

GIBRALTAR MARITIME ADMINISTRATION
(Ministry of Maritime Affairs)



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Maritime Labour Notice (MLN) – 010

To: Ship Owners, Operators, Masters, Officers and Classification Societies

MLC Title 2.4 Entitlement to leave

This MLN provides guidance on compliance with Gibraltar regulations which give effect to MLC 2006 Title 2.4. Implementation of these guidelines will be taken as evidence of compliance with the Gibraltar regulations.

The guidelines do not preclude the ship-owner from demonstrating an equivalent or higher standard as an “alternative method” of evidence of compliance.

Documents referred to in this notice:

Maritime Labour Convention 2006

Most regulations and notices are available on the Gibraltar website: www.gibraltarship.com

Entitlement to leave

1. The Seafarer’s Employment Agreement (SEA) includes the amount of paid annual leave the seafarer earns and this amount must be a minimum of 2.5 days for every month the seafarer works. This Maritime Labour Notice explains how ship-owners can meet the requirements of MLC and the Gibraltar regulations to ensure seafarers receive at least the minimum amount of paid annual leave. Seafarers shall also be granted shore leave as far as the operational requirements of their position allows.

Calculation of annual leave and public holidays

2. .1 It is the ship owner’s responsibility to ensure seafarers who are required to have an SEA are given paid annual leave and public holidays. Paid annual leave shall be calculated on the basis of a minimum of 2.5 days per 30 days service period. Public holidays shall be calculated on the basis of 10 days earned for every 12 months worked. However a Collective Agreement (CA) may have a different rate, for both annual leave and public holidays.

.2 The service period is the period of time from when a seafarer leaves to travel to a vessel up until the time the seafarer has been repatriated (refer to MLN 2.5 Repatriation). This includes all the days the seafarer has been on the vessel and travelled to and from the vessel. If the seafarer

decides to take local leave before being repatriated this should not be included in the service period.

.3 For service periods of less than 30 days the minimum annual leave entitlement shall be calculated on a pro-rata basis and be expressed in days. Any fraction of a day shall be rounded up to the nearest half day.

.4 For example, a seafarer spends 2 days travelling to the vessel, works for 41 days and then spends 2 days travelling home.

The Service Period is $2 + 41 + 2 = 45$ days

The leave earned is calculated by -

	Service Period	Leave Earned
	30	2.5
	15	1.25
Total	45	3.75

Total leave earned = 3.75 days, rounded up to 4 days paid annual leave.

Public holidays

.6 If a seafarer is serving under a CA which includes paid public holidays the seafarer is not also entitled to the Gibraltar public holidays stated below.

.7 Ship-owners have to ensure that seafarers earn as a minimum 10 public holidays a year. This is to reflect the public holidays that are available in Gibraltar. It is not stated in the regulations when they have to be taken and it is possible for a seafarer to have a day off in lieu of a public holiday subject to the vessel's operational requirements when the vessel is in port. However in most cases it is expected that public holidays will be added onto the seafarer's annual leave. If this is the case they shall be calculated on a pro-rata basis for service periods of less than 12 months.

.8 So for a service period of 45 days the public holidays are calculated as follows -

	Service Period	Public Holidays
Total	45	1.23

Total Public Holidays earned = 1.23 days, rounded up to 1.5 days paid public holidays.

What is not counted as part of the minimum annual leave or public holidays

3. The following shall not be counted as part of the minimum annual leave with pay or as a public holiday -
 - .1 Periods of incapacity from work resulting from illness, injury or from maternity;
 - .2 Temporary shore leave granted to a seafarer while under an SEA;
 - .3 Compensatory leave of any kind;

.4 Travel time to and from the ship.

Pay during the minimum annual leave and public holidays

4. The level of pay during the seafarer's minimum annual leave and public holiday entitlement must at a minimum be that of the seafarer's pay for normal hours of work (defined as basic pay or wage). This does not include payments for overtime worked, bonuses, allowances, paid leave or any other additional remuneration.

Prohibition on forgoing minimum annual leave and public holidays with pay

5. Any agreement for seafarers to forgo their minimum annual leave or public holiday entitlements with pay is prohibited.

Recalling a seafarer while on annual leave or a public holiday

6. A seafarer cannot be recalled while they are taking their minimum annual leave. It is however permitted for a seafarer to be recalled during a public holiday, or any leave taken in lieu of a public holiday. This should only happen in cases of extreme emergency and with the seafarer's consent.

Taking of minimum annual leave

7. .1 A seafarer is entitled to take annual leave in the place with which they have a substantial connection, normally the same place to which they are entitled to be repatriated. Seafarers must not be required without their consent to take annual leave in any place other than the place specified in the SEA.
- .2 The time at which annual leave is taken should, unless it is fixed by a CA be determined by the ship-owner after consultation. As far as possible this shall also be in agreement with the seafarers concerned or their representatives.

Young seafarers

8. Seafarers under the age of 18 must be offered repatriation at no expense to themselves to the place of original engagement in their country of residence in order to take any annual leave earned during the voyage and when -
- .1 They have served for 6 months (or less if specified in their SEA or CA); and
- .2 They have worked on a foreign-going ship which has not returned to their country of residence in that time.

Alan Cubbin
Maritime Administrator

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All notices are available through www.gibraltarship.com

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