

## Newsletter No. 10

### Introduction

The purpose of this short MLC Update is to advise on the Isle of Man's approach to drafting regulations to implement MLC.

As you may be aware from recent MLC consultation papers, the Isle of Man proposes to give effect to MLC mainly by making new regulations. These new regulations will be accompanied by a series of non statutory guidance notes which will provide advice on compliance with the regulations but will not be legally binding.

To reflect the particular construction of MLC, in developing new MLC regulations the Isle of Man has decided to use a different style of drafting than is usually found in existing Merchant Shipping legislation. This MLC Update explains why the Isle of Man has adopted a new approach to drafting regulations and what this means in practice for the shipowners implementation of MLC.

### New style for regulations

#### **(Bear with us, it doesn't sound exciting but it is important)**

Traditional Merchant Shipping legislation prescribes the requirements or standards to be met and specifies exactly how compliance with that requirement is to be achieved. Whilst this approach is often appropriate, it is not particularly suited to giving effect to the MLC Convention which often prescribes standards to be met but allows some flexibility on how this is to be achieved through the use of guidelines.

The intention is for IOM Regulations to give effect to MLC by mirroring as closely as possible the wording in the MLC Standards. Regulations drafted in this way will, in line with the way MLC is constructed, prescribe the standard which needs to be achieved but not necessarily how that is to be achieved.

The key feature of this style of regulation is it allows the Ship Registry to consider alternative and new methods of compliance if the shipowner is able to evidence how the alternative method of compliance meets the standard required by the regulations.

Advice on how a shipowner might comply with the standards (based on the MLC Guidelines) will be published by the Ship Registry as a series of guidance notes which will serve two purposes:

- They will be used by the Ship Registry to assess compliance with the standards in the regulations;
- Shipowners who implement the standard in accordance with the published guidance notes will have some certainty they have achieved compliance with the standard prescribed in the regulations;

This doesn't mean that there will be guidance notes with all the MLC regulations, only where there is flexibility allowed in the requirements and where we feel it would be advantageous to give more information.

The guidance notes will provide the Ship Registry with sensible flexibility in the acceptance of alternative solutions for meeting the MLC requirements (as stated in the regulations). Compliance in accordance with the 'guidance notes' will provide evidence (but not exclusive evidence) of compliance with the regulations.

Flexibility is essential to provide for movement of ships across registries where small variations in the non-compulsory provisions of the MLC (MLC Part B of the Code) could otherwise make it impossible to register a ship in the Isle of Man.

For example: *The Isle of Man will require in accordance with MLC standards that shipowners take adequate precautions to safeguard seafarers from exposure to vibration. Guidance notes will advise shipowners on the risk assessment and risk management approaches they can use to meet this requirement. IoM inspections for compliance with the MLC will look for implementation of the approaches in the guidance notes however, if a similar and adequate process is implemented onboard by the shipowner it is possible for this to be accepted as meeting the standard.*

## **What next?**

Now we have explained the technical (boring) bit we hope in the near future to be able to include draft regulations and guidance notes with newsletters to enable you see in practice how this new approach will work.

We are also in the process of looking through earlier newsletters and revising them to take account of developments in policy as a result of experience and not least from consultations and feedback from our customers. We will be issuing "updated MLC updates" to ensure that you have the latest thoughts of the MLC team at the Ship Registry.