

Guidelines to Recognized Organizations for Flag State Inspections under the Maritime Labour Convention, 2006

Recognised Organisations (ROs)

Under a separate written agreement (c), the FMA has authorised the following ROs to carry out inspection and certification functions pursuant to the Maritime Labour Convention, 2006 (MLC, 2006) on behalf of the FMA:

- Bureau Veritas
- Det Norske Veritas
- Germanischer Lloyd
- Lloyd's Register
- RINA

Scope

The ROs are authorised to inspect and certify merchant ships on behalf of the Faroese Maritime Authority (FMA). Initial, intermediate and renewal inspections are included. The term "merchant ships" includes new ships on delivery, ships changing flag, and existing ships.

The ROs are also authorised to inspect and, at the owner's request, to certify ships to which the MLC, 2006 applies, but which are not required to be certified. Such ships must still be subject to full inspections in accordance with the same requirements as those applicable to certified ships.

Inspections

All inspections must be carried out in accordance with the Maritime Labour Convention, 2006, and with due regard to the International Labour Organisation's (ILO) document Guidelines for Flag State Inspections under the Maritime Labour Convention, 2006.

An RO is authorised to carry out any examination, test or inquiry considered necessary to determine whether the standards of the MLC 2006 are being strictly observed.

All ships to which the MLC 2006 applies of 500 gross tonnage or over, engaged in international voyages or operating from a port, or between ports, in another country must be certified for compliance with the 14 areas of the Convention subject to mandatory inspection. The 14 areas are set out in the DMLC, Part I, drawn up by the FMA.

All persons inspecting under the MLC 2006 must have appropriate knowledge of ship operations, including:

- ✓ minimum requirements for seafarers to work on a ship;
- ✓ conditions of employment;
- ✓ accommodation;
- ✓ recreational facilities;
- ✓ food and catering;
- ✓ accident prevention;
- ✓ health protection;
- ✓ medical care; and
- ✓ welfare and social security protection.

Circular to RO – 01/2013

When an inspection is conducted or when measures are taken under the MLC 2006, the RO must make all efforts reasonable to avoid a ship being unreasonably detained or delayed.

All inspections must be conducted in consideration of the right to privacy and the need to protect confidentiality.

The MLC requirements relating to ship construction and equipment apply only to ships constructed on or after 20 August 2013. As regards ships constructed before that date, the requirements or national standards implementing the ILO requirements applicable on the date of a ship's construction must continue to apply. A ship is deemed to have been constructed on the date when its keel is laid or when it is at a similar stage of construction.

For existing Faroese ships built before 20 August 2013, the requirements for a ship's construction and equipment need not be subject to renewed plan approval by an RO with the entry into force of the MLC 2006. This is, however, subject to an owner's declaration that the ship's construction and equipment have not been substantially altered since the initial approval by the FMA.

Upon the transfer of ships built before 20 August 2013 to the Faroese flag, construction and equipment must be subject to plan approval to verify compliance with the applicable ILO standards under the law and practice of the FMA.

Initial Inspections

Initial inspections must be conducted to ensure compliance with the national requirements drawn up in the DMLC, Part I, implementing the MLC 2006. All existing Faroese flagged ships must undergo an initial inspection and receive a Maritime Labour Certificate within one (1) year of the enforcement date.

To verify that the national requirements are complied with and that the ship owner's measures have been correctly implemented and are being followed, an RO must obtain supporting objective evidence by:

1. inspecting the relevant areas of the ship;
2. examining further documentation, such as passports or other official documents, medical certificates, training records, crew lists and payroll records, seafarer employment agreements, safe manning documents and work and rest schedules; and
3. interviewing in private a representative number of seafarers, taking account of the need to preserve confidentiality and of the seafarers' work and rest schedules.

Intermediate Inspection

Intermediate inspections must be conducted to ensure continuing compliance with the national requirements implementing the MLC 2006. An intermediate inspection must be conducted between the second (2nd) and third (3rd) anniversary dates¹ of the Maritime Labour Certificate.

The scope and depth of the intermediate inspection must be equal to an inspection for renewal of the Maritime Labour Certificate.

The Maritime Labour Certificate must be endorsed by the RO following a satisfactory intermediate inspection.

Renewal Inspections

Renewal inspections must encompass inspections for all requirements and be completed as follows:

When the renewal inspection is completed within three (3) months before the expiry of the existing Maritime Labour Certificate, the new Maritime Labour Certificate must be valid from the date of completion of the renewal inspection for a period not exceeding five (5) years from the date of expiry of the existing Maritime Labour Certificate.

¹ Anniversary date means the day and month of each year corresponding to the date of expiry of the Maritime Labour Certificate.

Circular to RO – 01/2013

When the renewal inspection is completed more than three (3) months before the expiry date of the existing Maritime Labour Certificate, the new Maritime Labour Certificate must be valid for a period not exceeding five (5) years starting from the date of completion of the renewal inspection.

Exemptions

Exemptions granted at the owner's request in accordance with the MLC 2006, Title 3, on accommodation, recreational facilities, food and catering must be approved by the FMA. Owners' requests for exemptions must be submitted, accompanied by a motivated application from the RO.

Certificate Issuance

A copy of the MLC 2006 must be maintained on board and available to the seafarers.

The following current and valid documents must be maintained on board all Faroese flagged ships to which the MLC 2006 applies.

Maritime Labour Certificate

The Maritime Labour Certificate, issued by the relevant RO, attests that seafarers' working and living conditions aboard a ship meet all Faroese laws and regulations governing the implementation of the MLC 2006.

An RO must issue or renew a Maritime Labour Certificate to a Faroese flagged ship after verifying upon inspection that the 14 mandatory requirements for working and living conditions itemized below meet national standards for implementing the MLC 2006, as detailed in the Declaration of Maritime Labour Compliance, Part I, drawn up by the FMA.

- ✓ Minimum age.
- ✓ Medical certification.
- ✓ Qualifications of seafarers.
- ✓ Seafarers' employment agreements.
- ✓ Use of any licensed or certified or regulated private recruitment and placement service.
- ✓ Hours of work or rest.
- ✓ Manning levels for the ship.
- ✓ Accommodation.
- ✓ On-board recreational facilities.
- ✓ Food and catering.
- ✓ Health and safety and accident prevention.
- ✓ On-board medical care.
- ✓ On-board complaint procedures.
- ✓ Payment of wages.

A Maritime Labour Certificate endorsed by the RO must have attached a Declaration of Maritime Labour Compliance as well as any record of inspection as detailed below.

Declaration of Maritime Compliance (DMLC)

This document outlines the national laws or provisions that give effect to the 14 mandatory inspection items required for certification and the measures put in place by the ship owner/operator to ensure compliance with these inspection items.

The DMLC consists of two parts:

Part I: The statement, drawn up by the FMA, referencing or describing the national laws, regulations or provisions with respect to the 14 mandatory inspection items required for certification. The DMLC, Part I, will also record any flexibility, substantial equivalencies or exemptions which may have been applied to the relevant ship.

Circular to RO – 01/2013

- Part II:** The statement, drawn up by the ship owner/operator, identifying the measures adopted to ensure ongoing compliance with the national requirements detailed in the DMLC, Part I, and enabling continuous improvement between inspections. The measures in the DMLC, Part II, should indicate:
- a. when ongoing compliance will be verified;
 - b. the persons responsible for verification;
 - c. the records to be taken;
 - d. the procedures to be followed when non-compliance is noted.

To ensure ongoing compliance, the DMLC, Part II, should also include general requirements for advances in technology and scientific findings concerning workplace design.

Interim Maritime Labour Certificate

An Interim Maritime Labour Certificate can be issued:

1. to new ships on delivery;
2. when a ship changes flag; or
3. when a ship owner assumes responsibility for the operation of a ship which is new to the ship owner.

An Interim Maritime Labour Certificate must conform to the model provided in the MLC 2006 and only be issued following verification that:

1. the ship has been inspected, as far as reasonable and practicable, for the items listed in the DMLC, Part I;
2. the ship owner has demonstrated to the RO that the ship has adequate procedures to comply with the MLC 2006;
3. the master is familiar with the MLC 2006 and the responsibilities for implementation; and
4. relevant information has been submitted to the RO to produce a DMLC.

A DMLC need not be issued for the period of validity of the interim certificate. An Interim Maritime Labour Certificate must be endorsed by the RO.

Non-certified ships

In case a ship registered under the Faroese flag is not required to carry a Maritime Labour Certificate, the ship owners may request that their ships be included in the certification system and be issued with a Maritime Labour Certificate upon submission of a DMLC, Part II, and the satisfactory completion of the inspection process.

All Faroese ships, regardless of whether they are required to carry a Maritime Labour Certificate, must meet the requirements specified in the DMLC, Part I, and must be subject to inspection verifying that this requirement is met.

Certificate formats

The ROs must develop templates for the DMLC, Parts I and II, and for the Maritime Labour Certificate which conform to the model prescribed by the MLC 2006 and drawn up by the FMA. A model form will be made available through the FMA website.

The date of registry to be indicated in the Maritime Labour Certificate is the date when a Faroese Certificate of Registry has been issued to the ship.

Where a ship has been issued with a Provisional Faroese Certificate of Registry, an Interim Maritime Labour Certificate must be issued with a period of validity that is under no circumstances longer than that indicated on the Provisional Certificate of Registry.

A copy of the Maritime Labour Certificate must be posted in a conspicuous place on board the ship and along with the DMLC, Parts I and II, be available to the seafarers on board.

If the DMLC and Maritime Labour Certificate are not in English, an English-language translation of these documents must accompany the originals for a ship engaged in international voyages.

Circular to RO – 01/2013

Certificate Validity

Maritime Labour Certificate

A Maritime Labour Certificate must remain valid for a period of maximum five (5) years and must be subject to an intermediate inspection between the second and third year of validity.

Interim Maritime Labour Certificate

An Interim Maritime Labour Certificate must be issued for a period not exceeding six (6) months. An inspection must be carried out prior to expiry of the interim certificate to enable issue of the Interim Maritime Labour Certificate. No further Interim Maritime Labour Certificate must be issued following the initial six (6) months.

Causes for invalidation

A Maritime Labour Certificate or Interim Maritime Labour Certificate ceases to be valid in any of the following cases:

1. The relevant inspections are not completed within the specified time periods;
2. The Maritime Labour Certificate is not endorsed by the RO;
3. when a ship changes flag;
4. when a ship owner ceases to assume the responsibility for the operation of a ship; and
5. when substantial changes have been made to the structure or equipment covered in Title 3 of the MLC 2006, "Accommodation, Recreational Facilities, Food and Catering."

In any such cases, the RO must without undue delay inform the FMA of such cases

Deficiencies and certificate withdrawal

Inspections of seafarers' working and living conditions must be carried out if requested by a port State. Where there are grounds to believe that deficiencies constitute a serious breach of the MLC 2006 (including seafarers' rights) or represent a significant danger to seafarers' safety, health or security, an RO must, without undue delay, inform the FMA for the purpose of prohibiting a ship from leaving port until necessary corrective actions are taken.

A Maritime Labour Certificate or Interim Maritime Labour Certificate must be withdrawn if there is evidence that a ship does not comply with the requirements of the MLC 2006 and that the required corrective action has not been taken. When considering the withdrawal of a Maritime Labour Certificate, the seriousness and frequency of the deficiencies must be considered.

In these circumstances, the FMA must be informed, without undue delay, about the deficiencies found and corrective actions proposed.

Where there is no clear breach of the requirements that endangers the safety, health or security of the seafarers and where there is no prior history of similar breaches, an RO must have the discretion to give advice instead of instituting or recommending withdrawal of a Maritime Labour Certificate.

Record keeping

Maritime Labour Certificate

ROs must maintain publicly available records of Maritime Labour Certificates issued.

Inspection reports

ROs must produce a report of each inspection. The RO must provide the master of the ship with a copy of the report in English, and, if necessary, in the working language of the ship. The ship's master must post a copy on the ship's notice board.

Circular to RO – 01/2013

ROs must maintain records of the inspection reports. The records and the full content of the reports and issued certificates must be electronically accessible to the FMA.

Investigation report

In case of an investigation pursuant to a major incident, an RO must submit a report to the FMA as soon as practicable, but not later than a month following the conclusion of the investigation.

Change of flag

If a Faroese flagged ship changes flag and both states concerned have ratified the MLC 2006, the RO, on behalf of and upon Notification of the FMA, must transmit to the competent authority of the other Member State copies of the Maritime Labour Certificate and the DMLC carried by the ship before the change of flag and, if applicable, copies of the relevant inspection reports if the competent authority requests them within three (3) months after the change of flag has taken place.

Annual report

ROs must assist the FMA in producing an annual report. The FMA must receive records of inspections and statistics and other information on RO MLC inspections within a reasonable time, not exceeding five (5) months after the end of the year. The records must contain:

1. Details of the RO system of inspection.
2. Statistics of ships subject to inspection.
3. Statistics and information on deficiencies and cases of MLC 2006 detentions of ships.

Confidentiality

If, during MLC inspections or otherwise, a complaint is received by the RO, alleging a danger or deficiency in relation to seafarers' working and living conditions or a violation of laws and regulations, the FMA must be informed without delay.

An RO must treat as confidential the source of any grievance or complaint alleging a danger or deficiency in relation to seafarers' working and living conditions or a violation of laws and regulations and give no intimation to the ship owner, the ship owner's representative or the operator of the ship that an inspection was made as a consequence of such a grievance or complaint

Action required:

The ROs are requested to update their country file/checklists for Faroese flagged vessels accordingly

For questions to the above, please contact:

The Faroese Maritime Authority, fma@fma.fo

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