



**Gibraltar Maritime  
Administration**  
HM Government of Gibraltar

Watergate House  
2/8 Casemates Square  
Gibraltar

Tel (+350) 200 46862 / 47771 / 50424  
Fax (+350) 200 47770  
e-mail: [maritime.survey@gibraltar.gov.gi](mailto:maritime.survey@gibraltar.gov.gi)  
[maritime.registry@gibraltar.gov.gi](mailto:maritime.registry@gibraltar.gov.gi)

**Maritime Labour Notice (MLN) – 023 (b)**

To be read in conjunction with MLN 023 On board Complaints Procedure

---

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

---

**MLC Title A5.2.2- On Shore Complaint procedures**

This MLN provides guidance to owners, operators and seafarers on the Gibraltar provisions on the GMA's handling of complaints made to the GMA relating to the Maritime Labour Convention, 2006 (MLC). Regulation 42 and 43 of the Gibraltar Merchant Shipping (Maritime Labour Convention) Regulations 2013 make provisions for seafarers on Gibraltar ships to raise a complaint relating to the MLC with the GMA. However, any seafarer on any ship in the Gibraltar port may complain to a GMA surveyor and the GMA will handle that complaint in the manner set out in this MLN.

**Key points**

The MLC makes provision for seafarers or other interested parties to make a complaint alleging a breach of the requirements of the Convention (including seafarers' rights) to an authorised officer. Complaints may be raised by seafarers on Gibraltar ships, where GMA is the certifying authority, or by seafarers on non-UK ships in Gibraltar port. Such complaints will be investigated by the GMA and may lead to an inspection, which will be limited to the scope of the complaint. However, if there is evidence which indicates that the ship may not be compliant with the MLC the GMA may widen the scope of the inspection.

Documents referred to in this notice:

Maritime Labour Convention 2006  
MLN 23 On Board Complaints Procedure  
Gibraltar Merchant Shipping (Maritime Labour Convention) Regulations 2013 Regulations 42 and 43

Most regulations and notices are available on the Government website: [www.gibraltarship.com](http://www.gibraltarship.com)

**1. Introduction**

1.1 Regulations 42 and 43 of the Gibraltar Merchant Shipping (Maritime Labour Convention) Regulations 2013 implement in Gibraltar law regulation 5.1.4 of the Maritime Labour Convention, 2006 on complaints for Gibraltar ships, including a provision for seafarers to refer a complaint to the GMA, and regulation 43 ensures the same protection for seafarers on non-Gibraltar ships in British Gibraltar Territorial waters.

1.2 The Convention allows for a seafarer or a professional body, an association, a trade union or generally any person with an interest in the safety of a particular ship, including an interest in safety or health hazards to seafarers, to make a complaint to an authorised officer.

1.3 Each State that ratifies the MLC is required to adopt procedures enabling seafarers on ships calling at ports in their territory to register complaints alleging breaches of the requirements of the Convention (including seafarers' rights) to an authorised officer in the port concerned, in order to facilitate a prompt and practical means of redress.

1.4 The procedures must include a power for the authorised officer to investigate the complaint, including, where appropriate, to carry out an inspection of the ship. However, the authorised officer must where appropriate, seek to promote a resolution of the complaint at the shipboard level.

## **2. Complaints in Port of Gibraltar**

2.1 A complaint in the Port of Gibraltar may be made to a GMA surveyor. It may relate to a Gibraltar ship (in which case MLC Regulation 5.1.4 will be relevant) or to a foreign ship (in which case MLC Regulation 5.2.2 will be relevant).

2.2 Where any complaint is received by a GMA surveyor regardless of the source, appropriate steps will be taken to safeguard the confidentiality of complaints made by or on behalf of seafarers.

### **3. Complaint made by a seafarer, a professional body, an association, a trade union or any person with an interest in the safety of the ship (MLC, 2006 Regulation 5.1.4 and 5.2.1) in association with a Port State Control inspection**

3.1 When a complaint is received by a GMA surveyor, the surveyor will record the time that it was received, the details of the ship in question and the nature of the complaint.

3.2 The surveyor will then check to ensure that the complaint relates to requirement of the Maritime Labour Convention, 2006. (Complaints are not limited to the areas listed in either Appendix A5-1 or Appendix A5-III of the Convention- they may relate to a breach of any requirement of the Convention, including seafarers' rights under Article III and Article IV). If so, an initial investigation will be carried out.

3.3 Depending upon the circumstances, the surveyor may or must decide to carry out a more detailed inspection as detailed in paragraph 81 of the ILO Guidelines of Port State Control Officers. A more detailed inspection **must** be carried out if the living and working conditions alleged to be defective could constitute a clear hazard to the safety, health or security of seafarers where there are grounds.

3.4 Any inspection associated with a complaint will generally be limited to matters within the scope of the complaint. However, any information gained either from the complaint itself or during the ensuing inspection may indicate that the ship does not comply with the Convention. Under these circumstances, a more detailed inspection may be carried out in order to ascertain whether there are breaches of Convention requirements. (MLC Standard A.5.2.1, paragraph 3).

3.5 If it is decided not to carry out a more detailed inspection and the complaint has been lodged by a seafarer then the procedure described in section 4 below will be followed.

### **4. Complaint made by a seafarer (MLC Reg 5.2.2)**

4.1 Upon receipt of a complaint the GMA surveyor will undertake an initial investigation in order to ascertain whether a more detailed inspection is necessary. If it is, the procedure set out in section 3 above should be followed.

4.2 In all other cases the inspector should;

- seek to promote a resolution of the complaint at ship-board level;
- ascertain whether the on-board complaints procedure has been used.

4.2.1 If the surveyor finds that the on-board complaints procedure has not been used, and there is no good reason for this, the surveyor should advise the seafarer to make use of the procedure (“Good reason” would include the inadequacy of or undue delay in, the internal procedures or the complainant’s fear of reprisal for lodging a complaint.) If this advice is acted upon, no further action by the surveyor is required.

4.3 During the investigation the master, the ship-owner and any other person involved in the complaint should be given a proper opportunity to express their views.

## **5. Unresolved complaints in the port of Gibraltar – Gibraltar registered ships**

5.1 If a complaint made under section 3 or section 4 above cannot be resolved at ship-board level, the GMA surveyor concerned will notify the MLC ship-owner and discuss the complaint and how it can be resolved. If necessary, the ship owner will be required to provide a corrective plan of action which is acceptable to the GMA.

## **6. Unresolved complaints in the port of Gibraltar – foreign ships**

6.1 If a complaint under section 3 or section 4 cannot be resolved at ship-board level the GMA will advise the ship’s flag State who will be requested, within a prescribed deadline, to give advice and provide a corrective plan of action.

6.2 In the event that the relevant authority of the ship’s flag State demonstrates that it will handle the matter and that it has effective procedures and has submitted an acceptable plan of action, the surveyor may refrain from any further involvement in the complaint.

6.3 However, if the complaint is not resolved by the flag State, then the surveyor’s inspection report must be transmitted to the Director General of the ILO. The relevant shipowners and seafarers’ organisations will be informed.

## **7. Provision for detention of a ship**

7.1 If, following a detailed inspection, the surveyor has clear grounds for believing that;

(a) a ship in respect of which a complaint has been received is not in compliance with the Convention; and

(b) (i) the conditions on board are clearly hazardous to the safety, health or security of seafarers, or  
(ii) the non-compliance represents a serious breach or the latest in a series of repeated breaches of Gibraltar regulations implementing the Maritime Labour Convention or the requirements of the Maritime Labour Convention (including the rights of seafarers referred to in Articles III and IV of the Maritime Labour Convention which are secured by it), the surveyor may detain the ship (regulations 44 and 45) of the Gibraltar Merchant Shipping (Maritime Labour Convention) Regulations 2013.

Dylan Cocklan  
Maritime Administrator

Issue date: July 2020

All notices are available through [www.gibraltarship.com](http://www.gibraltarship.com)

This copy of the Administrative Instruction has been sent electronically and does not carry a signature or official stamp. A sign and stamped copy will be available upon request