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27 August 2013

To: Shipowners / Ship Managers and / Ship Masters

Dear Sir/Madam,

Errata to Circular letter dated 23 August 2013
ILO Maritime Labour Convention, 2006
Entry into force – 20 August, 2013

On page 1, amend the following sentences to read:

“To: Shipowners / Ship Managers ~~and /~~ Ship Masters ~~and Classification Societies~~”

“The ~~MLC has not yet applied to Government of~~ the Hong Kong Special Administrative Region (HKSAR) ~~has not yet ratified the MLC.~~”

“Under this transition period, owners of Hong Kong registered ships are advised to apply for the issuance of the “Statement of Compliance” to show to port States that they are in compliance with the provisions of MLC prior to formal ~~acceptance ratification~~ of the Convention by HKSAR.”

On page 2, amend the following sentences to read:

“ROs shall carry out inspection on crew accommodation in accordance with the requirements of ILO 92 and 133 and submit reports to Marine Department for examination ~~when existing ships intend to join joining~~ the Hong Kong Register.”

c.c.: Recognized Organizations

For your easy reference a fresh copy of the Circular Letter is attached to this circular.

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27 August 2013

To: Shipowners / Ship Managers and / Ship Masters

Dear Sir/Madam,

ILO Maritime Labour Convention, 2006

Entry into force – 20 August, 2013

The Maritime Labour Convention (MLC), 2006 has entered into force internationally on 20 August 2013 and it applies only to those countries that have ratified the MLC on or before 20 August 2012. For countries that have ratified or will ratify after 20 August 2012, the entry into force date will be 12 months after the date of ratification. Ships calling at the port of a State that has ratified the MLC may be inspected by port State control (PSC) for compliance with the MLC's requirements, irrespective of whether the ship's flag State has ratified the MLC. Ships from non-ratifying States would not receive any more favorable treatment than ships from States that have ratified the MLC. A list of countries that have ratified the MLC is available on the International Labour Organization's website (www.ilo.org)

Statement of Compliance

The MLC has not yet applied to the Hong Kong Special Administrative Region (HKSAR). We are now preparing local legislation for the implementation. Under this transition period, owners of Hong Kong registered ships are advised to apply for the issuance of the "Statement of Compliance" to show to port States that they are in compliance with the provisions of MLC prior to formal acceptance of the Convention by HKSAR. This Administration has authorized the Recognized Organization (ROs) to issue the voluntary "Statement of Compliance" to Hong Kong registered ships on our behalf and to carry out all other duties associated with the Convention.

PSC Inspection

If your ship has not been issued with a "Statement of Compliance", you should apply one from your RO immediately to avoid PSC intervention in those ratifying countries.

Furthermore you should ensure all requirements of MLC 2006 have been complied with before entry to these countries. During PSC inspection you are advised to show your preparative work to comply with the HK DMLC-Part I for the issuance of “Statement of Compliance”. These are good evidence of compliance with the MLC to the PSC inspectors. According to ILO Resolution XVII, flag and port States should give due consideration to allowing ships to continue to operate without the Certificate and DMLC for up to a period of one year following the initial entry into force of the Convention, provided that their inspectors have no evidence that the ships do not conform to the requirements of the MLC. For your easy reference the ILO Resolution XVII is attached as an Annex to this circular.

ILO 92 and ILO 133 Compliance

For existing Hong Kong registered ships built before Hong Kong implements the MLC, they have to meet the ILO 92 and ILO 133 accommodation requirements under the Hong Kong Merchant Shipping (Seafarers) (Crew Accommodation) Regulation. However if the shipowners find that it is impracticable to comply with all the ILO 133 requirements, they may apply for exemption from any part of the ILO Convention No. 133. ROs shall carry out inspection on crew accommodation in accordance with the requirements of ILO 92 and 133 and submit reports to Marine Department for examination when existing ships intend to join the Hong Kong Register. The issuance of notification to exempt (often an e-mail) by the Marine Department shall be based on that the ILO Convention No. 92 are fully complied with. Since the notification to exempt is not in the format of an exemption certificate, apart from the notification to exempt document it is advised that a set of survey report issued by recognized organization (RO) with correspondences in relation to exemption (if applicable) for crew accommodation should be kept on board as a further evidence for compliance of the requirements of ILO 92 and 133 during PSC inspection.

Should you have any questions, please feel free to contact our Senior Surveyor/Cargo Ships Safety Section at

Telephone Number: (852) 2852 4510
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E-mail: ss_css@mardep.gov.hk

Yours faithfully,

No signature on website copy

(S.H. Tse)
Senior Surveyor/Cargo Ships Safety Section
for Director of Marine

c.c.: Recognized Organizations

Annex

ILO Resolution concerning the promotion of the Maritime Labour Convention, 2006

Resolution XVII

Resolution concerning the practical implementation of the issue of certificates on entry into force

The General Conference of the International Labour Organization,

Having adopted the Maritime Labour Convention, 2006,

Recalling Article VIII, paragraph 3, concerning the entry into force 12 months after the date on which the required number of ratifications have been registered,

Noting that flag States and recognized organizations would not be in a position to recruit, train and have in place a sufficient number of inspectors until there is a good degree of confidence as to the probable date of entry into force,

Noting that even when a sufficient number of inspectors is in place to ensure a continuing level of inspection and enforcement, it will not be possible to review, inspect and certify all the ships (possibly 40,000 ships) required to carry a maritime labour certificate and declaration of maritime labour compliance within the 12 months before entry into force,

Noting also that should this certification effort be accomplished notwithstanding, these inspectors will be largely idle until the next peak of inspections two years after entry into force,

Recognizing the practical difficulties in providing a maritime labour certificate and a declaration of maritime labour compliance to all ships immediately following entry into force;

Requests governments to develop plans, which will ensure the phasing in of certification requirements starting with bulk carriers and passenger ships no later than 12 months after the date on which there have been registered ratifications by at least 30 Members with a total share in the world gross tonnage of ships of at least 33 per cent,

Requests further that, during a period of one year following the initial entry into force of the Convention, Members (both flag and port States) give due consideration to allowing ships to continue to operate without the certificate and declaration referred to, provided that their inspectors have no evidence that the ships do not conform to the requirements of the Convention.