



**Department of Transport**  
*An Roinn Iompair*



## **Marine Notice No. 04 of 2011**

*NOTICE TO ALL SHIPOWNERS, AGENTS, SHIPMASTERS, SEAFARERS  
AND RECOGNISED ORGANISATIONS*

### **Implementation of the Maritime Labour Convention, 2006**

The Department of Transport wishes to advise of the forthcoming implementation of the International Labour Organization, Maritime Labour Convention, 2006 (MLC) into Irish law. The new Convention consolidates and updates over 60 maritime labour instruments adopted by the ILO since 1920.

The MLC was adopted at the 94<sup>th</sup> International Labour Organisation's (ILO) Maritime Session, on 23<sup>rd</sup> February 2006 in Geneva. The Convention seeks to ensure that the employment and social rights of seafarers on Irish ships are fully implemented. Ireland was represented at the Conference by a tripartite delegation consisting of Government officials, nominees of the employers (IBEC) and of the workers (ICTU). This tri-partite group played an active role in developing the Convention and fully supports the measures it contains.

The Convention will come into force twelve months after the date on which there are registered ratifications by thirty ILO Member States with a total share of at least 33% of the world gross tonnage. The tonnage threshold has been passed and to date 11 Member States have ratified the convention.

Ireland, along with other ILO Member States must bring the Convention into force via national legislation. Section 87 of the Merchant Shipping Act 2010 enables the Minister for Transport to make regulations to fulfil the State's commitments in relation to the merchant shipping aspects of the Convention for Irish ships and seafarers working on those ships. A cornerstone of the Convention is the requirement for consultation between the stakeholders i.e. the Government, shipowners' organisations and seafarers' representatives to take place at all stages prior to and after ratification. This consultation process will contribute to the drafting of the required new secondary legislation.

The views of those affected by the Convention are now sought. The Annex attached below sets out the Department of Transport's proposals and the procedure for forwarding comments/observations.

Director General  
Maritime Safety Directorate  
Department of Transport  
Leeson Lane  
Dublin 2  
19/01/2011

For any technical assistance in relation to this Marine Notice, please contact:  
The Marine Survey Office, Leeson Lane, Dublin 2, tel: +353-(0)1-678 3400.  
For general enquiries, please contact the Maritime Safety Policy Division, tel: +353-(0)1-678 3418.  
Written enquiries concerning Marine Notices should be addressed to:  
Maritime Safety Directorate, Department of Transport, Leeson Lane, Dublin 2, Ireland,  
email: [marinenotices@transport.ie](mailto:marinenotices@transport.ie) or visit us at: [www.transport.ie](http://www.transport.ie).

## ANNEX

Your views are sought regarding the implementation the Maritime Labour Convention <http://www.ilo.org/ilolex/english/convdisp1.htm> - (Convention 186).

The Maritime Labour Convention 2006 (MLC) was adopted at the 94<sup>th</sup> International Labour Organisation's (ILO) Maritime Session, on 23<sup>rd</sup> February 2006 in Geneva. The Convention seeks to ensure that the employment and social rights of seafarers on Irish ships are fully implemented. The new Convention consolidates and updates over 60 maritime labour instruments adopted by the ILO since 1920. Ireland was represented at the Conference by a tripartite delegation consisting of Government officials, nominees of the employers (IBEC) and of the workers (ICTU). This tripartite group played an active role in developing the Convention and fully supports the measures it contains.

The Convention is organised into five general areas covering: -

**Title 1.** Minimum requirements for seafarers to work on a ship covering -

- 1.1 Minimum age,
- 1.2 Medical certification,
- 1.3 Training and qualifications of seafarers,
- 1.4 Recruitment and placement standards.

**Title 2.** Conditions of employment covering –

- 2.1 Employment Agreements,
- 2.2 Wages,
- 2.3 Hours of work and hours of rest,
- 2.4 Entitlement to leave,
- 2.5 Repatriation,
- 2.6 Seafarers compensation for ship's loss or foundering,
- 2.7 Manning levels,
- 2.8 Careers and skills development and opportunities for employment.

**Title 3.** Accommodation, recreational facilities, food and catering -

- 3.1 Accommodation and recreational facilities,
- 3.2 Food and catering.

**Title 4** Health protection, medical care, welfare & social security provision –

- 4.1 Medical care on board ship and ashore,
- 4.2 Shipowners liability,
- 4.3 Health and safety protection and accident prevention,
- 4.4 Access to shore-based welfare facilities,
- 4.5 Social security.

**Title 5.** Compliance and enforcement

- 5.1 Flag State responsibilities,
- 5.2 Port State responsibilities,
- 5.3 Labour Supplying responsibilities.

The Convention will come into force twelve months after the date on which there are registered ratifications by thirty ILO Member States with a total share of at least 33% of the world gross tonnage. While the tonnage threshold has been passed, to date only 11 of the required 30 Member States have ratified the Convention.

Ireland, along with other ILO Member States must bring the Convention into force via national legislation. Section 87 of the Merchant Shipping Act 2010 enables the Minister for Transport to make regulations to fulfil the State's commitments in relation to the merchant shipping aspects of the Convention for Irish ships and for seafarers working on those ships. This Department is currently making the necessary arrangements to ensure that the required legislation is put in place.

The Convention consists of 16 Articles which set out the legal framework for ILO member states' obligations. These Articles are broken down into more detailed provisions in the Regulations and the related Code. Part A of the Code deals with Standards and Part B Guidelines. The Articles, Regulations and Part A of the Code are mandatory. Each Member State is required to implement each Regulation in the manner set out in Part A of Code. Article VII is entitled "Consultation with shipowners' and seafarers' organisations" and is in line with the tripartite ethos of the International Labour Organisation, the Convention requires that there is consultation with shipowners and seafarers' organisations on certain items within Part A of the Code. In order to meet our obligation for consultation, this Department now seeks your views on the following proposals in respect of the consultation elements contained within a number of Articles and elements of Part A of the Code:

#### **Article II – Definition and Scope of the Application,**

**Paragraph 3** – categories of persons to be regarded as seafarers, this Department proposes to use the following definition prescribed in the Convention i.e., "seafarer" means any person who is employed or engaged or works in any capacity on board a ship to which the Convention applies.

**Paragraph 5** – categories of ships to which the Convention applies, please **Paragraph 6** below

**Paragraph 6** - This Department proposes that the Code of the Convention will not apply, at this time to Irish ships of less than 200 gross tonnage not engaged in international voyages.

The Office of Parliamentary Council is currently working on draft regulations entitled Merchant Shipping (Maritime Labour Convention) (Flag State Inspection & Certification) Regulations, these draft Regulations will be applied as follows:

- (1) For the purpose of inspection to –
  - a. All Irish ships and all other ships whilst in the State over 200 gross tonnage which operate domestically whether publicly or privately owned, ordinarily engaged in commercial activities, other than ships engaged in fishing or similar pursuits, and
  - b. all Irish Ships which are engaged on international voyages whether publicly or privately owned, ordinarily engaged in commercial activities or privately owned, other than ships engaged in fishing or similar pursuits.

- (2) And for the purpose of certification to -

- a. All Irish Ships of 500 gross tonnage or over, engaged in domestic and international voyages except fishing vessels and vessels not engaged in trade; and
- b. ships of 500 gross tonnage or over, flying the Irish flag and operating from a port, or between ports, in another State, except fishing vessels and vessels not engaged in trade.

### **Title 1 – Minimum requirements for seafarers to work on a ship**

This Department proposes the following:

Standard A1.1, paragraph 3 – that S.I. 1/1997 – Protection of Young Persons (Employment) (Exclusion of Workers in the Fishing or Shipping Sectors) Regulations 1997 will be amended. This will enable the competent authority i.e., Marine Survey Office following an approved submission by a shipowner to grant an exception which will allow a young person to take part in night-time training or duties which are in line with STCW.

Standard A1.1, paragraph 4 – where a seafarer is under the age of 18 shipowners will be required to conduct a risk evaluation in relation to the work to be undertaken (this is in line with Standard A4.3, paragraph 8 of the Convention) and will be required to make a submission to the MSO, seeking approval for this work.

Standard A1.2, paragraph 2 – to continue to provide medical certification for seafarers in line with S.I. No. 701 of 2005 entitled Merchant Shipping (Medical Examinations) Regulations 2005 and Marine Notice 30 of 2005.

Standard A1.4, – as there are currently no private seafarer recruitment and placement services operating in this territory, consultation is not required at the present time.

### **Title 2 – Conditions of Employment**

This Department proposes the following:

Standard A2.1, paragraph 5 – to seek the introduction of legislation, which will establish the minimum notice period to be given by either seafarers or shipowners for the early termination of seafarers' employment agreement as seven days.

Standard A2.8, paragraph 3 – the National Maritime College of Ireland will continue to provide the Maritime industry and seafarers with an appropriate careers and skills development framework.

### **Title 3. – Accommodation, Recreational Facilities, Food and Catering**

This Department proposes the following re:

Standard A3.1, paragraph 9 (a) – to apply this Standard to all ships over 500 gross tonnage.

Standard A3.1, paragraph 9 (m) – to apply this Standard to all ships over 500 gross tonnage.

Standard A3.1, paragraph 10 (a) – to apply this Standard to all ships over 500 gross tonnage.

Standard A3.1, paragraph 11 (b) – to apply this Standard to all ships over 500 gross tonnage.

Standard A3.1, paragraph 15 – to apply this Standard as set out in the Convention (i.e. to all ships over 3,000 gross tonnage).

Standard A3.1, paragraph 20 (a) – 7 (b), ships of less than 200 gross tonnage will be exempt  
11 (d), ships of less than 200 gross tonnage will be exempt  
13, ships of less than 200 gross tonnage will be exempt

Standard A3.1, paragraph 20 (b) - 9 (f), this standard will not apply to Irish ships  
9 (h), a maximum of two seafarers will only be permitted when the seafarers sharing are trainees.  
9 (i), to apply this paragraph as set out in the Convention  
9 (k), to apply this paragraph as set out in the Convention  
9 (l), to apply this paragraph as set out in the Convention

#### **Title 4 – Health Protection, Medical Care, Welfare and Social Security Protection**

Regulation 4.3 – Health and safety protection and accident prevention – paragraph 2, this Department proposes to continue to implement this Regulation by S.I. No. 107/1988, entitled Merchant Shipping (Code of Safe Working Practices) Regulations 1988; S.I. No. 109/1988, entitled Merchant Shipping (Health and Safety: General Duties) Regulations 1988 & S.I. No. 110/1988 entitled Merchant Shipping (Safety Officials & Reporting of Accidents & Dangerous Occurrences) Regulations 1988.

Standard A4.4, paragraph 2 – this Department proposes to deal with the development of welfare facilities in appropriate ports at later date.

The Department undertakes to use its best endeavours to hold confidential, any information provided by you in any submission subject to the Department's obligations under law, including the Freedom of Information Act, which came into force on 21<sup>st</sup> April 1998. Should you wish that any of the information supplied by you in any submission should not be disclosed because of its sensitivity, you should, when providing the information, identify same and specify the reasons for its sensitivity. The Department will consult with you about this sensitive information before making a decision on any Freedom of Information request received.

Any observations/comments you or your colleagues may have with regard to any costs/benefits/impacts on your business/members on the consultation elements of the Convention should be made **in writing** by post, fax or email to: -

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Maritime Safety Policy Division  
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To arrive no later than 14<sup>th</sup> March 2011.

Please note that while this notice addresses only the consultation requirements set out in the Standard of the Convention, this Department is also required to introduce additional legislation for which no consultation is required i.e., Regulation 4.2 – Shipowners' liability.