



Gibraltar Maritime Administration

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Maritime Labour Notice (MLN) – 008(a) (Supersedes MLN 008)

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

MLC Title 2.2 Seafarer's Wages

This MLN provides guidance on compliance with Gibraltar regulations which give effect to MLC 2006 Title 2.2. 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 (as amended)

Gibraltar Merchant Shipping (Maritime Labour Convention) Regulations 2012 Reg. 14

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

Seafarer's Wages

1. MLC requires that all seafarers shall be paid for their work regularly and in full in accordance with their Seafarer Employment Agreements (SEA). This Maritime Labour Notice explains how ship-owners can meet the requirements of MLC and the Gibraltar.

Definitions

2. *Basic pay or wages* - means the pay, however composed, for normal hours of work. This does not include payments for overtime worked, bonuses, allowances, paid leave or any other additional remuneration.

Consolidated wage - is the wage or salary which includes the basic pay and other pay-related benefits. A consolidated wage may include compensation for all overtime worked and all other pay-related benefits, or it may include only certain benefits in a partial consolidation.

Overtime means - time worked in excess of the normal hours of work.

Piracy - shall have the same meaning as in the United Nations Convention on the Law of the Sea, 1982

Armed robbery against ships means - any illegal act of violence or detention or any act of depredation, or threat thereof, other than an act of piracy, committed for private ends and directed against a ship or against persons or property on board such a ship, within a State's internal waters, archipelagic waters and territorial sea, or any act of inciting or of intentionally facilitating an act described above.

Payment and calculation of wages

3. The following principles apply to the payment and calculation of wages –

- a. Payment due to seafarers must be made at no greater than monthly intervals and in accordance with the seafarer's SEA or any applicable Collective Agreement (CA);

Evidence of compliance

Basic wages are to be paid in full monthly however any additional amounts such as overtime can be paid in the next monthly pay cycle. This principle shall also apply when the seafarer's SEA has terminated.

b. The principles of basic pay or wages are –

- i. The normal hours of work shall not exceed 8 hours a day.
- ii. For the purpose of calculating overtime, the normal hours of work covered by basic pay or wages must not exceed 48 hours per week. A CA may provide for a different but not less favourable treatment of the seafarer.
- iii. Unless prescribed differently in a CA the rates of overtime shall not be less than one and one-quarter times the hourly rate of basic pay.

c. For wages which are partially or fully consolidated –

- i. Any overtime worked in excess of the partially consolidated wage shall be paid at a rate of overtime of not less than one and one-quarter times the basic pay or wages;
- ii. This same principle shall be applied to the overtime hours included in the consolidated wage.

d. The Master is responsible for ensuring records of seafarer's overtime are maintained, which shall be endorsed by the seafarer at no more than monthly intervals. The Master may assign this task to another person. It is permitted for the overtime records to be kept in electronic format.

e. When the seafarer's SEA has terminated any remaining wages shall be paid without undue delay and no later than the date on which the next payment of their basic wages would fall if their SEA had continued.

f. Where a seafarer is held captive on or off the ship as a result of acts of piracy or armed robbery against ships, wages and other entitlements under the seafarers' employment agreement, relevant collective bargaining agreement or applicable national laws, including the remittance of any allotments, shall continue to be paid during the entire period of captivity and until the seafarer is released and duly repatriated. Where the seafarer dies while in captivity, until the date of death.

- g. Wages must be paid in legal tender directly to seafarer's designated bank account unless the seafarer requests otherwise in writing.

Allotment of wages

4. Ship-owners are required to take measures to provide seafarers with a means to transmit all or part of their earnings to their families or dependants or legal beneficiaries. A seafarer can therefore request any percentage of his wage to be allotted, however for seafarers who have a CA the percentage is often stated in the CA and agreements such as 80% of the seafarer's wages are common.

The measures for allotting the seafarer's wage shall include as a minimum –

- a. The seafarer must be able to allot at the time they enter employment or during it, a proportion or all of their wage for remittance at *regular intervals* to their families by bank transfer or similar means.
 - b. Allotments should be remitted in *due time* and directly to the person or persons nominated by the seafarer.
5. Any charges for the allotment service must be reasonable in amount, and the rate of currency exchange, unless otherwise provided in an applicable CA or SEA, must be at the prevailing market rate or the official published rate and not unfavourable to the seafarer.
 6. Evidence of compliance

An example of an official published rate is the mid rate taken from the Financial Times at the last working day of the month.

Due time and *regular intervals* are considered as meaning monthly, at the same time that a seafarer gets paid.

Deductions

7. The following deductions from seafarer's wages are permitted –
 - a. Any deductions permitted in relevant national laws;
 - b. Any deductions agreed to in a CA;
 - c. On board purchases;
 - d. Telecommunication calls and internet access;
 - e. Cash advances;
 - f. Allotments;
 - g. Contributions by the seafarer in relation to any pension fund and any charity. Also in relation to contributions in respect of membership of a body to any trade union and any friendly society.
8. No deductions shall be made from a seafarer's wage in respect of obtaining or retaining employment.

Monthly Account

9. All seafarers shall receive a monthly account of their wages, which can be a wage slip, or an account containing as a minimum the following information –
 - a. The payments due;
 - b. The amount of wages paid;
 - c. Any additional payments (such as overtime); and
 - d. Any allotments or other deductions.

10. Where a payment has been made in a different currency or rate than was agreed to in a SEA or CA the monthly account must also include the rate of exchange and currency used.

Penalties

11. Monetary fines against seafarers other than those authorised in a CA are prohibited.

Dylan Cocklan
Maritime Administrator (Ag)

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All notices are available through www.gibraltarship.com

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