MLC Amendments coming into force

On 18th January 2017 the MLC amendments regarding financial security will come into force. The amendments affect:

**Regulation 2.5 Repatriation**

**Regulation 4.2 Shipowners’ liability**

The new standards added are:

**Standard A2.5.2 – Financial Security**

This standard requires a financial security system to be provided to assist seafarers in the event of abandonment (see the definition in *Standard A2.5.2, para 2*).

**Definition of abandonment:**

A seafarer is considered abandoned, in violation of MLC and SEA, when the shipowner:

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

The certificate or other documentary evidence of financial security shall include the information required in the new *MLC Appendix A2-1* (see also Annex II of present document).

**Standard A4.2.1 – Shipowner’s Liability**

This standard requires a financial security system to be provided to assure compensation in the event of a contractual claim (see the definition in *Standard A4.2.2, para 1*).

**Definition of contractual claim:**

Contractual claim means any claim which relates to death or long-term disability of seafarers due to an occupational injury, illness or hazard as set out in national law, the seafarers’ employment agreement or collective agreement

The certificate or other documentary evidence of financial security shall include the information required in the new *MLC Appendix A4-1* (see also Annex II of present document).

**Standard A4.2.2 – Treatment of Contractual Claims**

This standard requires effective means to be in place to deal with and settle contractual claims for compensation. Flag State Administrations shall ensure that effective arrangements are in place to receive, deal with and impartially settle contractual claims.

Under *Guideline B4.2.2 – Treatment of contractual claims*, a “Receipt and Release Form” (see also Annex III and attachment) is suggested to be used in case of a contractual claim.
What do the changes practically mean?

A. For the Declaration of Maritime Labour Compliance (DMLC):

Item “15. Financial Security for Repatriation (Regulation 2.5)” and item “16. Financial security relating to shipowners’ liability (Regulation 4.2)” have to be included in the DMLC Part I and DMLC Part II, as both areas are to be inspected and approved when a ship is certified as per MLC (see example in Annex I).

The DMLC Part I will need to be re-issued by the flag administration and the DMLC Part II will have to be updated by the shipowner for every renewal of MLC Certificate after 18/01/2017.

For all Initial MLC Certificates issued after 18/01/2017, the DMLC Part I and DMLC Part II shall comply with the new amendments.

Flag administrations have yet to confirm the form of financial security that will be acceptable but it is likely that most administrations will accept the proposal by the International Group of P & I Clubs.

B. For the MLC Procedures:

Companies that had adopted a “MLC Booklet” or included in their SMS detailed MLC procedures, with regard to the financial security requirements and shipowners’ liability requirements, will have to revise them accordingly.

C. For the on board inspection:

Financial Security Certificate shall be updated to include information detailed in MLC Appendices A4-1 and B4-1 (see Annex II).

A copy of the Financial Security Certificate(s) shall be posted in a conspicuous place on board, where it is available to the seafarers (MLC Regulation A4.2.11).

How to deal with the amendments?

Alpha Marine Consulting can assist you in revising MLC Procedures/MLC Booklet and DMLC Part II accordingly, as well as facilitate you with the application to the Flag Administration for the re-issue of DMLC Part I.
ANNEX I: Example of the new format of DMLC Part II

**FLAG STATE AUTHORITY**
Maritime Labour Convention, 2006

Declaration of Maritime Labour Compliance – Part II
(Note: This Declaration must be attached to the ship’s Maritime Labour Certificate)

Measures adopted to ensure ongoing compliance between inspections
The following measures have been drawn up by the shipowner, named in the Maritime Labour Certificate to which this Declaration is attached, to ensure ongoing compliance between inspections:

(State below the measures drawn up to ensure compliance with each of the items in DMLC-Part I)

With the respect to the provisions of the Maritime Labour Convention, 2006, (MLC, 2006) the following referenced ship:

<table>
<thead>
<tr>
<th>Name of Ship</th>
<th>IMO Number</th>
<th>Gross Tonnage</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

1. Minimum age (Regulation 1.1)
2. Medical certification (Regulation 1.2)
3. Qualifications of seafarers (Regulation 1.3)
4. Seafarers’ employment agreements (Regulation 2.1)
5. Use of any licensed or certified or regulated private recruitment and placement service (Reg. 1.4)
6. Hours of work or rest (Regulation 2.3)
7. Manning levels for the ship (Regulation 2.7)
8. Accommodation (Regulation 3.1)
9. On-board recreational facilities (Regulation 3.1)
10. Food and catering (Regulation 3.2)
11. Health and safety and accident prevention (Regulation 4.3)
12. On-board medical care (Regulation 4.1)
13. On-board complaint procedures (Regulation 5.1.5)
14. Payment of wages (Regulation 2.2)
15. Financial Security for Repatriation (Regulation 2.5)
16. Financial Security relating to Shipowners’ liability (Regulation 4.2)
I hereby certify that the above measures have been drawn up to ensure ongoing compliance, between inspections, with the requirements listed in *DMLC-Part I*.

Name of shipowner (1):

Company address:

Name of the authorized signatory:

Title:

Signature of the authorized signatory:

Date:

Seal or stamp of the shipowner (1)

The above measures have been reviewed by: ________________________________

(insert name of competent authority or duly recognized organization)

and, following inspection of the ship, have been determined as meeting the purposes set out under Standards A5.1.3, paragraph 10(b), regarding measures to ensure initial and ongoing compliance with the requirements set out in *DMLC-Part I* of this Declaration.

Name:

Title:

Address (RO):

Signature:

Place:

Date:

Seal or stamp of the authority, as appropriate

*Shipowner means 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 shipowners in accordance with this Convention, regardless of whether any other organizations or persons fulfill certain of the duties or responsibilities on behalf of the shipowner. See Article II (1) (j) of the Convention.*
ANNEX II
Evidence of financial security under Regulation A2.5.2 and A4.2.1

MLC Appendices A2-1 and A4-1 detail the evidence of financial security that is required.

The certificate or other documentary evidence of financial security required under Standard A2.5.2, paragraph 7 and Standard A4.2.1, paragraph 14, shall include the following information:

(a) name of the ship;
(b) port of registry of the ship;
(c) call sign of the ship;
(d) IMO number of the ship;
(e) name and address of the provider or providers of the financial security;
(f) contact details of the persons or entity responsible for handling seafarers’ contractual claims;
(g) name of the shipowner;
(h) period of validity of the financial security; and

(i) an attestation from the financial security provider that the financial security meets the requirements of Standard A2.5.2.

(j) an attestation from the financial security provider that the financial security meets the requirements of Standard A4.2.1.
ANNEX III
Contractual Claim Receipt and Release Form

MLC Appendix B4-1 details a proposed model Receipt and Release Form, referred to in new Guideline B.4.2.2.

Model Contractual Claim Receipt and Release Form

| Ship (name, port of registry and IMO number): | ____________________________ |
| Incident (date and place): | ____________________________ |
| Seafarer/legal heir and/or dependant: | ____________________________ |
| Shipowner | ____________________________ |

I, ____________________________ [Seafarer] [Seafarer’s legal heir and/or dependant] *
hereby acknowledge receipt of the sum of ____________________________ [currency and amount]
in satisfaction of the Shipowner’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 Shipowner 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:

Shipowner/Shipowner representative: ____________________________
Signed: ____________________________

Financial security provider: ____________________________
Signed: ____________________________

* Delete as appropriate.