



Technical Circular

No.: 139/2020

Date: 02nd December 2020

Subject: GOI, DGS Circular No. 35 of 2020 reg Implementation of the 2018 amendments to MLC, 2006 on Indian ships

1. The 2018 amendments to MLC, 2006 will come into force on 26th December, 2020. The amendments requires continuation of Seafarer Employment Agreements (Standard A2.1), payment of seafarer wages (Standard A 2.2) and continuation of seafarer repatriation entitlements (B 2.5.1) while a seafarer is held captive on or off the ship as a result of acts of piracy or armed robbery.
2. The Directorate General of Shipping, Government of India has issued DGS Circular No. 35 of 2020, dated 26.11.2020 regarding implementation of subject amendments on Indian ships.
3. The above mandatory requirements are being incorporated by Indian Administration in Merchant Shipping (Maritime Labour) Rules 2016 and will require revision of existing DMLC documents.
4. In view of above, Shipowners /managers of Indian ships are advised as following;
 - a. Review company policies and procedures and ensure that Seafarer Employment Agreements (SEAs) and/or any applicable collective bargaining agreements that are signed on or after 26th December, 2020 covers the 2018 amendments to MLC. 2006.
 - b. The DMLC Part I and DMLC Part II of the vessels are updated by 26th December, 2020 to include the subject amendments. The updated DMLC documents will be inspected during the next scheduled MLC inspection of the ship (Intermediate or Renewal) post 26th December, 2020.
5. Shipowners/ Managers and Masters of Indian ships are advised to be guided by above.

Enclosure: DGS Circular No. 35 of 2020, dated 26.11.2020



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MINISTRY OF PORTS, SHIPPING AND WATERWAYS

नौवहन महानिदेशालय, मुंबई

DIRECTORATE GENERAL OF SHIPPING, MUMBAI

F.No.23-60011/2/2020-CREWS-DGS

Dated: 26.11.2020

DGS Circular No. 35 of 2020

Subject: Implementation of the 2018 amendments to the Code of MLC, 2006-reg.

This relates to the 2018 amendments to the code of MLC 2006 related to Regulation 2.1, 2.2 and 2.5 which has been adopted by the Governing Body of ILO. These amendments will come into force on 26th December, 2020. The details of the said amendments are enclosed as Annexure-I.

2. India has already supported the said amendment of MLC in ILO and initiated necessary action for required amendment to the Merchant Shipping (Maritime Labour) Rules, 2016, corresponding to the said 2018 amendment of MLC, 2006 .

3. This circular is issued for information to all stakeholders for their preparedness well in advance from the date of entry into force of the said amendments.

4. The ship-owners may be prepared in terms of ensuring the said amendments with revised DMLC Part I & II as on the date of entry in to force of the said amendments to Merchant Shipping (Maritime Labour) Rules, 2016, however, with regard to inspection & certification of Maritime Labour Certificate, the same shall be inspected during next inspection (intermediate or Renewal) due for the ship whichever is earlier.

5. This issues with the approval of Director General of Shipping & Additional Secretary to Gol.

Encl: As above

(SubhashBarguzer)

Deputy Director General of Shipping (Crew)

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Draft

[TO BE PUBLISHED IN PART II, SECTION 3, SUB-SECTION (i) OF THE GAZETTE OF
INDIA EXTRAORDINARY]

Government of India
Ministry of Shipping

New Delhi, The _____ October, 2020

G.S.R. _____.—In exercise of the powers conferred by section 218A read with section 457 of the Merchant Shipping Act, 1958 (44 of 1958), the Central Government, having regard to the provisions of the Maritime Labour Convention, 2006, as amended, hereby makes the following rules further to amend the Merchant Shipping (Maritime Labour) Rules, 2016, namely:-

1. Short title and Commencement. - (1) These rules may be called the Merchant Shipping (Maritime Labour) Amendment Rules, 2020.

(2) They shall come into force on 26th Day of December, 2020.

2. In the Merchant Shipping (Maritime Labour) Rules, 2016 (herein referred to as the principal rules), -

(1) in rule 8, after sub-rule (8) the following new sub-rule shall be added, namely:-

“(9) A seafarer’s employment agreement shall continue to have effect while a seafarer is held captive on or off the ship as a result of acts of piracy or armed robbery against ships, regardless of whether the date fixed for its expiry has passed or either party has given notice to suspend or terminate it.

Explanation: For the purpose of this sub-rule:

(a) the term “piracy” shall have the same meaning as in the United Nations Convention on the Law of the Sea, 1982 to which India is a party

(b) the term “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 onboard such a ship, within a

country's internal waters, archipelagic waters and territorial sea, or any act of inciting or of intentionally facilitating an act described above."

(2) In rule 9, after sub-rule (5), a new sub-rule shall be added namely:-

"(6) 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, including repatriation, under these seafarers' employment agreement, relevant collective bargaining agreement or these rules, as applicable, including the remittance of any allotments as provided in sub-rule (4), shall continue to be paid and ensured by the ship-owner during the entire period of captivity and until the seafarer is released and duly repatriated in accordance with Rule 12 or, where the seafarer dies while in captivity, until the date of death as determined in accordance with Rule 9.

Explanation.- For the purpose of this sub-rule, the terms "piracy" and "armed robbery against ships" shall have the same meaning as assigned in sub-rule (9) of Rule 8."

(3) In Rule 12, after sub-rule 17, the following sub-rule shall be added, namely:-

"(18) The entitlement to repatriation may lapse if the seafarers concerned do not claim it within a period of _____ years or as provided in the collective agreements except where they are held captive on or off the ship as a result of acts of piracy or armed robbery against ships.

Explanation: The terms piracy and armed robbery against ships shall have the same meaning as in sub rule (9) of Rule 8."

(4) After Rule 26, a new rule shall be added, namely:-

"26 A. Marine casualties.- The issues related to marine or shipping casualties shall be dealt in accordance with the provisions for Investigations & Inquiries under Merchant Shipping Act, 1958."

(5) In Form 3 to the Rules, after item (e) 14, the following items shall be added, namely:-

15. Financial security for repatriation;
16. Financial security relating to ship-owners liability;
17. Continuation of seafarers' employment agreement (sub rule 9 of rule 8);
18. Payment of wages (sub rule 6 of rule 9);
19. Entitlement to repatriation (sub rule 18 of rule 12)".

(6) In Form 4 to the Rules, after item14, following items shall be added, namely:

"15. Financial security for repatriation (rule 12);

16. Financial security relating to ship-owners liability (rule 19);

17. Continuation of seafarers' employment agreement (sub rule 9 of rule 8)

18. Payment of wages (sub rule 6 of rule 9)

19. Entitlement to repatriation (sub rule 18 of rule 12)".

[F.No. _____]

Satinder Pal Singh, Jt. Secy.

Note:- The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-Section (i) vide GSR No. 202 (E) dated 29.02.2016