



Governing Body

341st Session, Geneva, March 2021

Legal Issues and International Labour Standards Section

LILS

International Labour Standards and Human Rights Segment

Date: 22 February 2021

Original: English

Fourth item on the agenda

Proposed amendments to the form for reports to be requested under article 22 of the ILO Constitution in relation to the Maritime Labour Convention, 2006, as amended (MLC, 2006)

Purpose of the document

The 2018 Amendments to the Maritime Labour Convention, 2006, as amended (MLC, 2006) were approved in June 2018 by the International Labour Conference and entered into force on 26 December 2020. In the present document, the Governing Body is invited to examine and approve a revised report form to be used by the governments of ratifying States as a basis for their reports on the application of the MLC, 2006, in accordance with article 22 of the ILO Constitution. The proposed changes to the report form were consulted with the Officers of the Special Tripartite Committee of the MLC, 2006 (see the draft decision in paragraph 9).

Relevant strategic objective: Fundamental principles and rights at work.

Main relevant outcome: Outcome 2: International labour standards and authoritative and effective supervision.

Policy implications: None.

Legal implications: Form to be used in the context of constitutional reporting obligations from the 2021 cycle onwards.

Financial implications: None.

Follow-up action required: None.

Author unit: International Labour Standards Department (NORMES).

Related documents: [GB.335/LILS/4](#), [GB.329/LILS/3\(Rev.\)](#).

► Introduction

1. The [Maritime Labour Convention, 2006, as amended \(MLC, 2006\)](#) has been ratified by 97 Member States ¹ representing more than 91 per cent of the world merchant shipping fleet. Its Code has been amended three times since the Convention entered into force, in 2013. ²
2. In June 2018, the International Labour Conference approved the third set of amendments to the Code of the MLC, 2006, ³ that had been adopted on 27 April 2018 by the Special Tripartite Committee established under Article XIII of the Convention. These amendments entered into force on 26 December 2020 for the large majority of ratifying Member States. ⁴
3. The 2018 [amendments](#) refer to three different provisions of the Convention. The first amendment relates to the Code implementing *Regulation 2.1 – Seafarers’ employment agreements* – and is intended to ensure that a seafarer’s employment agreement continues to have effect while a seafarer is held captive as a result of acts of piracy or armed robbery against ships (*Standard A2.1, paragraph 7*). The second amendment relates to the Code implementing *Regulation 2.2 – Wages* – and provides that wages and other entitlements under the seafarers’ employment agreement, relevant collective bargaining agreement or applicable national laws, including the remittance of any allotments, shall continue to be paid during the entire period of captivity and until the seafarer is released and duly repatriated or, where the seafarer dies while in captivity, until the date of death as determined in accordance with applicable national laws or regulations (*Standard A2.2, paragraph 7*). The third amendment relates to the Code implementing *Regulation 2.5 – Repatriation* – and is intended to ensure that the entitlement to repatriation may not lapse where a seafarer is held captive as a result of acts of piracy or armed robbery against ships (*Guideline B2.5.1, paragraph 8*).
4. The entry into force of the amendments requires the revision of the report form under article 22 of the ILO Constitution for the MLC, 2006.

¹ As at 21 January 2021. See the complete list in [NORMLEX](#).

² Through the simplified process of amendment established under Article XV of the MLC, 2006. In June 2014, the International Labour Conference approved amendments related to the issue of financial security for cases of abandonment of seafarers and claims for compensation in the event of a seafarer’s death or long-term disability due to an occupational injury, illness or hazard. In June 2016, the International Labour Conference approved two further amendments related to the elimination of shipboard harassment and bullying and the possibility of extending the validity of the Maritime Labour Certificate. Finally, in June 2018, the International Labour Conference approved amendments discussed in the present document.

³ The full text of the amendments can be found in the appendix.

⁴ Estonia, France (including in respect of New Caledonia), Netherlands (including in respect of Curaçao), Portugal and Slovenia notified the Director-General of the ILO that they would be bound by the amendments only after a subsequent express notification of their acceptance (Article XV, para. 8(a) of the Convention). As at 21 January 2021, the Office was awaiting the formal declaration of acceptance of the amendments from the following countries: Brazil, Cook Islands, Djibouti, Ethiopia, Gambia, Grenada, Hong Kong (China), Iceland, Senegal, Sudan, United Kingdom (British Virgin Islands and Falkland Islands (Malvinas)) and United Republic of Tanzania. Information on the acceptance of the 2018 amendments can be found at [NORMLEX: Acceptance of 2018 amendments of 2018 to the MLC, 2006](#).

► Consideration of proposals for modifications to the form for reports on the Maritime Labour Convention, 2006, as amended (MLC, 2006)

5. Based on the advice provided by the Officers of the Special Tripartite Committee of the MLC, 2006, during informal consultations, the proposed modifications to the relevant parts of the report form ⁵ are presented below as tracked changes. They include a summary of the new requirements of the Convention as well as relevant questions.

Standard A2.1, paragraph 7 – Seafarers’ employment agreements

Title 2. Conditions of employment (page 14 of the report form)

Regulation 2.1 – Seafarers’ employment agreements

Standard A2.1; see also Guideline B2.1

- All seafarers must have a seafarers’ employment agreement (SEA) signed by both the seafarer and the shipowner or shipowner’s representative (or, where they are not employees, other evidence of contractual or similar arrangements).
- A SEA must, at a minimum, contain the matters set out in Standard A2.1, paragraph 4(a)–(j) and, as applicable, (k), of the MLC, 2006 (*Standard A2.1, paragraph 4*).
- Where a collective bargaining agreement forms all or part of the SEA, the agreement must be on board the ship with relevant provisions in English (except for ships engaged only in domestic voyages) (*Standard A2.1, paragraph 2*).
- Seafarers are to be given an opportunity to examine and seek advice on a SEA before signing (*Standard A2.1, paragraph 1(b)*).
- Seafarers must be given a document containing a record of their employment (that does not contain any statement as to the quality of their work or wages) on the ship (*Standard A2.1, paragraphs 1(e) and 3; Guideline B2.1.1, paragraph 1*).
- Information about the conditions for their employment must be easy for seafarers to obtain when on board ship and must be accessible for inspection-related reviews.
- Minimum notice periods for early termination of a SEA must be established in laws or regulations.
- A SEA must continue to have effect while a seafarer is held captive on or off the ship as a result of acts of piracy or armed robbery against ships.

6. Insert new questions after the request for information on *Standard A2.1, paragraph 4* (page 16 of the report form):

Do laws or regulations provide that a seafarer’s employment agreement shall continue to have effect while the seafarer is held captive on or off the ship as a result of acts of piracy or armed robbery against ships? How are the terms *piracy* and *armed robbery* against ships defined under national legislation? (*Standard A2.1, paragraph 7*).

Please indicate the applicable national provisions and, if possible, reproduce the relevant texts.

⁵ The current report form can be found at [NORMLEX](#).

Standard A2.2, paragraph 7 – Wages

Regulation 2.2 – Wages (page 16 of the report form)

Standard A2.2; see also Guideline B2.2

- Seafarers must be paid at no greater than monthly intervals and in full for their work in accordance with their employment agreements and any applicable collective agreement.
- Seafarers are entitled to an account each month indicating their monthly wage and any authorized deductions (such as allotments).
- Flag States may wish to consider requiring shipowners to carry on board their ships' documents such as a copy of payroll or electronic record sheets.
- Charges for remittances/allotment transmission services must be reasonable and exchange rates in accordance with national requirements.
- Wages and other entitlements, including the remittance of any allotments, must continue to be paid during the entire period of captivity of a seafarer as a result of acts of piracy or armed robbery against ships.

7. Insert new questions after the request for information on *Standard A2.2, paragraph 6* (page 17 of the report form):

Do laws or regulations provide that wages and other entitlements under the seafarers' employment agreement, relevant collective bargaining agreement or applicable national laws, including the remittance of any allotments, shall continue to be paid during the entire period of captivity and until the seafarer is released and duly repatriated or, where the seafarer dies while in captivity, until the date of death in accordance with national legislation?

Please indicate the applicable national provisions and, if possible, reproduce the relevant texts.

8. No modifications to the report form are proposed regarding *Guideline B2.5.1, paragraph 8* as the current report form does not include a question on this Guideline.

▶ Draft decision

9. **The Governing Body approved, by correspondence, the proposed changes to be inserted in the report form for the Maritime Labour Convention, 2006, as amended (MLC, 2006), to be used as the basis for the preparation of reports due under article 22 of the ILO Constitution.**

▶ Appendix

Amendments of 2018 to the Code of the Maritime Labour Convention, 2006, as amended (MLC, 2006)

Amendment to the Code of the MLC, 2006, relating to Regulation 2.1

Standard A2.1 – Seafarers’ employment agreements

Insert a new paragraph 7:

7. Each Member shall require that a seafarer’s employment agreement shall continue to have effect while a seafarer is held captive on or off the ship as a result of acts of piracy or armed robbery against ships, regardless of whether the date fixed for its expiry has passed or either party has given notice to suspend or terminate it. For the purpose of this paragraph, the term:
 - (a) *piracy* shall have the same meaning as in the United Nations Convention on the Law of the Sea, 1982;
 - (b) *armed robbery against ships* means any illegal act of violence or detention or any act of depredation, or threat thereof, other than an act of piracy, committed for private ends and directed against a ship or against persons or property on board such a ship, within a State’s internal waters, archipelagic waters and territorial sea, or any act of inciting or of intentionally facilitating an act described above.

Amendment to the Code of the MLC, 2006, relating to Regulation 2.2

Standard A2.2 – Wages

Insert a new paragraph 7:

7. Where a seafarer is held captive on or off the ship as a result of acts of piracy or armed robbery against ships, wages and other entitlements under the seafarers’ employment agreement, relevant collective bargaining agreement or applicable national laws, including the remittance of any allotments as provided in paragraph 4 of this Standard, shall continue to be paid during the entire period of captivity and until the seafarer is released and duly repatriated in accordance with Standard A2.5.1 or, where the seafarer dies while in captivity, until the date of death as determined in accordance with applicable national laws or regulations. The terms *piracy* and *armed robbery against ships* shall have the same meaning as in Standard A2.1, paragraph 7.

Amendment to the Code of the MLC, 2006, relating to Regulation 2.5

Guideline B2.5.1 – Entitlement

Replace paragraph 8 by the following:

8. The entitlement to repatriation may lapse if the seafarers concerned do not claim it within a reasonable period of time to be defined by national laws or regulations or collective agreements, except where they are held captive on or off the ship as a result of acts of piracy or armed robbery against ships. The terms *piracy* and *armed robbery* against ships shall have the same meaning as in Standard A2.1, paragraph 7.