indefinite Agreement

The length of notice which you are obliged to give to terminate your employment is *(insert notice period which is to be not less than seven days)*.

The length of notice which you are entitled to receive from the shipowner to terminate your employment is (*insert notice period which is to be not less than seven days*).

or

Voyage Agreement

Your employment is for the length of the voyage of [*ship*] commencing on(*insert date*) from the port of.....(*insert name of port*) until(*insert date*) or the vessel' arrival in the port of(*insert name of port*) at which point it will terminate, unless it is terminated for justified reasons in advance of this point.

HEALTH AND SOCIAL SECURITY BENEFITS

If you become sick or injured whilst on a voyage, you will be paid your normal basic wages until you have been repatriated in accordance with the repatriation provisions set out below. After you have been repatriated you will be paidper cent (*insert number*) of your normal basic wages up to a maximum ofweeks .(*insert number which shall be 16 or above*) less the amount of any Statutory Sick Pay or Social security Sickness Benefit to which you may be entitled for(*insert number*) working days in total in any one sick pay year)

If you require medical care while you are on-board this will be provided free of charge, including access to necessary medicines, medical equipment and facilities for diagnosis and treatment and medical information and expertise. Where practicable and appropriate, you will be given leave to visit a qualified medical doctor or dentists in ports of call for the purpose of obtaining treatment.

In the event of sickness or incapacity, you will be provided with medical care, including medical treatment and the supply of necessary medicines and therapeutic devices and board and lodging away from home until your recovery or until your sickness or incapacity has been declared of a permanent character, subject to a maximum period of.....weeks (*insert number which shall be 16 or above*). In addition the shipowner will meet the cost of the return of your property left on board to you or your next of kin.

In the event of your death occurring on board or ashore during a voyage, the shipowner will meet the cost of burial expenses, or cremation where appropriate

or required by local legislation, and the return of your property left on board to your next of kin.

REPATRIATION

You will be entitled to repatriation, at the expense of the shipowner, if you are away from your country of residence when this agreement is terminated:-

- by the shipowner
- by you in the event of illness or injury or other medical condition requiring your repatriation, the event that the ship is proceeding to a Warlike Operations Area or the event of termination or interruption of employment in accordance with an industrial award or collective agreement.
- in circumstances where you are no longer able to carry out your duties under this agreement or cannot be expected to do so e.g. shipwreck, the sale of your ship or a change in your ship's registration.

The entitlement to repatriation entails transport by (*insert means of transport*) to.....(*insert place name or country*):.

Note: - You may not be entitled to repatriation at the expense of the shipowner in circumstances where you have been dismissed on disciplinary grounds or have breached your obligations under this Agreement. In such circumstances the shipowner will still be liable to repatriate you but is entitled to recover from any wages due to you the cost of doing so.

Maximum duration of service periods after which you are entitled to repatriation

The maximum period of service following which you will be entitled to repatriation at no cost to you ismonths (*insert number of months –no more than 12 months*)

APPLICABLE COLLECTIVE BARGAINING AGREEMENT(S) (*delete if not applicable*)

You employment will also be subject to the Collective Bargaining Agreement(s) entered into on.....(*insert date(s)*)

between the shipowner and(*insert details of the other parties to the collective bargaining agreement(s)*) contains additional terms and conditions and forms part of this Seafarers' Employment Agreement, as attached.

HOURS OF WORK

Your normal hours of work are from (*insert time*) to(*insert time*) from(*insert day of week*) to(*insert day of week*) inclusive.

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Your hours of work will be arranged such as to ensure that you receive a minimum of 10 hours available for rest in each 24-hour period and a minimum of 77 hours rest in each seven-day period. This minimum period of rest may not be reduced below 10 hours except in an emergency.

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You may be required, at the absolute discretion of the Master, to work additional hours during an emergency affecting the safety of the ship, its passengers, crew or cargo or the marine environment or to give assistance to other ships or persons in peril. You may also be required to work additional hours for safety drills such as musters, fire-fighting and lifeboat drills. In such circumstances you will be provided subsequently with (a) compensatory rest period(s).

COMPLAINTS AND DISCIPLINARY PROCEDURES

(a) Complaints

If you have a complaint regarding your employment you should follow the shipowner's complaints procedure a copy of which will be provided to you when you join the vessel.

(b) Disciplinary Rules and Procedure

The disciplinary rules applicable to you are set out in the

- Merchant Shipping Law N.106(I)/2000 on Criminal and Disciplinary Liability of Seafarers.

ADDITIONAL PROVISIONS INCLUDED BY SHIPOWER

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.....
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.....
.....

Signature of Seafarer

.....

Signature of Shipowner or Shipowner's representative
..... *(State position held)*

Place where this Agreement is entered into

.....

Date when this Agreement is entered into

.....