	Information Notice 2016-005
	DEPARTMENT OF MARINE SERVICES AND MERCHANT SHIPPING (ADOMS)
	The 2014 Amendments to Maritime Labour Convention (2006)

1. Introduction

Further to information notice 2015-008

The 2014 amendments to MLC (2006) come into force on 18th January, 2017 with the most significant changes being to Standard A2.5.2 – Financial security in event of abandonment of a seafarer and Standard A.4.2 – Financial security in case of "contractual claim" which relates to death or long-term disability of seafarers due to an occupational injury, illness or hazard. For ease of reference the text of these changes is contained in Annex 1 to this notice.

2. Certification

Ships will therefore need to carry certification to show that the appropriate cover is in place.

There is no need for flag States to issue additional certification. However in order to maintain an appropriate level of oversight we expect that when ship operators apply for Civil Liability Cover in accordance with Circular2013-002-(rev3) International Convention on Civil Liability for Bunker Oil Pollution Damage, Circular 2014-005-(rev2) International Convention on Civil Liability for Oil Pollution Damage (CLC) 1992, and/or Circular 2015-001-(rev3) Nairobi International Convention on the Removal of Wrecks, 2007 they also state the name of the providers of their financial security requirements under the Maritime Labour Convention. Thus contact can easily be made should any queries arise during inspections or in the event of related incidents. Unfortunately, monitoring at inspections does not always ensure up-to-date information is held. It will not be required to forward copies of MLC financial security certificates to the administration.

Providers of financial security are expected to provide a means by which flag States can easily check the cover is provided in accordance with the certificates.

We will be accepting certificates provided by members of the International Group of P&I Clubs (see Annex 2) and also by organizations listed in Annex 3 once our assessments are completed. Other providers are welcome to apply for inclusion in Annex 3.

These certificates shall include the information specified in the Maritime Labour Convention, It should be noted that on these certificates the shipowner will normally be the entity that is insured and not necessarily the MLC shipowner named on other MLC documentation. Where the shipowner named on the financial security certificates and the MLC shipowner are different their

MLC documentation must demonstrate the linkage between them e.g. the name of the Registered Owner could be the insured person on the financial security certificates.

3. Entry into force

These requirements come into force on 18th January, 2017 and it is anticipated that in many cases the financial security certificates will initially be effective from 18th January, 2017 to 20th February, 2018, providing the owner has renewed with the same club, thereafter certificates will generally be issued on a yearly basis from 20th February to 20th February.

4. Declaration of maritime Labour Compliance (DMLC)

DMLC Part I's issued prior to coming into force of this requirement will remain valid until the next MLC renewal inspection. Those issued after this date will reflect the new requirements.

Shipowners are expected to update their DMLC Part II, initially possibly by way of an addendum, to reflect the new requirements and this will be acknowledged in the inspection report produced at the next attendance of the RO for MLC inspection as will any other consequent changes to MLC documentation, manuals etc.

Should any other significant changes that directly impact seafarer living and working conditions on board need to be made to a DMLC Part II before the scheduled renewal of MLC certification then the opportunity should be taken then to include the Financial Liability changes and also obtain a related new DMLC Part I at that time.

In any case it will be necessary to ensure that the DMLC part I and II include the updated MLC related paragraphs at the next MLC certification renewal inspection.

5. Port State Control

In terms of Port State Control in Antigua and Barbuda, all MLC certified vessels visiting the islands will be expected to produce financial security certificates if requested.

6. Legislation

Antigua and Barbuda is in the process of updating legislation so that it is in place prior to entry into force of these requirements. It is planned to make the related forms available on our website from late December 2016 with a circular on the subject also to be issued at that time.

Issued; October 2016

ANNEX 1

Text of the amendments of 2014 to the Maritime Labour Convention, 2006

Amendments to the Code implementing Regulations 2.5 and 4.2 and appendices of the Maritime Labour Convention, 2006 (MLC, 2006), adopted by the Special Tripartite Committee on 11 April 2014

I. Amendments to the Code implementing Regulation 2.5 – Repatriation of the MLC, 2006 (and appendices)

A. Amendments relating to Standard A2.5

In the present heading, "Standard A2.5 – Repatriation", replace "A2.5" by "A2.5.1".

Following paragraph 9 of the present Standard A2.5, add the following heading and text:

Standard A2.5.2 – Financial security

1. In implementation of Regulation 2.5, paragraph 2, this Standard establishes requirements to ensure the provision of an expeditious and effective financial security system to assist seafarers in the event of their abandonment.

2. For the purposes of this Standard, a seafarer shall be deemed to have been abandoned where, in violation of the requirements of this Convention or the terms of the seafarers' employment agreement, the shipowner:
(a) fails to cover the cost of the seafarer's repatriation; or
(b) has left the seafarer without the necessary maintenance and support; or
(c) has otherwise unilaterally severed their ties with the seafarer including failure to pay contractual wages for a period of at least two months.

3. Each Member shall ensure that a financial security system meeting the requirements of this Standard is in place for ships flying its flag. The financial security system may be in the form of a social security scheme or insurance or a national fund or other similar arrangements. Its form shall be determined by the Member after consultation with the shipowners' and seafarers' organizations concerned.

4. The financial security system shall provide direct access, sufficient coverage and expedited financial assistance, in accordance with this Standard, to any abandoned seafarer on a ship flying the flag of the Member.

5. For the purposes of paragraph 2(b) of this Standard, necessary maintenance and support of seafarers shall include: adequate food, accommodation, drinking water supplies, essential fuel for survival on board the ship and necessary medical care.

6. Each Member shall require that ships that fly its flag, and to which paragraph 1 or 2 of Regulation 5.1.3 applies, carry on board a certificate or other documentary evidence of financial security issued by the financial security provider. A copy shall be posted in a conspicuous place on board where it is available to the seafarers. Where more than one financial security provider provides cover, the document provided by each provider shall be carried on board.

7. The certificate or other documentary evidence of financial security shall contain the information required in Appendix A2-I. It shall be in English or accompanied by an English translation.

8. Assistance provided by the financial security system shall be granted promptly upon request made by the seafarer or the seafarer's nominated representative and supported by the necessary justification of entitlement in accordance with paragraph 2 above.

9. Having regard to Regulations 2.2 and 2.5, assistance provided by the financial security system shall be sufficient to cover the following:
(a) outstanding wages and other entitlements due from the shipowner to the seafarer under their employment agreement, the relevant collective bargaining agreement or the national law of the flag State, limited to four months of any such outstanding wages and four months of any such outstanding entitlements;
(b) all expenses reasonably incurred by the seafarer, including the cost of repatriation referred to in paragraph 10; and
(c) the essential needs of the seafarer including such items as: adequate food, clothing where necessary, accommodation, drinking water supplies, essential fuel for survival on board the ship, necessary medical care and any other reasonable costs or charges from the act or omission constituting the abandonment until the seafarer's arrival at home.

10. The cost of repatriation shall cover travel by appropriate and expeditious means, normally by air, and include provision for food and accommodation of the seafarer from the time of leaving the ship until arrival at the seafarer's home, necessary medical care, passage and transport of personal effects and any other reasonable costs or charges arising from the abandonment.
11. The financial security shall not cease before the end of the period of validity of the financial security unless the financial security provider has given prior notification of at least 30 days to the competent authority of the flag State.

12. If the provider of insurance or other financial security has made any payment to any seafarer in accordance with this Standard, such provider shall, up to the amount it has paid and in accordance with the applicable law, acquire by subrogation, assignment or otherwise, the rights which the seafarer would have enjoyed.

13. Nothing in this Standard shall prejudice any right of recourse of the insurer or provider of financial security against third parties.

14. The provisions in this Standard are not intended to be exclusive or to prejudice any other rights, claims or remedies that may also be available to compensate seafarers who are abandoned. National laws and regulations may provide that any amounts payable under this Standard can be offset against amounts received from other sources arising

from any rights, claims or remedies that may be the subject of compensation under the present Standard.

B. Amendments relating to Guideline B2.5

At the end of the present Guideline B2.5, add the following heading and text:

Guideline B2.5.3 – Financial security

1. In implementation of paragraph 8 of Standard A2.5.2, if time is needed to check the validity of certain aspects of the request of the seafarer or the seafarer's nominated representative, this should not prevent the seafarer from immediately receiving such part of the assistance requested as is recognized as justified.

C. Amendment to include a new appendix

Before Appendix A5-I, add the following appendix:

APPENDIX A2-I
Evidence of financial security under Regulation 2.5, paragraph 2

The certificate or other documentary evidence referred to in Standard A2.5.2, paragraph 7, 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' requests for relief;
(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.

D. Amendments relating to Appendices A5-I, A5-II and A5-III

At the end of Appendix A5-I, add the following item:
Financial security for repatriation

In Appendix A5-II, after item 14 under the heading *Declaration of Maritime Labour Compliance – Part I,* add the following item:

15. Financial security for repatriation (Regulation 2.5)

In Appendix A5-II, after item 14 under the heading *Declaration of Maritime Labour Compliance – Part II,* add the following item:

15. Financial security for repatriation (Regulation 2.5)

At the end of Appendix A5-III, add the following area:
Financial security for repatriation

II. Amendments to the Code implementing Regulation 4.2 – Shipowners' liability of the MLC, 2006 (and appendices)

A. Amendments relating to Standard A4.2

In the present heading, "Standard A4.2 – Shipowners' liability", replace "A4.2" by "A4.2.1".

Following paragraph 7 of the present Standard A4.2, add the following text:

8. National laws and regulations shall provide that the system of financial security to assure compensation as provided by paragraph 1(b) of this Standard for contractual claims, as defined in Standard A4.2.2, meet the following minimum requirements:
(a) the contractual compensation, where set out in the seafarer's employment agreement and without prejudice to subparagraph (c) of this paragraph, shall be paid in full and without delay;
(b) there shall be no pressure to accept a payment less than the contractual amount;
(c) where the nature of the long-term disability of a seafarer makes it difficult to assess the full compensation to which the seafarer may be entitled, an interim payment or payments shall be made to the seafarer so as to avoid undue hardship;
(d) in accordance with Regulation 4.2, paragraph 2, the seafarer shall receive payment without prejudice to other legal rights, but such payment may be offset by the shipowner against any damages resulting from any other claim made by the seafarer against the shipowner and arising from the same incident; and
(e) the claim for contractual compensation may be brought directly by the seafarer concerned, or their next of kin, or a representative of the seafarer or designated beneficiary.

9. National laws and regulations shall ensure that seafarers receive prior notification if a shipowner's financial security is to be cancelled or terminated.

10. National laws and regulations shall ensure that the competent authority of the flag State is notified by the provider of the financial security if a shipowner's financial security is cancelled or terminated.

11. Each Member shall require that ships that fly its flag carry on board a certificate or other documentary evidence of financial security issued by the financial security provider. A copy shall be posted in a conspicuous place on board where it is available to the seafarers. Where more than one financial security provider provides cover, the document provided by each provider shall be carried on board.

12. The financial security shall not cease before the end of the period of validity of the financial security unless the financial security provider has given prior notification of at least 30 days to the competent authority of the flag State.

13. The financial security shall provide for the payment of all contractual claims covered by it which arise during the period for which the document is valid.

14. The certificate or other documentary evidence of financial security shall contain the information required in Appendix A4-I. It shall be in English or accompanied by an English translation.

Add the following heading and text following the present Standard A4.2:
Standard A4.2.2 – Treatment of contractual claims

1. For the purposes of Standard A4.2.1, paragraph 8, and the present Standard, the term "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.

2. The system of financial security, as provided for in Standard A4.2.1, paragraph 1(b), may be in the form of a social security scheme or insurance or fund or other similar arrangements. Its form shall be determined by the Member after consultation with the shipowners' and seafarers' organizations concerned.
3. National laws and regulations shall ensure that effective arrangements are in place to receive, deal with and impartially settle contractual claims relating to compensation referred to in Standard A4.2.1, paragraph 8, through expeditious and fair procedures.

B. Amendments relating to Guideline B4.2

In the present heading, "Guideline B4.2 – Shipowners' liability", replace "B4.2" by "B4.2.1".

In paragraph 1 of the present Guideline B4.2, replace "Standard A4.2" by "Standard A4.2.1".

Following paragraph 3 of the present Guideline B4.2, add the following heading and text:

Guideline B4.2.2 – Treatment of contractual claims
1. National laws or regulations should provide that the parties to the payment of a contractual claim may use the Model Receipt and Release Form set out in Appendix B4-I.

C. Amendment to include new appendices

After Appendix A2-I, add the following appendix:

APPENDIX A4-I
Evidence of financial security under Regulation 4.2

The certificate or other documentary evidence of financial security required under 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 A4.2.1.

After Appendix A4-I, add the following appendix:

APPENDIX B4-I
Model Receipt and Release Form
referred to in Guideline B4.2.2

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

D. Amendments relating to Appendices A5-I, A5-II and A5-III

At the end of Appendix A5-I, add the following item:
Financial security relating to shipowners' liability

In Appendix A5-II, as the last item under the heading *Declaration of Maritime Labour Compliance – Part I,* add the following item:

16. Financial security relating to shipowners' liability (Regulation 4.2)

In Appendix A5-II, as the last item under the heading *Declaration of Maritime Labour Compliance – Part II,* add the following item:

16. Financial security relating to shipowners' liability (Regulation 4.2)

At the end of Appendix A5-III, add the following area:
Financial security relating to shipowners' liability

ANNEX 2

Members of the International Group of P&I Clubs

- American Steamship Owners Mutual Protection and Indemnity Association, Inc.
- Assuranceforeningen Skuld;
- Gard P&I (Bermuda) Ltd.
- The Britannia Steam Ship Insurance Association Limited;
- The Japan Ship Owners' Mutual Protection and Indemnity Association;
- The London Steam-Ship Owners' Mutual Insurance Association Limited;
- The North of England Protecting & Indemnity Association Limited;
- The Shipowner's Mutual Protection & Indemnity Association (Luxembourg),
- The Standard Club Ltd.
- The Steamship Mutual Underwriting Association (Bermuda) Limited;
- The Swedish Club;
- United Kingdom Mutual Steam Ship Assurance Association (Bermuda) Limited;
- The West of England Ship Owners Mutual Insurance Association (Luxembourg).

ANNEX 3

Other providers authorised by Antigua and Barbuda

to provide MLC related financial security

- Alandia P&I;
- [Lodestar Marine Limited]