



GUIDANCE NOTES ON

THE ILO MARITIME LABOUR CONVENTION, 2006

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American Bureau of Shipping
ABS Plaza
16855 Northchase Drive
Houston, TX 77060 USA**

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Foreword

The International Labour Organization (ILO) is the United Nation's (UN) specialized tripartite agency which brings together governments, employers and workers of its member states in common action to promote decent work conditions throughout the world.

Within the maritime sphere, the ILO provides legal instruments aimed at protecting and improving seafarers' working conditions, the most recent being the International Labour Organization Maritime Labour Convention, 2006 (the Convention) which was adopted during the 94th Session of the ILO on February 23, 2006. The Convention provides the, as yet, most comprehensive code regarding seafarers' rights, and the obligations of States and shipowners with respect to these rights. The Convention incorporates the fundamental principles of many ILO Conventions and brings together and updates standards of 68 existing ILO instruments (Conventions and Recommendations) into one document.

These ABS *Guidance Notes on the ILO Maritime Labour Convention, 2006* are intended to assist shipowners and operators to understand the requirements of the Convention and provide relevant examples for addressing these requirements within a company's management system. These Guidance Notes include:

- Background on the development of the Convention and an explanation of its structure
- Text of Regulations and mandatory requirements (Part A of the Convention) addressed in the 14 areas of the maritime standards or shipowner's procedures and/or processes listed in the Declaration of Maritime Labour Compliance (DMLC)
- Summary of various methods of achieving compliance with each requirement (Regulation and Code, Part A), considering the elements of Part B and supplemented, when necessary, by guidance based on ABS' interpretation of the intent of the Part A requirements.
- Examples of manuals and procedures that the shipowner could develop, together with associated records related to the Convention
- Example of a completed DMLC, Part II

The body of these ABS Guidance Notes is structured as a set of informational blocks. As illustrated in Figure 1, the first block of each set identifies the Standards (Part A) of the Code, which is the mandatory section of the Convention. The next block contains methods to achieve compliance, which includes guidance from Part B of the Code, and supplementary ABS guidance. The guidance provided by ABS is ABS' interpretation of Part A and is intended solely for supplemental interpretation purposes. This information should not be treated as, or relied on as, an authority with regard to this subject matter. The last two blocks in the set contain examples of types of procedures and records to demonstrate compliance with the Regulations.

FIGURE 1
Structure of the Guidance for Each Standard

TITLE #	Any of the Five Titles that Compose the Maritime Labour Convention
STD. 1.1.1	Any of the Provisions or Standards within each Regulation
Mandatory	<i>This block is a textual copy of Part A of the standard cited above (in this case 1.1.1).</i>
Methods to Achieve Compliance	Provides guidance to the shipowner to achieve compliance with the Mandatory provision or standard cited above. Relevant guidance given in Part B of the Code may be included in this section in addition to suggestions put forth by ABS.
Sample Procedures	Gives examples of procedures that the shipowner could develop and implement as part of its labor management system to facilitate compliance with the Convention.
Sample Records	Gives examples of records that the shipowner could consider keeping in order to demonstrate compliance.

ABS offers these Guidance Notes to the maritime industry as a tool intended to assist in developing, implementing, and maintaining marine labor management practices on board all applicable vessels worldwide in accordance with the requirements of the Maritime Labour Convention.

Guidance on the assessment criteria and measurement methodology for obtaining the optional ABS Maritime Labour Convention (MLC) Accommodation (ACCOM) notation (**MLC-ACCOM**) is provided in the *ABS Guide for Compliance with the ILO Maritime Labour Convention, 2006 Title 3 Requirements*.

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SECTION 1 Introduction

1 Background

1.1 Purpose

The purpose of these *ABS Guidance Notes on the ILO Maritime Labour Convention, 2006* is to assist shipowners and operators in understanding the requirements contained within the International Labour Organization's Maritime Labour Convention, 2006 (the Convention) and provide relevant examples for incorporating these requirements into a company's management system (MS). In some cases, if the shipowner has delegated responsibility for operation of the ship to another company, that company is then responsible for maintaining and complying with the requirements of the Convention. In these Guidance Notes, shipowner and company are to be considered synonymous.

1.2 Applicability

Except as expressly provided otherwise, this Convention applies to all ships (and the seafarers on that ship), whether publicly or privately owned, ordinarily engaged in commercial activities. It defines a seafarer as any person who is employed or engaged or works in any capacity on board a ship. The Convention does not apply to ships engaged in fishing or in similar pursuits; ships which navigate exclusively in inland waters or waters within, or closely adjacent to, sheltered waters or areas where port regulations apply; and ships of traditional build such as dhows and junks. The Convention does not apply to warships or naval auxiliaries. [Article II, paragraph 4]

In the event of doubt as to whether this Convention applies to a ship or particular category of ships, the question shall be determined by the competent authority in each ILO Member State after consultation with the shipowners' and seafarers' organizations concerned. [Article II, paragraph 5]

Where the competent authority determines that it would not be reasonable or practicable at the present time to apply certain details of the Code referred to in Article VI, paragraph 1, to a ship or particular categories of ships flying the flag of the Member, the relevant provisions of the Code shall not apply to the extent that the subject matter is dealt with differently by national laws or regulations or collective bargaining agreements or other measures. Such a determination may only be made in consultation with the shipowners' and seafarers' organizations concerned and may only be made with respect to ships of less than 200 gross tonnage not engaged in international voyages. [Article II, paragraph 6]

The Regulations and the provisions of Part A of the Code are mandatory. The provisions of Part B of the Code are not mandatory. [Article VI, paragraph 1]

1.3 Objectives

The objectives of these Guidance Notes are as follows:

- i) Summarize the background development and give an explanation of the makeup of the Convention.
- ii) Identify certification requirements and other shipowner obligations.
- iii) List the text of regulations and mandatory requirements (Part A of the Convention) addressed in the 14 areas of the maritime standards or shipowner's procedures and/or processes listed in the Declaration of Maritime Labour Compliance (DMLC).
- iv) Suggest various methods of achieving compliance with each Regulation, considering the guidance contained in Part B of the Code.
- v) Suggest types of manuals and procedures that the shipowner could develop, together with associated records, to demonstrate compliance with this Convention.
- vi) Provide an example of a completed DMLC, Part II.
- vii) Identify the five Regulations and mandatory Part A requirements in which inspections must be carried out, in addition to the inspection and certification requirements in the 14 parts of the DMLC as part of the entire certification process.
- viii) Summarize flag State and port State control responsibilities and potential actions under the Convention

1.4 The International Labour Organization (ILO)

The International Labour Organization (ILO) is the United Nation's (UN's) specialized tripartite agency which brings together governments, employers and workers of its member States in common action to promote decent work conditions throughout the world. The ILO was founded in 1919 and is the only surviving major creation of the Treaty of Versailles which brought the League of Nations into being. It became the first specialized agency of the UN in 1946.

The ILO develops international labor standards in the form of Conventions and Recommendations, setting minimum standards of basic labor rights: freedom of association, the right to organize, collective bargaining, abolition of forced labor, equality of opportunity and treatment, and other standards regulating conditions across the entire spectrum of work-related issues.

The ILO promotes the development of independent employer and workers' organizations and provides training and advisory services to those organizations. Within the UN system, the ILO has a unique tripartite structure with workers and employers participating as equal partners with governments.

The ILO is the principal representative of the member governments of the organization. The International Transport Workers Federation (ITF) is the principal entity representing seafarer trade unions. The International Shipping Federation (ISF) is the principal entity representing the shipowners.

1.5 Maritime Labour Convention, 2006

The United Nations Convention on the Law of the Sea, 1982 sets out a general legal framework within which all activities in and on the oceans and seas must be carried out and also establishes the duties and obligations of a flag State with regard to, inter alia, labor conditions, crewing, and social matters on ships that fly its flag.

The ILO evaluated the following international standards on ship safety, human security, and quality ship management when developing this Convention:

- International Convention for the Safety of Life at Sea, 1974, as amended (SOLAS),
- Convention on the International Regulations for Preventing Collisions at Sea, 1972, as amended (COLREGS), and
- Seafarer training and competency requirements in the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended (STCW).

The Convention was unanimously adopted by ILO delegates at the 94th Session on February 23, 2006 with a total of 314 votes; there were a total of 106 countries involved. Two countries abstained from voting for reasons other than the substance of the Convention. The Convention incorporates the fundamental principles of eight ILO Conventions and updates and consolidates standards of 68 instruments (Conventions and Recommendations) into one document.

This ILO Convention, along with SOLAS, STCW, and MARPOL (International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto) establish the four cornerstones of maritime regulations.

1.6 Convention Makeup

The Convention is comprised of three different but related parts: the Articles, the Regulations, and the Code. The Articles and Regulations set out the core rights and principles and the basic obligations of Members ratifying the Convention. The Code contains the details for the implementation of the Regulations. The Code comprises Part A (mandatory Standards) and Part B (non-mandatory Guidelines). Amendment procedures for the Articles, Regulations, and the Code are established in Article XIV and XV.

The Regulations and the Code are organized into general areas under five Titles:

- Title 1: Minimum requirements for seafarers to work on a ship
- Title 2: Conditions of employment
- Title 3: Accommodation, recreational facilities, food and catering
- Title 4: Health protection, medical care, welfare, and social security protection
- Title 5: Compliance and enforcement

Each Title contains groups of provisions relating to a particular right or principle (or enforcement measure in Title 5), with connected numbering. The first group in Title 1, for example, consists of Regulation 1.1, Standard A1.1 and Guideline B1.1, relating to minimum age.

The Convention has three underlying purposes:

- To lay down, in its Articles and Regulations, a firm set of rights and principles;
- To allow, through the Code, a considerable degree of flexibility in the way Members implement those rights and principles; and
- To ensure, through Title 5, that the rights and principles are properly complied with and enforced.

1.7 Declaration of Maritime Labour Compliance (DMLC) and the Maritime Labour Certificate

Two important terms to note within the Convention are the Declaration of Maritime Labour Compliance (DMLC) and the Maritime Labour Certificate. The Maritime Labour Certificate is the demonstration that the ship meets the requirements of the Convention and that the seafarer's working and living conditions meet national requirements.

The DMLC is a unique form that must be completed by both the competent authority in the flag State and the shipowner as Parts I and II, respectively:

- Part I, drawn up by the competent authority in the flag State, identifies the list of matters to be inspected, the relevant national requirements, ship-type specific requirements under national legislation, any substantially equivalent provisions, and any exemption granted by the competent authority
- Part II, drawn up by the shipowner, identifies the measures adopted to provide for initial and ongoing compliance with the national requirements and the measures proposed to encourage continuous improvement.

The competent authority or Recognized Organization (RO), duly authorized for this purpose, shall review above measures drawn up by the shipowner, and following a successful inspection of the ship, certify DMLC Part II and endorse it.

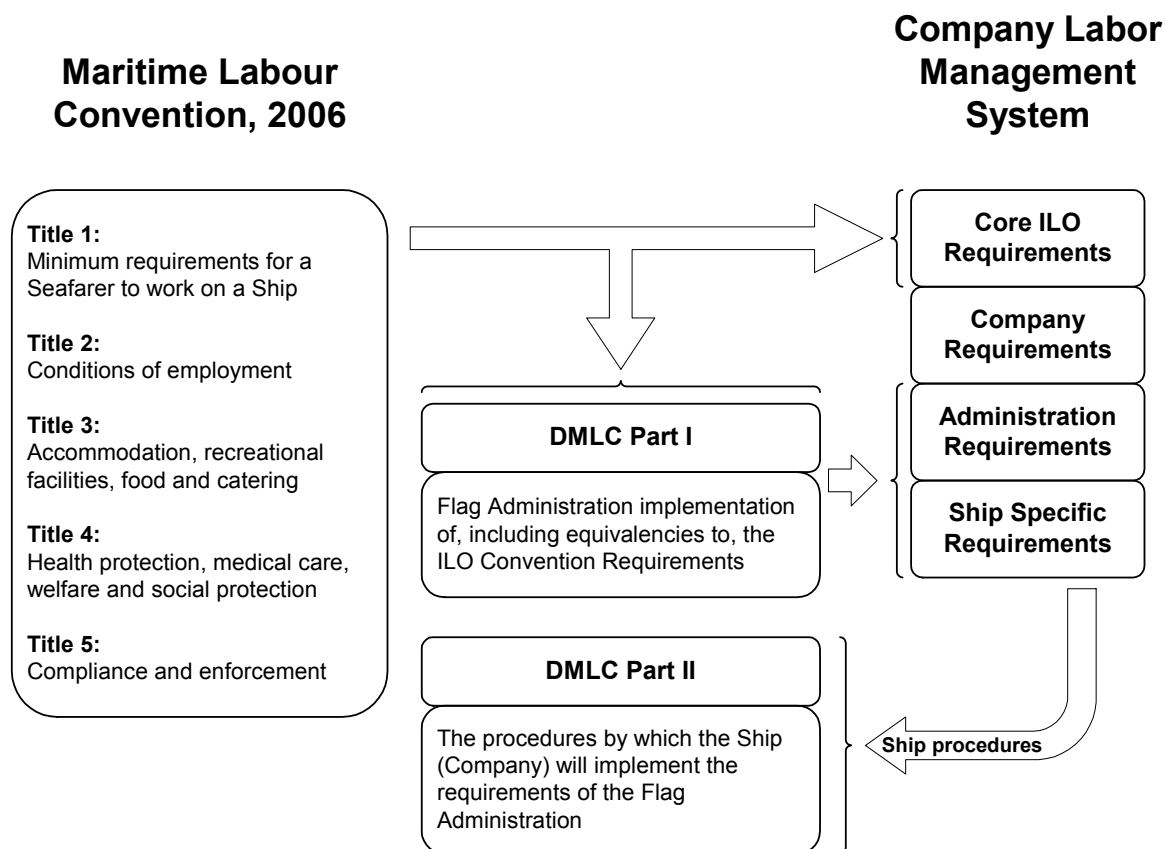
Each Part consists of 14 general areas related to the working and living conditions of seafarers that the competent authority and the shipowner must address within the DMLC. Appendix A5-II of the Convention contains sample blank forms of the Maritime Labour Certificate and the DMLC.

The 14 general areas that must be addressed in the DMLC are as follows:

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 (Regulation 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)

Section 1, Figure 1 depicts the relationship between the Convention, the ILO Member country whose flag is carried by the ship, the shipowner's labor management system, and the Declaration of Maritime Labour Compliance (DMLC).

FIGURE 1
Interrelation between the Convention, the Shipowner's Labor Management System, and the Declaration of Maritime Labour Compliance (DMLC)



1.8 Shipowner Requirements

Each ship shall carry a copy of the Convention on board and be issued a Maritime Labour Certificate and a complementary Declaration of Maritime Labour Compliance (DMLC). These certificates are to be posted in English and may be in other languages.

The Convention establishes international minimum requirements for employment conditions which are validated through ship inspections. The Maritime Labour Certificate is accepted as prima facie evidence for port State control that the shipowner has met the requirements of the Convention. Ships without a Maritime Labour Certificate will be subject to greater scrutiny by port State control.

The shipowner is responsible for identifying and addressing the flag State regulations relevant to the requirements of the Convention in the DMLC Part II, as applicable. Means of monitoring these regulations should be established so that applicable changes result in pertinent revisions to the DMLC Part II.

The shipowner should consider establishing an efficient means of maintaining records relevant to the Convention. Records may be in hard copy or electronic format and means should be established to ensure that data is not lost or destroyed. Record retention should be established in accordance with shipowner requirements or competent authority in the flag State regulations, whichever is more stringent.

1.9 Certification

Shipowners are required to implement the requirements of the Convention and obtain a Maritime Labour Certificate and a DMLC for each of their ships as identified in Title 5 (Compliance and Enforcement), Regulation 5.1.3 (Maritime Labour Certificate and Declaration of Maritime Labour Compliance), paragraph 1 as follows.

This Regulation applies to ships of:

- i) 500 gross tonnage or over, engaged in international voyages; and
- ii) 500 gross tonnage or over, flying the flag of a Member and operating from a port, or between ports, in another country

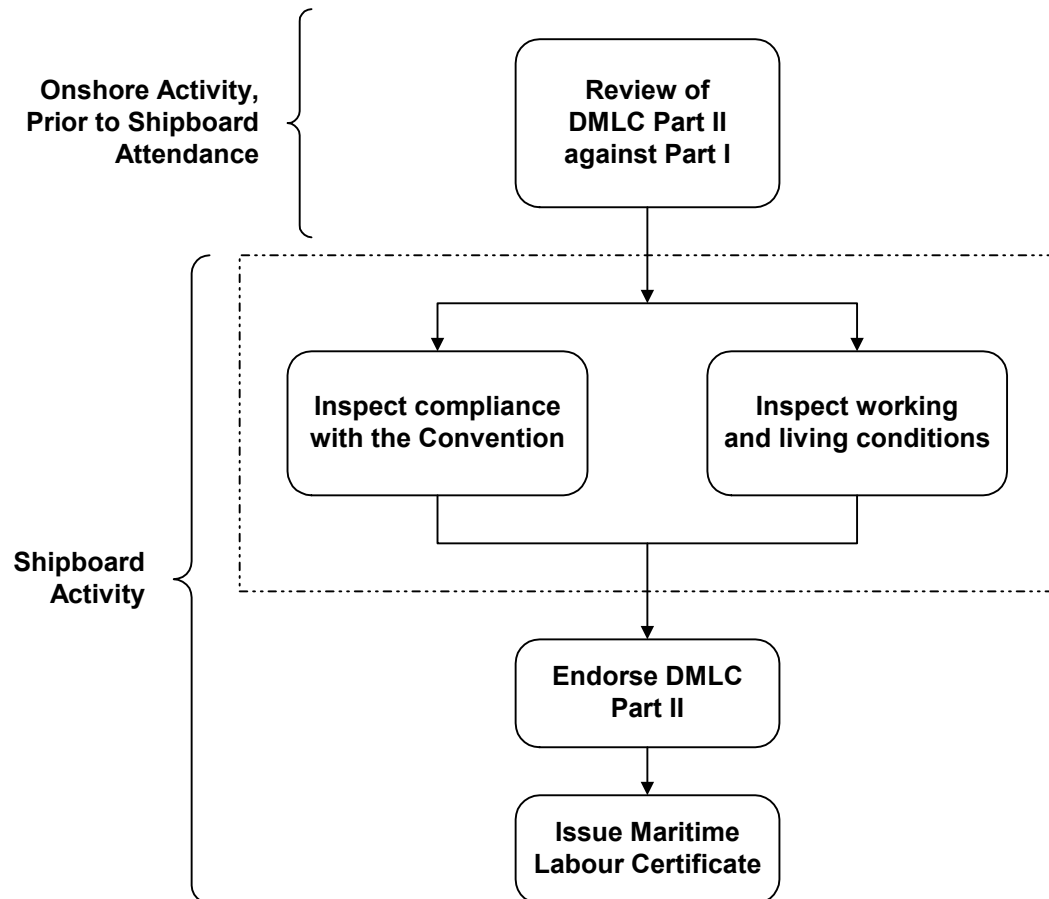
Shipowners with ships that do not meet the above requirements may voluntarily request certification as noted in paragraph 2 of the same Regulation. The Maritime Labour Certificate is valid for five years with an intermediate inspection required between the second and third year of the anniversary date of the certificate. port State control inspections may result in a ship being detained if it is determined that violations affect the health and safety of the crew or a serious breach of Convention requirements has occurred.

Interim Maritime Labour Certificates may be obtained whenever there is a change of shipowner, change of Flag, or if a ship has been substantially altered. A DMLC is not issued in conjunction with an interim Maritime Labour Certificate. Interim certificates are valid for six months.

Each Member of ILO “shall verify, through an effective and coordinated system of regular inspections, monitoring and other control measures, that ships that fly its flag comply with the requirements of this Convention as implemented in national laws and regulations” (Regulation 5.1.4). Classification societies, as ROs, may provide inspection services on behalf of the Members. A flowchart of the certification process carried out by the flag State or the RO, is presented in Section 1, Figure 2.

For ships that are not required to be certified, there will not be a Maritime Labour Certificate or a DMLC Part II issued. Those ships, however, will still be subject to inspection in the same areas of the Maritime Labour Convention as certified ships. Refer to Article II, paragraph 4 of the Convention as noted in paragraph 1.2 of these Guidance Notes.

FIGURE 2
Certification Process Flowchart
(Activities Carried Out by Flag State or Recognized Organization)



1.10 Flag State Inspections and the Convention

Regulation 5.1.3 of the Convention stipulates that ships must be inspected and certified with the 14 areas of seafarers' working and living conditions noted on the DMLC. Other aspects of the Convention are also subject to inspection without certification by the flag State inspector or RO. For ships that are not required to be certified, the flag State still must verify compliance with all the same requirements as a certified ship. Refer to paragraph 1.9 of these Guidance Notes for certification requirements.

The flag State must ensure that the requirements of the Convention are covered by national legislation. Reference to this legislation is to be documented in Part 1 of the DMLC. Any equivalencies or exemptions established by the flag State to requirements within the Convention for its ships are also to be documented in Part I of the DMLC.

Flag State inspectors may be appointed to conduct the Convention inspections. Alternatively, representatives from ROs with defined and documented authority, may be appointed to carry out some flag State tasks related to the Convention. The flag State should develop a system of inspecting, issuing, and withdrawing the Maritime Labour Certificate; responding to seafarer complaints; and responding to port State control requests for information.

The shipowner can expect the flag State, when establishing an effective system for inspection and certification to develop various documents; provide qualified inspectors; develop guidance on inspectors' powers, status, independence, tasks, confidentiality, credentials, and reporting responsibilities; possible delegation of some aspects of the inspection system to an RO; and establishing a seafarer complaint process (see Regulation 5.1, paragraph 2).

Examples of documents include a national form of the Maritime Labour Certificate and DMLC, a standardized table for shipboard working arrangements, a standard medical certificate, and on-board medical report forms.

The flag State is responsible for making a determination, whether identified by a flag State inspector or a representative of an RO, regarding what type of enforcement action should be levied and to ensure that the action is carried out. Actions could include withdrawing the Maritime Labour Certificate and DMLC from a certified ship, detaining any ship until rectification of deficiencies, or a rectification plan is developed satisfactory to the competent authority. Depending on the characteristic of the deficiency, a ship may be detained until the deficiency is corrected or an action plan is established. A ship could be detained if an under-age person was working as a seafarer until such time as the person was repatriated and replaced. Single deficiencies in lighting may not necessarily result in detention unless there is a history of this problem or if lighting is faulty or inadequate in a number of sleeping rooms.

Other actions the flag State may consider include offering appropriate advice, refusing to endorse the Maritime Labour Certificate following an intermediate or renewal inspection, or imposing any penalties or other corrective measures specified under national law. Shipowners should be aware of the consequences defined in national legislation for failure to maintain their ships in compliance with the requirements of the Convention.

Reasonable efforts to avoid a ship being unreasonably detained are to be made. This is a requirement of the Convention in Standard A5.1.4, paragraph 15.

1.11 Port State Control and the Convention

Port State control officers are required to accept the Maritime Labour Certificate and DMLC as *prima facie* evidence that the ship is in compliance with the requirements of the Convention. The emphasis on the primacy of this documentation is one area where the normal port State control inspection may differ, at least initially, from other port State control inspections. For example, the normal ship walk-around to verify different areas is not permitted if the documentation is in order; however, an exception can be made for a more detailed inspection if there are "clear grounds" for further investigation. "Clear grounds" could be established during review of ship's documents or possibly from investigation of a complaint from a seafarer or seafarers' organization, for example.

Situations that could call for a more detailed inspection are that the required documentation (Maritime Labour Certificate and DMLC) is unavailable, falsely maintained, incomplete, or invalid; there are clear grounds for believing that working and living conditions do not conform to the Convention requirements; there are reasonable grounds to believe the ship has changed flag to avoid compliance with the Convention; or a complaint (records maintained as confidential unless otherwise clearly indicated by the complainant) is received alleging that working and living conditions on the ship do not conform to the Convention requirements. Otherwise, port State control inspections regarding the Convention would end with identifying that the Maritime Labour Certificate and DMLC are valid and complete. The ship's master must be informed of the grounds for a more detailed inspection.

The Convention uses the term "authorized officer" to denote that in some cases, the representative conducting the port State control inspection may not necessarily be qualified as a port State control officer. An example could be a maritime labor inspector. Authority to carry out these inspections is vested by the competent authority and identified in Regulation 5.2.1, paragraph 3. Authorized officers should carry appropriate identification credentials.

Port State control inspections may review requirements of the Convention documented in the Articles, Regulations, and Part A (Standards); however, Part B (Guidelines) is not subject to inspection. In general, the inspection will only cover the 14 certifiable areas identified in the DMLC, but may review other inspectable areas of the Convention related to seafarer living and working conditions.

Deficiencies found must be brought to the master's attention along with deadlines for rectification. If the deficiencies are considered significant by port State control, or relate to a complaint, they must be brought to the attention of the appropriate seafarers' and shipowners' organization in the port State in which the inspection was conducted. In addition, the port State control officer may notify a representative of the flag State and may notify the competent authority in the next port of call.

Following are examples of circumstances which could warrant detaining the ship in port either because of the seriousness of a single instance or repetition of the same deficiency.

- Any seafarer employed on board under the age of 16 years;
- Seafarers under 18 engaged in work likely to jeopardize their health or safety or in night work;
- Failure to meet the requirements of the safe manning certificate;
- Deficiencies constituting a violation of fundamental rights and principles or seafarers' employment and social rights in Articles III and IV;
- Repeated cases of seafarers without valid medical fitness certificates;
- Seafarers on board the same ship who repeatedly are not in possession of valid seafarers' employment agreements;
- Seafarers with agreements containing clauses denying seafarers' rights afforded by the Convention;
- Seafarers who repeatedly are required to violate hours of work and rest regulations;
- Ventilation, air conditioning, or heating systems that are not working or are inadequate;
- Accommodation, including catering and sanitary facilities, that is unhygienic or where equipment is missing or not functioning;
- Food and drinking water are not suitable in quality and quantity for the intended voyage;
- Failure to maintain a medical guide, medicine chest, or medical equipment, as required;
- No medical doctor for passenger ships carrying 100 persons or more engaged in international voyages of more than three days;
- No seafarer is placed in charge of medical care on board;
- Regarding wages, repeated cases of non-payment, or non-payment over a significant period, or falsification of wage accounts, or more than one set of wage accounts.

1.12 ILO Guidelines for Flag State Inspections and for Port State Control Officers Carrying Out Inspections under the Convention

ILO has produced two complementary guideline documents on the MLC, 2006:

- ILO Guidelines for flag State inspections under the Maritime Labour Convention, 2006
- ILO Guidelines for port State control officers carrying out inspections under the Maritime Labour Convention, 2006

Even though these documents are directed to give guidance to the port State control officers and to the flag State inspectors, it may be of benefit to the shipowners to be aware of the contents of these guidelines. The ILO guidelines above are advisory in nature and do not carry the same legal status as Part B of the Convention.

Inspections on board ships will require inspectors to review documentation related expressly with national legislation. This national legislation forms the foundation upon which the inspections will be conducted. According to the Convention, the requirements pertain to all ships not otherwise exempted regardless of whether or not the ship requires mandatory certification.

SECTION 2 **Guidance Notes on the ILO Maritime Labour Convention, 2006**

1 **Structure of these Guidance Notes**

The body of these ABS Guidance Notes (Section 3) details the Regulations and the mandatory Code requirements of the Convention applicable to the shipowner. The Title and purpose are the preface to each of the Regulations. ABS guidance has been provided to supplement Part B guidance and to provide information where no Part B guidance is provided. The guidance provided by ABS is ABS' interpretation of Part A and is intended solely for supplemental interpretation purposes. This information should not be treated as, or relied on as, an authority in regard to this subject matter.

Section 3 contains the Convention's mandatory requirements related to the 14 areas of the DMLC, guidance on how to achieve compliance with each individual provision of the Convention (including guidance from Part B of the Convention, and supplementary ABS guidance), as well as examples of types of procedures and records that can be used to demonstrate compliance with the Regulations.

Most of the Regulations under the Convention can be complied with via management systems. However, Title 3, Regulation 3.1, "Accommodation and Recreational Facilities", necessitates a combination of management systems and engineered provisions. Guidance on how to comply with Title 3, Regulation 3.1 via processes and procedures has been given in Section 3 of these Guidance Notes.

Section 4 provides additional guidance to assist in compliance with the engineering and design requirements for accommodation and recreational facilities set in Title 3, Regulation 3.1. The shipowner may find this section advantageous as a separate issue since most of these design requirements will only need to be addressed during ship construction or major modifications. Section 4 provides the guidance in a "checksheet" type of format.

Section 5 contains the Convention mandatory requirements not included in the 14 areas of the DMLC, but which are still subject to inspection under the Convention. Guidance given in Section 5 follows the same format as Section 3.

2 **References and Examples in these Guidance Notes**

Research has been conducted to provide the shipowner with various industry guidelines pertaining to the Convention. The shipowner is reminded of the ISM (International Management Code for the Safe Operation of Ships and for Pollution Prevention) Code requirement by which the safety management system enables compliance with mandatory rules and regulations together with consideration of applicable codes, guidelines, and standards recommended by the Organization, Administrations, classification societies and maritime industry organizations. Relevant references are included at the end of each Title, as appropriate.

An example of a completed DMLC, Part II, based on the Convention requirements, is included in these Guidance Notes in Appendix 1. However, shipowners should provide references to the applicable national requirements and related shipowners procedures and/or measures described elsewhere in the management system. A series of sample types of manuals and suggested procedures relevant to the Convention are provided in Appendix 3. The shipowner should consider indexing the Convention to the management system's procedures to facilitate implementation of relevant requirements.

3 Exclusions from these Guidance Notes

These Guidance Notes do not address Convention Regulations that are primarily the responsibility of the Member States to enact laws on the subject matter. For example, Regulation 5.2 details responsibilities of the port State, and Regulation 5.3 details responsibilities of organizations that supply labor to the shipowners' vessels. Shipowners shall be required to remain abreast of new and changing legislation promulgated by the Members affecting their ships.

The following regulations within the Convention do not contain inspection, or inspection/certification requirements, for the shipowner and are excluded from discussion within these Guidance Notes.

- Regulation 2.6 Seafarer Compensation for the Ship's Loss or Foundering
- Regulation 2.8 Career and Skill Development and Opportunities for Seafarer's Employment
- Regulation 4.4 Access to Shore-based welfare facilities
- Regulation 5.1.2 Authorization of Recognized Organizations
- Regulation 5.1.3 Maritime Labour Certificate and Declaration of Maritime Labour Compliance
- Regulation 5.1.4 Inspection and Enforcement
- Regulation 5.1.6 Marine Casualties
- Regulation 5.2.1 Inspections in Port
- Regulation 5.2.2 Onshore seafarer complaint-handling procedures
- Regulation 5.3 Labour-Supplying Responsibilities

The shipowner should, however, be familiar with the content and context of all requirements of the Convention. For example, the shipowner should be mindful of Regulation 5.1.4 regarding inspection and enforcement of the Convention requirements.

The 14 areas of the maritime standards or shipowner's procedures and/or processes listed in the DMLC have requirements that shall be inspected and certified for applicable ships as identified in 1/1.9. In addition, there are five other Regulations of the Convention that the flag State or RO representative must inspect to verify compliance. Section 5 of these Guidance Notes provides detailed guidance on these areas. Section 2, Table 1 identifies which Regulations are subject to certification and inspection, to inspection only, or neither. For ships that are required to obtain a Maritime Labour Certificate and DMLC, the 14 sections that require inspection and certification as noted in the DMLC and those areas that require inspection only, as detailed in Section 5, must all be met in order to fulfill compliance with the Convention. Note that for the purposes of the DMLC, Regulation 3.1 "Accommodation and recreational facilities" has been split into two separate areas in the DMLC, one for "Accommodations" and one for "Recreational facilities".

TABLE 1
Convention Areas Subject to Flag State Certification and/or Inspection

Regulations	Subject to Certification and Inspection (DMLC)	Subject to Inspection Only
Title 1: Minimum Requirements for Seafarers to Work on a Ship		
Regulation 1.1 Minimum age	Yes	---
Regulation 1.2 Medical certificate	Yes	---
Regulation 1.3 Training and qualifications	Yes	---
Regulation 1.4 Recruitment and placement	Yes	---
Title 2: Conditions of Employment		
Regulation 2.1 Seafarers' employment agreements	Yes	---
Regulation 2.2 Wages	Yes	---
Regulation 2.3 Hours of work and hours of rest	Yes	---
Regulation 2.4 Entitlement to leave	---	Yes
Regulation 2.5 Repatriation	---	Yes
Regulation 2.6 Seafarer compensation for the ship's loss or foundering	---	---
Regulation 2.7 Manning levels	Yes	---
Regulation 2.8 Career and skill development and opportunities for seafarers' employment	---	---
Title 3: Accommodation, Recreational Facilities, Food and Catering		
Regulation 3.1 Accommodation and recreational facilities	Yes	---
Regulation 3.2 Food and catering	Yes	---
Title 4: Health, Protection, Medical Care, Welfare and Social Security Protection		
Regulation 4.1 Medical care on board ship and ashore	Yes	---
Regulation 4.2 Shipowner's liability	---	Yes
Regulation 4.3 Health and safety protection and accident prevention	Yes	---
Regulation 4.4 Access to shore-based welfare facilities	---	---
Regulation 4.5 Social security	---	Yes
Title 5: Compliance and Enforcement		
Regulation 5.1 Flag State responsibilities	---	---
Regulation 5.1.1 General principles	---	Yes
Regulation 5.1.2 Authorization of recognized organizations	---	---
Regulation 5.1.3 Maritime labour certificate and declaration of maritime labour compliance	---	---
Regulation 5.1.4 Inspection and enforcement	---	---
Regulation 5.1.5 On-board complaint procedure	Yes	---
Regulation 5.1.6 Marine casualties	---	---
Regulation 5.2 Port State Responsibilities	---	---
Regulation 5.2.1 Inspections in port	---	---
Regulation 5.2.2 Onshore seafarer complaint-handling procedures	---	---
Regulation 5.3 Labour-supplying responsibilities	---	---

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SECTION 3 Maritime Labour Convention Titles and Guidance

1 Guidance for Each Regulation

1.1 Detailed Index of Guidance for Each Regulation

Title 1	Minimum Requirements for Seafarers to Work on a Ship	See Page
	Regulation 1.1 Minimum Age	17
	Regulation 1.2 Medical Certificate	22
	Regulation 1.3 Training and Qualifications	33
	Regulation 1.4 Recruitment and Placement	35
Title 2	Conditions of Employment	See Page
	Regulation 2.1 Seafarers' Employment Agreements	53
	Regulation 2.2 Wages	63
	Regulation 2.3 Hours of Work and Hours of Rest	72
	Regulation 2.4 Entitlement to Leave (inspection only)	196
	Regulation 2.5 Repatriation (inspection only)	199
	Regulation 2.7 Manning Levels	87
Title 3	Accommodation, Recreational Facilities, Food and Catering	See Page
	Regulation 3.1 Accommodation and Recreational Facilities*	92
	Regulation 3.2 Food and Catering	121
Title 4	Health, Protection, Medical Care, Welfare and Social Security Protection	See Page
	Regulation 4.1 Medical Care on Board Ship and Ashore	131
	Regulation 4.2 Shipowner's Liability (inspection only)	204
	Regulation 4.3 Health and Safety Protection and Accident Prevention	140
	Regulation 4.5 Social Security (inspection only)	208
Title 5	Compliance and Enforcement	See Page
	Regulation 5.1.1 General Principles (inspection only)	211
	Regulation 5.1.5 On-board Complaint Procedure	161

* Additional guidance for the engineering design requirements of Title 3, Regulation 3.1 "Accommodation and Recreational Facilities" is given in Section 4 of these Guidance Notes.

The guidance for each individual provision of the Convention is structured as a set of informational blocks. As illustrated in Section 3, Figure 1, the first block on each set identifies the Standards (Part A) of the Code, which is the Mandatory section of the Convention. The next block contains methods to achieve compliance, which includes guidance from Part B of the Code, and supplementary ABS guidance based on ABS' interpretation of the intent of the Part A requirements. The last two blocks in the set contain examples of types of procedures and records to demonstrate compliance with the regulations.

Prior to each new regulation (Regulation 1.1, Regulation 1.2, etc.), there is a cover page identifying the purpose and key issues of the regulation. At the end of each Title there is a reference page listing relevant industry publications on the subject. Additionally, Appendix 6 provides a cross reference of select flag State regulations and Regulations identified in the DMLC at the time of publication for incorporation into these Guidance Notes.

FIGURE 1
Structure of the Guidance for Each Standard

TITLE #	Any of the Five Titles that Compose the Maritime Labour Convention
STD. 1.1.1	Any of the Provisions or Standards within each Regulation
Mandatory	<i>This block is a textual copy of Part A of the standard cited above (in this case 1.1.1).</i>
Methods to Achieve Compliance	Provides guidance to the shipowner to achieve compliance with the Mandatory provision or standard cited above. Relevant guidance given in Part B of the Code may be included in this section in addition to suggestions put forth by ABS.
Sample Procedures	Gives examples of procedures that the shipowner could develop and implement as part of its labor management system to facilitate compliance with the Convention.
Sample Records	Gives examples of records that the shipowner could consider keeping in order to demonstrate compliance.

TITLE 1: Minimum Requirements for Seafarers to Work on a Ship
REG. 1.1 Minimum age

Purpose To ensure that no underage persons work on a ship.

- Key Issues**
1. No person below the minimum age shall be employed or engaged or work on a ship.
 2. The minimum age at the time of the initial entry into force of this Convention is 16 years.
 3. A higher minimum age shall be required in the circumstances set out in the Code.
-

TITLE 1: Minimum Requirements for Seafarers to Work on a Ship

STD. 1.1.1 Minimum age

Mandatory *The employment, engagement or work on board a ship of any person under the age of 16 shall be prohibited.*

Methods to Achieve Compliance The shipowner must verify the age of the seafarer prior to employment to ensure that no seafarer under the age of 16 is employed. The shipowner should ensure that consistency in age verification is maintained. This process should be audited periodically, preferably annually.

Manning agents, if used, must provide suitable documentation to the shipowner of a seafarer's age.

Sample Procedures The shipowner should develop a documented procedure on seafarer age verification.

The shipowner should develop a documented procedure that integrates age verification procedures as part of internal audit planning.

Sample Records

- Age verification procedure
- Internal audit reports
- Access to national legislation regarding seafarers under the age of 18
- Age verification records for all seafarers
- Copies of agreements with manning agents
- Hours of work/rest records with seafarers' signatures
- Accident reports and safety committee reports where age of seafarers involved can be ascertained

TITLE 1: Minimum Requirements for Seafarers to Work on a Ship

STD. 1.1.2 Minimum age

Mandatory

Night work of seafarers under the age of 18 shall be prohibited. For the purposes of this Standard, “night” shall be defined in accordance with national law and practice. It shall cover a period of at least nine hours starting no later than midnight and ending no earlier than 5 a.m.

Methods to Achieve Compliance

Only seafarers 18 years and older are to be permitted to work at night. The shipowner should reference national legislation regarding the definition of “night”. Seafarers under the age of 18 must be granted at least nine continuous hours of rest at night.

For example, seafarers under the age of 18, if working until midnight, must be afforded rest until at least 09:00 hours. These same seafarers, if they must turn to by 05:00 hours, are required to be provided rest starting at least by 20:00 hours the day before.

The competent authority in the flag State is responsible for developing a format for recording seafarers’ hours of work and rest. This format should be in the working language of the ship and in English. These records should be signed by the seafarer and the master or other delegated person. These records are auditable by the competent authority in the flag State.

A model format for recording hours of work or rest based upon ILO Convention Number 180 is provided by the International Maritime Organization (IMO)/ILO in the joint publication Seafarers’ Hours of Work and Hours of Rest.

Internal audits should include verification that the seafarers under the age of 18 are not working at night unless specifically approved by the flag administration.

Sample Procedures

The shipowner should develop a documented procedure that defines the meaning of “night” in accordance with national legislation. The procedure should define the shipowner’s verification process for ensuring that seafarers under the age of 18 are not working at “night”.

Sample Records

- Records of hours of rest/work

TITLE 1: Minimum Requirements for Seafarers to Work on a Ship

STD. 1.1.3 Minimum age

Mandatory

An exception to strict compliance with the night work restriction may be made by the competent authority when:

(a) the effective training of the seafarers concerned, in accordance with established programmes and schedules, would be impaired; or

(b) the specific nature of the duty or a recognized training programme requires that the seafarers covered by the exception perform duties at night and the authority determines, after consultation with the shipowners' and seafarers' organizations concerned, that the work will not be detrimental to their health or well-being.

Methods to Achieve Compliance

The shipowner should develop a training program and schedule and submit it to the competent authority in the flag State for approval if there is a need to include seafarers under the age of 18 for work at "night." In general, entry level positions in the deck, engine, and steward department will fall into this training program.

The onus is on the shipowner to demonstrate to the competent authority that "night" training is essential for the experience and competency training for the seafarer and that controls are in place to establish compensatory rest to augment the seafarer's health and well-being.

The shipowner may determine that mooring and unmooring vessels at night is a viable experience issue. Over the course of an engagement on board, the shipowner could suggest performance of a certain number of night mooring/unmooring operations. The seafarer would be afforded compensatory rest during subsequent normal working hours.

Taking morning stars or making early morning landfall might require the seafarer to be awakened earlier than 05:00 hours in order to dress, eat, and acquire night vision in preparation for these tasks. The shipowner may wish to establish a minimum number of these activities as part of the training program. These activities must be approved by the competent authority in the flag State.

Sample Procedures

The shipowner should develop a documented procedure which defines the training program regarding seafarers under the age of 18.

Sample Records

- Acceptance letters from the competent authority in the flag State, as appropriate
- Training records demonstrating compliance with the training program
- Operational competency training records
- Training records indicating date and time of training (generally conducted during normal working hours)

TITLE 1: Minimum Requirements for Seafarers to Work on a Ship
STD. 1.1.4 Minimum age

Mandatory

The employment, engagement or work of seafarers under the age of 18 shall be prohibited where the work is likely to jeopardize their health or safety. The types of such work shall be determined by national laws or regulations or by the competent authority, after consultation with the shipowners' and seafarers' organizations concerned, in accordance with relevant international standards.

Methods to Achieve Compliance

The shipowner should refer to national legislation for guidance regarding types of work which seafarers under the age of 18 should be prohibited from performing. Examples of activities that could be prohibited include confined space entry, energy isolation, and working at height. Additional guidance may be found in the ILO/WHO (World Health Organization) Guidelines for Conducting Pre-sea and Periodic Medical Fitness Examinations for Seafarers. The shipowner should clearly define these prohibitions within the company's documented management system.

The permit to work (PTW) and risk assessment systems can be used to identify work that would be likely to jeopardize the health or safety of seafarers under the age of 18. Language within current PTW and risk assessment policies should reflect this aspect.

The shipowner should establish medical fitness checks in accordance with applicable international and national requirements on seafarers under the age of 18 at regular intervals.

With a formal training program, consideration should be made for these seafarers to have time to complete assignments during regular working hours instead of during off-work hours.

Sample Procedures

The shipowner should develop a documented procedure that defines prohibited work for seafarers under the age of 18. In addition, medical fitness requirements should be defined in accordance with international and national regulations.

Sample Records

- National and international regulations should be part of the shipowner's library.
 - Work records for seafarers under the age of 18. These records should clearly define the types of work in which the seafarer was engaged.
 - Permit to work records
 - Risk assessment records
 - Medical fitness certificates
 - Training records
 - Work and rest records
-

TITLE 1: **Minimum Requirements for Seafarers to Work on a Ship**
REG. 1.2 **Medical certificate**

Purpose To ensure that all seafarers are medically fit to perform their duties at sea.

- Key Issues**
1. Seafarers shall not work on a ship unless they are certified as medically fit to perform their duties.
 2. Exceptions can only be permitted as prescribed in the Code.
-

TITLE 1: Minimum Requirements for Seafarers to Work on a Ship
STD. 1.2.1 Medical certificate

Mandatory

The competent authority shall require that, prior to beginning work on a ship; seafarers hold a valid medical certificate attesting that they are medically fit to perform the duties they are to carry out at sea.

Methods to Achieve Compliance

The ILO/WHO Guidelines for Conducting Pre-sea and Periodic Medical Fitness Examinations for Seafarers should be used as a guide by the shipowner for ascertaining seafarer medical fitness. This guide should be used in conjunction with any relevant flag State regulations. These standards should be communicated to medical providers.

Sample Procedures

The company should have a documented procedure regarding medical examinations of seafarers.

Sample Records

- Medical Certificates
- Procedure for determining medical fitness
- Crew list

TITLE 1: Minimum Requirements for Seafarers to Work on a Ship

STD.1.2.2 Medical certificate

Mandatory

In order to ensure that medical certificates genuinely reflect seafarers' state of health, in light of the duties they are to perform, the competent authority shall, after consultation with the shipowners' and seafarers' organizations concerned, and giving due consideration to applicable international guidelines referred to in Part B of this Code, prescribe the nature of the medical examination and certificate.

Methods to Achieve Compliance

The shipowner should assign responsibility to a person(s) for accessing and monitoring changes to flag State regulations and guidelines prescribing the correct form of the medical certificate. In addition, responsibilities should be assigned to ensure that medical certificates are issued in the prescribed format and are valid while the seafarer is on board.

Sample Procedures

The shipowner should have a documented procedure detailing the requirements for medical exams of their seafarers at all positions on board.

Sample Records

- Copies of medical certificates in prescribed format

TITLE 1: **Minimum Requirements for Seafarers to Work on a Ship**
STD.1.2.3 **Medical certificate**

Mandatory

This Standard is without prejudice to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended (“STCW”). A medical certificate issued in accordance with the requirements of STCW shall be accepted by the competent authority, for the purpose of Regulation 1.2. A medical certificate meeting the substance of those requirements, in the case of seafarers not covered by STCW, shall similarly be accepted.

Methods to Achieve Compliance

Medical certificates issued in compliance with STCW are considered acceptable regardless of applicability of STCW to the seafarer. The shipowner may consider requiring all seafarers to undergo medical examinations in accordance with STCW.

Sample Procedures

The shipowner should develop a procedure to identify appropriate medical standards for ship personnel.

Sample Records

- Copy of STCW compliant medical certificates

TITLE 1: Minimum Requirements for Seafarers to Work on a Ship

STD. 1.2.4 Medical certificate

Mandatory

The medical certificate shall be issued by a duly qualified medical practitioner or, in the case of a certificate solely concerning eyesight, by a person recognized by the competent authority as qualified to issue such a certificate. Practitioners must enjoy full professional independence in exercising their medical judgment in undertaking medical examination procedures.

Methods to Achieve Compliance

Only qualified medical practitioners should be used to determine medical fitness of seafarers. A list of qualified medical practitioners and persons recognized by the flag administration to issue certificates regarding eyesight should be available from the various flag States.

The qualified medical practitioners should be included in the company's approved vendor list.

Sample Procedures

The shipowner should establish a documented procedure that assigns responsibility for identifying and maintaining a list of qualified medical practitioners, including practitioners recognized by the flag administration for providing vision services.

Sample Records

- List of qualified medical practitioners
- List of practitioners who have been recognized for their vision services
- Letter of authorization or recognition by competent authority in the flag State

TITLE 1: Minimum Requirements for Seafarers to Work on a Ship

STD. 1.2.5 Medical certificate

Mandatory

Seafarers that have been refused a certificate or have had a limitation imposed on their ability to work, in particular with respect to time, field of work or trading area, shall be given the opportunity to have a further examination by another independent medical practitioner or by an independent medical referee.

Methods to Achieve Compliance

The shipowner should consider how to deal with seafarers who fail the initial medical exam. The seafarer should be afforded the opportunity to have a secondary examination. The shipowner should determine, if any limitations are imposed, whether the person is considered medically fit for the purpose of the position on board the ship.

Sample Procedures

The shipowner should develop a documented procedure regarding seafarer medical examinations. The procedure should contain clear instructions regarding steps to be taken if the seafarer fails the initial medical examination.

Sample Records

- Results of medical exam or medical certificate
- Work schedules

TITLE 1: Minimum Requirements for Seafarers to Work on a Ship

STD. 1.2.6 Medical certificate

Mandatory

Each medical certificate shall state in particular that:

(a) the hearing and sight of the seafarer concerned, and the colour vision in the case of a seafarer to be employed in capacities where fitness for the work to be performed is liable to be affected by defective colour vision, are all satisfactory; and

(b) the seafarer concerned is not suffering from any medical condition likely to be aggravated by service at sea or to render the seafarer unfit for such service or to endanger the health of other persons on board.

Methods to Achieve Compliance

The shipowner should identify the qualifications for hearing and eyesight for the seafarers. The shipowner may wish to provide a reference to a particular flag State regulation rather than incorporate the details into a procedure. The referenced regulation should then be available in the shipowner's office and on board the ship.

Sample Procedures

The shipowner should establish a documented procedure that incorporates seafarer criteria for medical fitness and appraises medical practitioners of any company specifications that exceed flag State minimum requirements. The procedure should define responsibility for monitoring changes to regulatory requirements and verification of implementation of these requirements.

Sample Records

- Medical exam records or certificates of fitness for service
- Periodic reviews (preferably annually) that the procedure is correct or that the regulation has been monitored

TITLE 1: Minimum Requirements for Seafarers to Work on a Ship

STD. 1.2.7 Medical certificate

Mandatory

Unless a shorter period is required by reason of the specific duties to be performed by the seafarer concerned or is required under STCW:

(a) a medical certificate shall be valid for a maximum period of two years unless the seafarer is under the age of 18, in which case the maximum period of validity shall be one year;

(b) a certification of colour vision shall be valid for a maximum period of six years.

Methods to Achieve Compliance

A tracking mechanism, used by the shipowner and/or the ship, should be developed to monitor the validity of medical certificates of all seafarers, preferably on a monthly basis and upon signing onto the ship.

Sample Procedures

The shipowner should develop a documented procedure for tracking seafarer medical certification expiration dates. The shipowner may wish to use electronic databases for this purpose.

Sample Records

- Records of checks on ship personnel medical records
- Valid medical certificates
- Valid color vision certificates

TITLE 1: Minimum Requirements for Seafarers to Work on a Ship

STD. 1.2.8 Medical certificate

Mandatory

In urgent cases the competent authority may permit a seafarer to work without a valid medical certificate until the next port of call where the seafarer can obtain a medical certificate from a qualified medical practitioner, provided that:

- (a) the period of such permission does not exceed three months; and*
- (b) the seafarer concerned is in possession of an expired medical certificate of recent date.*

Methods to Achieve Compliance

The shipowner should consider how to handle an urgent need for seafarer medical certificates or if the medical certificate has expired.

Sample Procedures

Contained within the documented procedure for seafarer medical certificate tracking, the shipowner should identify the protocols for handling situations when a seafarer has an urgent need for a medical certificate or if the certificate has expired. Qualified medical practitioners should be used.

Sample Records

- Copies of medical certificates
- Copies of temporary exemptions or extensions

TITLE 1: Minimum Requirements for Seafarers to Work on a Ship

STD. 1.2.9 Medical certificate

Mandatory

If the period of validity of a certificate expires in the course of a voyage, the certificate shall continue in force until the next port of call where the seafarer can obtain a medical certificate from a qualified medical practitioner, provided that the period shall not exceed three months.

Methods to Achieve Compliance

The shipowner should address medical certificates that expire during the course of a voyage and how to verify that a medical exam is conducted at the next port of call but no longer than three months from the expiration date.

Sample Procedures

Contained within the documented procedure for seafarer medical certificate tracking, issues regarding how to handle medical certificates that expire during a voyage should be defined.

Sample Records

- Correspondence from the ship to the company or manning agent indicating that a seafarer(s) has an expired medical certificate
- Correspondence with the competent authority in the flag State when a medical certificate cannot be obtained at the next port of call or within three months

TITLE 1: Minimum Requirements for Seafarers to Work on a Ship
STD. 1.2.10 Medical certificate

Mandatory	<i>The medical certificates for seafarers working on ships ordinarily engaged on international voyages must as a minimum be provided in English.</i>
Methods to Achieve Compliance	The shipowner should ensure that medical practitioners provide medical certificates in English if the vessel is ordinarily engaged on international voyages.
Sample Procedures	Contained within the documented procedure for seafarer medical certificate tracking, instructions regarding using the English language for medical certificates should be defined and communicated to qualified medical practitioners. Allowance may be made for medical certificates in other languages if English is not the working language of the ship and the ship is not engaged on international voyages.
Sample Records	Copies of medical certificates (English and/or the working language, if appropriate)

TITLE 1: Minimum Requirements for Seafarers to Work on a Ship
REG. 1.3 Training and qualifications

Purpose To ensure that seafarers are trained or qualified to carry out their duties on board ship.

- Key Issues**
1. Seafarers shall not work on a ship unless they are trained or certified as competent or otherwise qualified to perform their duties.
 2. Seafarers shall not be permitted to work on a ship unless they have successfully completed training for personal safety on board ship.
 3. Training and certification in accordance with the mandatory instruments adopted by the International Maritime Organization shall be considered as meeting the requirements of paragraphs 1 and 2 of this Regulation.
 4. Any Member which, at the time of its ratification of this Convention, was bound by the Certification of Able Seamen Convention, 1946 (No. 74), shall continue to carry out the obligations under that Convention unless and until mandatory provisions covering its subject matter have been adopted by the International Maritime Organization and entered into force, or until five years have elapsed since the entry into force of this Convention in accordance with paragraph 3 of Article VIII, whichever date is earlier.
-

TITLE 1: Minimum Requirements for Seafarers to Work on a Ship

REG. 1.3 Training and qualifications

Mandatory *No Part A requirement under this Section (refer to Regulation 1.3).*

Methods to Achieve Compliance

Shipowners should verify that seafarer documents are valid, i.e., unexpired, original documents are signed by the seafarer, and that the documents are not fraudulent.

The shipowner should identify competency requirements based upon national and international requirements as well as those requirements established by the shipowner.

The shipowner should establish training matrices, as appropriate, to capture relevant training and competency requirements for each seafarer position taking into account STCW and national requirements.

The shipowner should have controls in place with manning agents, or by contractual means, that define the mandatory competency requirements for each seafarer, prior to the manning agent releasing the seafarer to the shipowner.

The shipowner should provide familiarization orientation for each seafarer when joining the ship, including training for personal safety on board ship.

The shipowner should maintain current copies of international and national regulations related to seafarer competency. The primary international regulation affecting seafarers is STCW. Flag State regulations should provide further guidance for the shipowner.

The shipowner should determine that an able seaman is competent to perform any duty which may be required of a member of the crew serving in the deck department (other than an officer or leading or specialist rating) where he holds a certificate of qualification as able seaman.

Sample Procedures

The company should have documented procedures regarding monitoring expiration dates of seafarer licenses and medical certificates, defining seafarer competency requirements, specifying the employment process to be used with manning agencies, and outlining the requirements for seafarer on-board familiarization.

Sample Records

- Manning agency agreements which stipulate competency requirements
- Training records and materials
- Copies of licenses/certificates
- Familiarization records
- Personnel files
- Current copies of relevant international and national regulations regarding seafarer competency
- Index of documents of external origin
- Minimum Safe Manning Certificate, or equivalent
- Crew list

TITLE 1: **Minimum Requirements for Seafarers to Work on a Ship**
REG. 1.4 **Recruitment and placement**

Purpose To ensure that seafarers have access to an efficient and well-regulated seafarer recruitment and placement system.

Key Issues

1. All seafarers shall have access to an efficient, adequate and accountable system for finding employment on board ship without charge to the seafarer.
2. Seafarer recruitment and placement services operating in a Member's territory shall conform to the standards set out in the Code.
3. Each Member shall require, in respect of seafarers who work on ships that fly its flag, that shipowners who use seafarer recruitment and placement services that are based in countries or territories in which this Convention does not apply ensure that those services conform to the requirements set out in the Code.

TITLE 1: Minimum Requirements for Seafarers to Work on a Ship

STD. 1.4.1 Recruitment and placement

Mandatory

Each Member that operates a public seafarer recruitment and placement service shall ensure that the service is operated in an orderly manner that protects and promotes seafarers' employment rights as provided in this Convention.

Methods to Achieve Compliance

While it is the responsibility of Member States to ensure that public seafarer recruitment services are operated in a manner that protects and promotes seafarer rights, the shipowner should ensure that seafarer employment rights are protected on board the vessel and requirements of this Convention are implemented.

The shipowner should protect the right to privacy of seafarers in accordance with national regulations. Internal audits should be conducted to verify that this process is effectively implemented.

The shipowner should protect the seafarer from discrimination based on age or sex in accordance with flag State regulations. Reasons for not hiring seafarers should be clearly defined.

The shipowner should have access to the credentials of the staff at the seafarer organization. The seafarer organization should be able to demonstrate knowledge of flag State requirements and reciprocity agreements with other competent authorities in the flag States. The shipowner should conduct periodic audits of the manning agents to verify that quality standards of staff and hiring/training processes are being maintained.

The shipowner should identify flag State standards that have been established for manning agencies. These standards can be used as the basis for audits.

Where a public recruitment service is required to be licensed or certified, the shipowner should verify that manning agencies can provide relevant documentation of compliance. This documentation could be a copy of a certificate of a quality management standard such as ISO 9001 or a certificate issued by the competent authority in the labor-supplying country. The shipowner should maintain a copy of this certificate.

Sample Procedures

The company should have a documented procedure so that, prior to selection of a recruitment service, conformance with national requirements is verified. This procedure should include a periodic review of regulations regarding recruitment services.

The company should have a documented procedure regarding processing seafarer personal data in a manner that protects the privacy of this information.

Continued on next page

TITLE 1: **Minimum Requirements for Seafarers to Work on a Ship**
STD. 1.4.1 **Recruitment and placement, Continued**

**Sample
Procedures
(continued)**

The company should have a documented procedure regarding the employment process that outlines methods for preventing discrimination during the hiring process, particularly regarding sex and age.

The company should have a documented procedure regarding monitoring activities of manning agents. The scope of these audits should include assessment of the agent's staff and procedures to verify that standards are being maintained and flag State requirements are implemented.

**Sample
Records**

- Copies of seafarer recruitment and placement service contracts
 - Internal audit records
 - Hiring records: applications, including correspondence which provides reasons for not hiring seafarers
 - Audit reports of manning agents
 - Copies of manning agency quality management certificates
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TITLE 1: Minimum Requirements for Seafarers to Work on a Ship

STD. 1.4.2 Recruitment and placement

Mandatory

Where a Member has private seafarer recruitment and placement services operating in its territory whose primary purpose is the recruitment and placement of seafarers or which recruit and place a significant number of seafarers, they shall be operated only in conformity with a standardized system of licensing or certification or other form of regulation. This system shall be established, modified or changed only after consultation with the shipowners' and seafarers' organizations concerned. In the event of doubt as to whether this Convention applies to a private recruitment and placement service, the question shall be determined by the competent authority in each Member after consultation with the shipowners' and seafarers' organizations concerned. Undue proliferation of private seafarer recruitment and placement services shall not be encouraged.

Methods to Achieve Compliance

Where a shipowner utilizes a private seafarer recruitment and placement service, the shipowner should verify that the private placement service is licensed or certified by the Member State.

Seafarer Records

The shipowner should maintain a seafarer record for each seafarer. Types of documents that should be maintained in the seafarer's file should be identified. The shipowner should be able to establish that seafarers that are employed on certain types of ships, i.e., passenger, tanker, and chemical, can demonstrate recent service and competency for these types of ships. Confidentiality and right to privacy should be protected.

Documentation

In the event that the shipowner uses a manning agent, the manning agent should forward copies of relevant documents, defined by procedure or contract, to the shipowner prior to sending the seafarer to the ship in order to ascertain competency. The shipowner should identify how shore staff personnel are to process this information.

The shipowner should identify its procedures and information that should be distributed to the manning agency for use by the seafarers. These distributed procedures should be controlled documents. As these procedures are periodically revised, the manning agency should be on a distribution list to receive these updates. The manning agency should be periodically audited to verify that the shipowner's procedures are being correctly implemented.

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TITLE 1: Minimum Requirements for Seafarers to Work on a Ship

STD. 1.4.2 Recruitment and placement, Continued

Methods to Achieve Compliance (continued)

The shipowner should define how validation of seafarers' credentials and references is conducted. The shipowner should consider including these requirements within the contractual agreement with the manning agency together with the right to audit the manning agency's processes for compliance. Measures to verify that seafarer credentials have not been fraudulently obtained should be established. For example, some flag States provide internet access to seafarer information for the shipowner.

The shipowner should conduct audits of the collective bargaining agreement, both on the ship and on shore. The shipowner should provide copies of the Maritime Labour Certificate and the Declaration of Maritime Labour Compliance (DMLC) to the manning agency as evidence of compliance with the International Labour Convention of 2006.

Emergency Contact Information

The shipowner should identify emergency contact information and the process and frequency with which this information is kept up-to-date. Checks and balances for hiring seafarers in emergency situations should be defined, regardless if personnel are directly hired by the shipowner or if a manning agent is used.

The shipowner should post and make ship schedules available to relevant parties. Urgent contact information of the shipowner should be made available to the manning agency so that families can ascertain information on the seafarer. This service should be complimentary and incur no cost to the seafarers' families or the seafarer.

Controls on Exploitation

The shipowner should verify that manning agencies provide information on their controls for determining that seafarers are not exploited. The shipowner should define joining requirements for seafarers that do not create a financial burden for the seafarer. The shipowner should define the costs, if any, which a seafarer would be expected to bear. This information should be communicated to manning agents, if used.

Seafarer Discipline

The shipowner should define the process for handling seafarer incompetence and indiscipline. The shipowner should define these terms. The shipowner may wish to establish processes for automatic discharge of seafarers for defined serious offenses and for a means to provide warnings and levels of disciplinary actions.

The company should have a documented procedure to verify that private recruitment and placement services are approved by the Member State.

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TITLE 1: Minimum Requirements for Seafarers to Work on a Ship

STD. 1.4.2 Recruitment and placement, Continued

Sample Procedures

The company should have documented procedures regarding confidential maintenance of seafarer medical and personal records, identification of the types of documents to be maintained, and manning agent instructions to provide relevant documents to the shipowner prior to shipping the seafarer for assignment.

The company should have a documented procedure regarding maintaining contact information of ships and associated manning agents for the recruiting process in cases of emergency.

The company should have a documented procedure regarding the employment process with manning agents outlining controls that prevent the exploitation of seafarers either during the recruiting process or financially burdened when assigned to a ship for duty.

The company should have documented procedures regarding developing and maintaining communication of relevant shipowner procedures to the manning agency for use by the seafarers and for auditing both the relevant shipowner department responsible for distributing the current policies and the manning agency for implementation.

The company should have a documented procedure regarding seafarer disciplinary processes. The company should have a defined Code of Conduct.

The company should have documented procedures regarding competency requirements for seafarers and for auditing the ships, shore-side departments responsible for tracking certificates, and manning agencies for compliance.

The company should have a documented procedure for maintaining and communicating ships' schedules.

The company should have documented procedures for defining the types of documents that the shipowner should provide the manning agency and for auditing the collective bargaining agreements.

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TITLE 1: Minimum Requirements for Seafarers to Work on a Ship
STD. 1.4.2 Recruitment and placement, Continued

**Sample
Records**

- Documents indicating approval and/or certification of private placement services
 - Audit reports of manning agencies
 - Internal audit records
 - Employment records
 - Training Record Book
 - Medical records
 - Emergency contact information and records of reviews of this information
 - Documentation from manning agencies regarding controls in place to prevent exploitation of seafarers in recruitment and placement services
 - Payroll records
 - Published seafarer joining costs, if any
 - Copies of transmittal letters to manning agencies regarding procedures and information that seafarers should be apprised of prior to employment
 - Correspondence regarding disciplinary action against seafarers for incompetence and/or indiscipline
 - Copies of seafarer licenses/credentials
 - Employment agreement
 - Copies of ship schedules
 - Copies of the Maritime Labour Certificate and DMLC and correspondence with the manning agency regarding their distribution
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TITLE 1: Minimum Requirements for Seafarers to Work on a Ship

STD. 1.4.3 Recruitment and placement

Mandatory

The provisions of paragraph 2 of this Standard shall also apply – to the extent that they are determined by the competent authority, in consultation with the shipowners' and seafarers' organizations concerned, to be appropriate – in the context of recruitment and placement services operated by a seafarers' organization in the territory of the Member for the supply of seafarers who are nationals of that Member to ships which fly its flag. The services covered by this paragraph are those fulfilling the following conditions:

- (a) the recruitment and placement service is operated pursuant to a collective bargaining agreement between that organization and a shipowner;*
- (b) both the seafarers' organization and the shipowner are based in the territory of the Member;*
- (c) the Member has national laws or regulations or a procedure to authorize or register the collective bargaining agreement permitting the operation of the recruitment and placement service; and*
- (d) the recruitment and placement service is operated in an orderly manner and measures are in place to protect and promote seafarers' employment rights comparable to those provided in paragraph 5 of this Standard.*

Methods to Achieve Compliance

Where recruitment and placement services are operated by a seafarer's organization pursuant to an approved collective bargaining agreement and provided both seafarer organization and shipowner are based in the same country, the shipowner should verify that the recruitment and placement service is licensed and/or certified by the Member State.

Sample Procedures

The company should have a documented procedure that includes internal auditing of placement services to verify that manning procedures are implemented and maintained.

Sample Records

- Copy of Quality, Safety, Security, or Environmental certification
- Approval letter issued to recruitment and placement service by the Member States
- Audit reports