



# 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) – 041

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

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### Guidance on the procedure for applying for a Substantial Equivalence

This MLN provides guidance on the procedure for applying for a substantial equivalence on Gibraltar registered vessels which are subject to the Maritime Labour Convention, 2006 (MLC).

Documents referred to in this notice:

ILO Maritime Labour Convention 2006;

Gibraltar Merchant Shipping (Maritime Labour Convention) Regulations 2013;

UK MCA MGN 472(M) as amended.

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

#### 1. Introduction

Applications for substantial equivalence should be forwarded to the Gibraltar Maritime Administration (GMA) for consideration.

The procedure for approval for substantial equivalences is as follows:

- a) The shipowner discusses the proposals with the attending surveyor. The surveyor records this on a form which is placed on the ship's file;
- b) The shipowner writes to the Unions with the proposals;
- c) The Unions respond.

The papers are sent to GMA for a decision and approval. Form Form GMA-18-F052 Request for Substantial Equivalence/Exemption should be completed (this form is available at <http://www.gibraltarship.com/maritime-labour-convention>

## **2. Procedure for agreement**

The GMA intends to use a standard procedure with a set criteria, for considering any proposal seeking ship-specific “substantial equivalences”, similar to that described above. This will not create a derogation for the shipbuilder to build further ships to the same standard.

Any proposal for a substantial equivalence should be submitted with the agreement of both the shipowners and the seafarers’ representatives. Therefore, in all cases, the relevant organisations and official social partners of the GMA should be consulted. Other organisations representing specific sectors in the shipping industry will also be included in the consultation process.

Under normal circumstances, the applicant will write to the shipowners’ and seafarers’ representatives and provide the responses with their applications to the GMA. The GMA will only undertake this task in exceptional circumstances.

Any application for substantive equivalence will be subject to a one-month consultation period. If no comments are made by shipowners or seafarers representatives in relation to the proposals during this one month (30 day) period, the proposal can be treated as approved.

The GMA may consult the UK’s MLC Tripartite Working Group for discussion before coming to a decision.

All approved substantial equivalences and their supporting documentation will be retained by the GMA and reported periodically to the International Labour Organization (ILO), as part of the Annual Reports on seafarers living and working conditions.

## **3. Information required**

In any application for substantial equivalence, the shipowner is required to demonstrate the reason behind seeking the substantial equivalence with consideration to:

- a) the reason for seeking the substantial equivalence; b. how the proposal, in accordance with Article VI of the Maritime Labour Convention, meets the same objectives as, and gives effect to the provisions of Part A of the Maritime Labour Convention Code and giving due consideration to Part B of the Maritime Labour Convention Code;
- b) the effects on the provision of decent living and working conditions for seafarers;
- c) how full compliance would impact on the remainder of the ship;
- d) any special design challenges driving the substantial equivalence request;
- e) what objective can be accomplished through substantial equivalence which cannot be achieved by adhering to the regulations

## **4. Subsequent application for the same substantial equivalence**

It is intended that, after a particular measure or solution has been approved as a substantial equivalence by the GMA, any further use of the same substantial equivalence – unless specifically requested and approved for the initial application undergoes the same process of approval in the light of the considerations identified in the Section above. Approval of a measure in one context should not necessarily be seen as setting a precedent. However, it is expected that once an approval has been given, this will make any subsequent application a simpler decision process.

## **5. Flagging in**

When a ship flags onto the Gibraltar register an application should be made following the same procedure for any substantial equivalence and with the prior agreement of the shipowners' and seafarers' representatives. If the substantial equivalence has been agreed by another MLC Flag State then, this should make a smoother transition process.

As with the substantial equivalences agreed by Gibraltar, all substantial equivalences agreed on this basis will need to be communicated to the ILO as part of the Annual Reports on seafarers living and working conditions. This will be done via the UK MCA.

### **Substantial equivalences available to all ships**

## **6. Procedure for approval**

Any substantial equivalence which is requested for general application may be referred to the UK MLC Tripartite Working Group, which has members from the UK Chamber of Shipping, Nautilus International, the National Union of Rail, Maritime and Transport Workers (RMT), the Department for Transport, the MCA and the Red Ensign Group Administrations.

The information required is the same as for Section 11.3 above. Any shipowner or group of shipowners may apply for such exemption.

UK MGN 472(M) as amended, contains a list of substantial equivalences already agreed by the UK. This can be found in the Annex to the aforementioned UK document.

Dylan Cocklan  
Maritime Administrator (Ag)

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

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