



## APPLICATION

### 1. Why is the term "Shipowner" used in the MLC, rather than "Company" (as under ISM) where the same entity is meant?

Definition of shipowner according to MLC 2006:

*"Shipowner means the owner of the ship or another organization or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on shipowners in accordance with this Convention, regardless of whether any other organization or persons fulfil certain of the duties or responsibilities on behalf of the shipowner."*

Although it seems logical that the DOC company (ISM), which has already assumed responsibilities for the operation of the ship, would also assume the responsibilities of the shipowner as imposed by the MLC, there is no such obligation in the convention.

MLC 2006 as well as the Luxembourg DLMC I leaves it with the shipowner to organize the implementation of the convention. However due care shall be given to keep consistency through the different elements of the MLC 2006 (crew employment, social security, manning level, etc....) and related SOLAS items (such as ISM, ISPS, CSR, etc....).

As far as MLC is concerned, there is only one "MLC shipowner" per ship and this is not necessarily the individual or organisation that owns the ship. The owner of the vessel, if declared as the MLC shipowner, may delegate part of the responsibilities to the ISM DOC holder but remains generally responsible for this part.

The intention of the MLC is to have one entity assuming the responsibilities of the shipowner regarding seafarers' living and working conditions. This entity can be the shipowner himself or a third person, but not both."

### 2. Who is covered by the MLC 2006?

The definition of a seafarer covers all people who are employed or are engaged or work in any capacity on board a ship to which the Convention applies, including cabin and cleaning personnel, bar staff, waiters, entertainers, singers, kitchen staff, casino personnel and aestheticians, irrespective of whether the seafarers concerned have been recruited directly by a shipowner or are employed under a subcontracting arrangement.

Nevertheless, the definition relates to the time on board and is not clearly defined in the Convention. In case of doubt, the national competent authority must make a determination on the question after consultation with the shipowners' and seafarers' organizations concerned. Port State Control and Flag State Control Inspectors will use professional judgement in assessing the appropriate attributions.

The following professionals will in general not be considered as seafarers by the Luxembourgish administration:

- Professional Pilots;
- Port Workers/Personnel only working on board while the ship is in port (for example, dock workers);
- Guest entertainers (who work occasionally and short term<sup>1</sup> onboard with their principal place of employment being ashore);
- Ship Inspectors/Surveyors (involved on board for and on behalf of a public authority, a recognized organization, the owner, the client) and only working occasionally and short term<sup>1</sup> onboard with their principal place of employment being ashore;
- Ship Superintendents and Shipowner's representatives, as well as Client representatives;
- Cadets or trainees (participating in an official training or education program in a member country of the European Union and undergoing training at training facilities or practical training and sea-service experience on a ship for this purpose);
- Military personnel and private armed guards;
- Repair and maintenance technicians (who work occasionally and short term<sup>1</sup> onboard with their principal place of employment being ashore);
- Researchers, scientists, divers, specialist off-shore technicians, helicopter and aircraft personnel (employed under outsourced service agreement).

During their presence on board above-mentioned persons shall benefit from decent working and living conditions. Shipowners shall further insure that they, while being on board, are covered by adequate measures for the protection of their health and that they have access to prompt and adequate medical care, including repatriation and at no expense to them. The master is authorized to list such persons as "supercargo", "supernumerary" or "trainees" on the crew list.

### **3. What does the clause "no more favourable treatment" means?**

Ships of all countries, also those that have not ratified the Convention, will be subject to inspections in Port States that have ratified the Convention.

### **4. Do the ships also need to comply with those provisions not covered in the DMLC?**

Yes, these 14 items in the DMLC are certified, but the compliance to MLC must be full (see also Question 36).

### **5. What is the Administration's policy on MODUs, other offshore units such as drill ships, mobile offshore accommodation units and oil storage units such as FPSOs and FSUs? Will MLC 2006 apply to them?**

Yes! For the application of the MLC 2006, the Luxembourg administration does not differentiate with respect to the type of ships.

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<sup>1</sup> For all personnel staying more than seven (7) days on board, this status shall be confirmed by the Luxembourg Maritime Administration based on the information provided by the shipowner.

## **Title 1. Minimum requirement to work on a ship**

### **6. What is the Luxembourg minimum age for a person to work as a seafarer?**

18! No derogations possible.

### **7. Does the medical certificate have to be in English?**

For ships on international voyages, the medical certificate must at least be in English.

### **8. What is the period of validity for a medical certificate?**

Unless a shorter period is required by reason of the specific duties to be performed by the seafarer, the period of validity of a medical certificate is set at 2 years. The medical certificate concerning the perception of colours remains valid for a period of 6 years.

### **9. My medical certificate expired. Am I allowed to continue working until the next port?**

If the period of validity expires in the course of a voyage, the certificate shall remain in force until the next port of call where the seafarer can obtain a new medical certificate (provided that the period will not exceed three months).

In urgent cases and on demand of the shipowner, the Luxembourg Maritime Administration may allow the seaman to work without a valid medical certificate until the medical check can be done in the next port, if and only if the validity of this authorisation has a duration of less than 3 months and if the seaman has a medical certificate that only recently expired.

### **10. The renewal of my medical certificate was refused or limited in time, allowed activity or geographic zone by one doctor. Can I ask for a new examination by another doctor?**

Yes, this is possible as long as the other doctor meets the requirements set out in Article 1.1.2-4 of the MLC or if the examination is done by an independent medical arbitrator.

### **11. What are the Luxembourg provisions on the safe manning of ships?**

The principle of safe manning is stated in international regulations (SOLAS, Convention, and ILO Convention Nr. 180) and Community legislation (1999 / 63 Directive of 21 June 1999 as modified)

This requirement is transcribed into national law in Article 22 of the Luxembourg Maritime Act of 9 November 1990 as amended, establishing the public shipping register of ships flying the Luxembourg flag: "A certificate of safe manning, annexed to the registration certificate, shall be issued by the Commissioner of Maritime Affairs. In order to determine the size of the crew, the Commissioner of Maritime Affairs will take account of the characteristics of the ship, its degree of automation, the area of navigation and all other significant factors. The Master or the officer on duty shall enter the names and addresses and ranks of the members of the crew in the ship's log. A ministerial regulation may clarify the entries that are to be made".

## **Title 2. Conditions of employment**

### **12. Which documents relating to the seafarer's employment agreement have to be on board?**

The captain of the ship has to keep on board and available to the seafarer, the Luxembourg maritime authorities, the port state authorities or any other person acting on their behalf, the text of the statutory provisions, a copy of the contracts and of the applicable collective bargaining agreements (*MLC 2013, Art. 1.2.1-3*). If the seafarer's employment agreement and the collective bargaining agreement are not in English, the following documents have to be available on international journeys:

- a copy of a standard form of the agreement
- the portions of the collective bargaining agreement that are subject to a port State inspection under Regulation 5.2 of the MLC, 2006 (*CTM 2013, Art. 1.2.1-4*).

### **13. In which circumstances is the Luxembourg law not applicable to a Seafarers' Employment Agreement (SEA) given Article 72 of the Luxembourg Maritime Act (1990)?**

According to Article 72 of the Luxembourg Maritime Act (1990), "any contract of employment agreed between a shipowner or his representative and a sailor covering intended or current service on board a ship flying the Luxembourg flag shall be a contract of maritime employment subject to the provisions of this Act".

However, Because of the precedence of international over national law and in view of the on-going revision of Title III of Luxembourg Maritime Act of 9th November 1990, it is important to keep in mind that, should there be a contradiction between aforesaid Title III and the provisions of DLMC I, it is the DLMC I that shall be applied.

### **14. What are the minimal requirements in the SEA?**

If the seafarer is an EU resident, the SEA is covered by the Luxembourg law and must cover the following minimum matters:

- the seafarer's full name, date of birth or age, birthplace, habitual residence;
- the shipowner's name and address. If the shipowner is a corporation, the name and registered office and, where applicable, the name under which the shipowner operates publicly;
- the place where and date when the seafarers' employment agreement is entered into;
- the capacity in which the seafarer is to be employed;
- the amount of the seafarer's wages or, where applicable, the formula used for calculating them and, where appropriate, salary supplements, accessories salaries, bonuses or agreed on equity;
- the amount of paid annual leave or, where applicable, the formula used for calculating it;
- the termination of the agreement and the conditions thereof, including:
  - *if the agreement has been made for an indefinite period the conditions entitling either party to terminate it, as well as the required notice period;*
  - *if the agreement has been made for a definite period, the date fixed for its expiry; and*
  - *if the agreement has been made for a voyage, the port of destination and the time which has to expire after arrival before the seafarer should be discharged;*
- the health and social security protection benefits to be provided to the seafarer by the shipowner;
- the seafarer's entitlement to repatriation;

- the appropriate or applicable Collective Bargaining Agreement;
- additional clauses which the parties have agreed on.

If the seafarer is not an EU Member State resident, the SEA is covered by the law chosen by the parties and must cover as a minimum the requirements of the *MLC A2.1.4* standard, i.e.:

- the seafarer's full name, date of birth or age, and birthplace;
- the shipowner's name and address;
- the place where and date when the seafarers' employment agreement is entered into;
- the capacity in which the seafarer is to be employed;
- the amount of the seafarer's wages or, where applicable, the formula used for calculating them;
- the amount of paid annual leave or, where applicable, the formula used for calculating it;
- the termination of the agreement and the conditions thereof, including:
  - *if the agreement has been made for an indefinite period, the conditions entitling either party to terminate it, as well as the required notice period, which shall not be less for the shipowner than for the seafarer;*
  - *if the agreement has been made for a definite period, the date fixed for its expiry; and*
  - *if the agreement has been made for a voyage, the port of destination and the time which has to expire after arrival before the seafarer should be discharged;*
- the health and social security protection benefits to be provided to the seafarer by the shipowner;
- the seafarer's entitlement to repatriation;
- reference to the collective bargaining agreement, if applicable; and
- any other particulars which national law may require.

**15. If the seafarer is not an EU member state resident and the SEA is governed by the law chosen by the parties, do Art. 94 and Art. 100 of the Luxembourg Maritime Act apply with respect to paid leave entitlement and repatriation?**

1. According to Luxembourg law, duly ratified international conventions are part of the national legal order and take precedence over national texts.

2. Parties (non-EU) have the right to choose the applicable law to their contract of employment. However, a law of another state cannot be applied when its application leads to an evident inconsistency with the fundamental principles of the Luxembourg law which includes the provisions of the MLC 2006 (which is, with the Act of 10th July 2011 approving ILO convention 185 and the Maritime Labour Convention, an integral part of the national legal order).

In consequence, currently all the provisions of MLC have to be considered as an absolute minimum requirement, whatever the applicable law to the contract shall be.

Reference : Regulation 2.5 (repatriation) and Standard A2.4.2 (annual leave).

**16. What are the Luxembourg provisions on the probation period?**

The probation period cannot be shorter than 2 weeks or longer than 3 months. A probation period inferior to a month must be expressed in weeks; a probation period superior to one month must be expressed in months. The period of notice to end a probation period must not be less than:

- as many days as the contractual probation period counts weeks
- 4 ('four') days per contractual probation month, but not less than 15 days or not more than one month.

### **17. What are the Luxembourg requirements on the notice of termination?**

In cases where the shipowner or the seafarer gives notice of termination, the SEA concluded for an *indefinite period* shall end after a minimum notice period of:

- one week, if the seafarer has had a continuous period of service of less than three months with the same shipowner;
- two weeks, if the seafarer has had a continuous period of service of between three months and three years with the same shipowner;
- six weeks, if the seafarer has had a continuous period of service exceeding three years with the same shipowner.

The SEA concluded for a *specific period* cannot in principle terminate before the period for which it was concluded (the same applies to a contract concluded for the duration of a single voyage). Nevertheless, if a SEA has to be terminated before the end of said period (or before the end of the *single voyage*) by one party, the other party is entitled to a severance payment.

For all types of contracts (limited term, unlimited term, per voyage): certain situations or events may lead to the termination of a contract without notice and without entitlement to a severance payment. In particular:

- Serious misconduct;
- Split-up by mutual agreement of the parties;
- The seafarers' inability for the proposed job noted during the initial medical examination;
- The loss of the vessel, its officially confirmed unseaworthiness, its seizure or capture;
- The laying up of the ship or its extended stay at a shipyard (for more than 10 days);
- The seafarer disembarking for medical reasons including illness or injury;
- The ship being en route to an armed conflict area (as defined by the SEA or the CBA), to which the seafarer refuses to travel.

Note:

If the Luxembourg law is not applicable to the SEA:

- Notice for termination of the SEA without penalty may not be given for a shorter period than the minimum period fixed in the MLC, 2006 (7 days).
- Circumstances leading to the termination of the SEA with a shorter notice period or immediately, and without penalty are only allowed for compassionate or other urgent reasons.

### **18. What are the Luxembourg requirements on the use of any licensed or regulated private recruitment and placement service?**

Public (and private) services for the recruitment and/or placement of seafarers do not exist in the Grand-Duchy of Luxembourg. Shipowners are only allowed to use seafarers' recruitment and placement services that are:

- established in a country which has ratified the Convention, and operating only in conformity with a standardized system or licensing or certification or other form of regulation, issued by the competent authority in that country.
- from States not party to MLC, 2006 whose conformity to the MLC can be fully demonstrated. The services must be in line with the standards set out in A1.4 of the MLC. This has to be verified and, if necessary, documented by the shipowner (verifications and certifications can be done by Recognized Organisations).

Private services for the recruitment and/or placement of seafarers shall not charge seafarers any fee for recruitment or placement or for providing employment to them, other than the cost of the seafarer obtaining a national statutory medical certificate, the national seafarer's book and a passport. The cost of obtaining any visas shall be borne by the shipowner.

**19. The services of a Recruitment and Placement Service outside of MLC parties must be in line with MLC A1.4 standards. This has to be verified and, if necessary, documented by the shipowner. What are the conditions dictating when it is necessary and what does the verification entail?**

The shipowner has to ensure and demonstrate, by appropriate measures (the shipowner should provide documentation), that seafarer recruitment and placement services based in countries or territories in which the MLC does not apply, are in line with the requirements set out in the Standard A1.4 of the Code of the MLC, 2006 (verification and certification can be done by a duly recognized RO or an EU member State).

**20. What are the provisions on hours of work and hours of rest applicable onboard Luxembourg flagged ships?**

Hours of work

*Standard:*

The regular working hours for seafarer are set on the basis of an eight-hour day, with one day of rest per week and rest on public holidays.

Unless otherwise provided in the SEA or CBA, the following Luxembourg public holidays shall be considered: 1 January, Easter Monday, 1 May, Ascension, Whitsun Monday, 23 June (National Day), 15 August, 1 November, 25 December, 26 December.

*Exception:*

A CBA may determine seafarers' normal working hours on a basis no less favorable than above-mentioned standard.

Hours of rest

Minimum hours of rest shall not be less than:

- 10 hours in any 24 hour period; and
- 77 hours in any seven-day period.

Hours of rest may be divided into no more than two periods, one of which must be at least six hours. In addition, the interval between two consecutive periods of rest must not exceed 14 hours.

For seafarers who are assigned tasks as officer of the watch or as a rating being part of a watch as well as those assigned certain tasks related to safety, operations, prevention of pollution and security, a CBA may provide for exceptions to the limits set for rest hours according to the procedures and requirements laid down in paragraph 9 of Section A-VIII/1 of the STCW Code. In this case, the CBA must provide for compensatory measures in the form of more frequent or longer rest hours and leave and, where appropriate, a minimum rest period at night time in order to ensure that seafarers are given an adequate period of rest.

The CBA might specify the time frame of such compensations.

**21. The normal work week hours differ between the Luxembourg Maritime Act (Art. 92) and the DMLC I Section 14. Which definition applies?**

LMA Art. 92: 'The work of personnel covered by a contract of maritime employment shall be based on an 8 hour day and a **40** hour week'.

DMLC I Section 14: 'Normal hours for calculating the basic pay shall not exceed **48** hours per week and overtime should be not less than one and one-quarter times the basic pay or wages per hour'.

Because of the precedence of international over national law and in view of the ongoing revision of Title III of Luxembourg Maritime Act of 9th November 1990, it is important to keep in mind that, should there be a contradiction between aforesaid Title III and the provisions of DLMC I, it is the DLMC I that shall be applied.

The normal working hours' standard for seafarers shall be based on an eight-hour day with one day of rest per week (48H/week).

**22. What are the Luxembourg provisions on compensatory rest?**

Shipowners shall ensure that musters, fire-fighting and lifeboat drills, security and oil-spill drills, safety & security exercises are conducted in a manner that minimizes the disturbance of rest periods, and do not induce fatigue.

Shipowners shall ensure that adequate compensatory rest periods are provided whenever the normal rest period is disturbed for call-outs to work, such as when a machinery space is unattended, during the usual hours of rest.

Unless otherwise provided in the SEA or the CBA, compensatory rest must be equal in time to the extra working period and shall be granted , as soon as practicable within a 7 days limit, but no later than within a seven (7) day period after the normal situation has been restored.

**23. What is the entitlement to repatriation of a seafarer? What costs are to be covered by a shipowner when a seafarer is repatriated? Can a seafarer be charged for repatriation costs?**

Seafarers on a Luxembourg flagged ship have the right to be repatriated at the shipowner's cost if:

- the seafarer's employment agreement expires normally and the seafarer is located in a country other than his country of residence;
- the seafarer's employment agreement is terminated by the seafarer or the shipowner for justified reasons;
- the seafarer is no longer able to carry out his duties under his employment agreement or cannot be expected to carry them out in the specific circumstances.

The circumstances qualifying for repatriation are the following:

- sickness, accident or other medical reasons requiring disembarkation;
- shipwreck;
- when the shipowner is no longer able to fulfil his legal and contractual obligations due to bankruptcy, change of registry, sale of the ship or any other similar reason;
- when the ship proceeds in an area of armed conflict, as defined in the collective bargaining agreement, and the seafarer refuses to remain onboard;
- in the event of cessation or suspension of the employment agreement according to the collective bargaining agreement or for any other similar reason.



**24. Is there a difference in stringency for carrying a Luxembourg seaman's book between the Luxembourg Maritime Act (Art. 85) and the DMLC I Section 1?**

LMA Art. 85: "All seamen sailing under the Luxembourg flag **must** carry a seaman's book produced and issued by the Commissioner of Maritime Affairs".

DMLC I Section 1: "A duly filled Luxembourg seaman's book **may** satisfy this requirement and will be accepted by the Luxembourg Maritime Administration as evidence".

No, both texts are not contradictory. All seafarers sailing under the Luxembourg flag must be in possession of a seaman's book issued by the Government Commissioner for maritime affairs.

According to MLC, seafarers shall be given a document containing a record of their employment on board the ship. This document shall not contain any statement as to the quality of the seafarers' work or as to their wages (A2.1.1 e) and A2.1.3). A duly filled Luxembourg seaman's book may satisfy these requirements and will be accepted by the Luxembourg Maritime Administration as evidence. However some shipowners might use another way to fulfill above-mentioned requirements and issue for example a specific declaration per seafarer. As long as this document is in line with relevant MLC requirements, it will be accepted by the Luxembourg Maritime Administration as evidence.

**Title 3. Accommodation, recreational facilities, food and catering**

**25. What are the minimum standards for food and catering (quantities, testing for quality, training requirements for catering staff, etc.)?**

- Seafarers shall be provided with adequate quantities of food and potable water on board taking due regard of the number of seafarers on board, their religious requirements and cultural practices as they pertain to food, and the duration and nature of the voyage.
- The quality of such food and potable water on board shall be suitable and the food shall be within the expiry dates.
- The food on board shall be of adequate nutritional value and variety.
- The organisation and equipment of the catering department is organised and equipped to provide seafarers with adequate, varied and nutritious meals, prepared and served in a sanitary environment.
- Seafarers shall not be charged for their food.
- Catering staff are properly trained or qualified.

**26. How can I get certification of the cook's qualifications?**

A Special qualification certificate is issued by the Luxembourg Maritime Administration on the base of:

- a valid national certificate issued by a Party to MLC, 2006 which certifies completion of ships' cook training course in accordance with MLC, 2006, standard A3.2.4
- a valid national certificate issued by a Party to ILO No. 69

The application form and the certificate are to be sent by Mail to the Administration.

## 27. We are operating a small ship. Do we need a fully qualified cook on board?

Ships operating with a complement of less than ten people may, by virtue of the size of the crew or the trading area, be authorised by the Government Commissioner for maritime affairs not to carry a fully qualified cook. Anyone processing food in the galley shall be trained or instructed in areas including food and personal hygiene as well as handling and storage of food on board ship. In such case, a specific document shall be issued by the Luxembourg Maritime Administration.

### Title 4. Health protection, medical care, welfare and social security protection

## 28. Which Luxembourg regulations apply to the reporting of accidents?

Unfortunately, there is no English version available. The legal texts can be found here:

[http://www.maritime.lu/sites/maritime.lu/files/files/pdf/legislation/legis\\_nation/loi30042008\\_accidents.pdf](http://www.maritime.lu/sites/maritime.lu/files/files/pdf/legislation/legis_nation/loi30042008_accidents.pdf)

[http://maritime.lu/sites/maritime.lu/files/files/pdf/legislation/legis\\_nation/rgd131011\\_enquetes-accidents-transports-maritimes.pdf](http://maritime.lu/sites/maritime.lu/files/files/pdf/legislation/legis_nation/rgd131011_enquetes-accidents-transports-maritimes.pdf)

## 29. Which social security does apply to me when working on a Luxembourg flagged ship?

The applicable social security depends on the nationality and the country of residence of the seaman.

Luxembourg National	EU/EFTA National	Third Country National
→ Luxembourg Social Security	→ Luxembourg Social Security	Residing in Luxembourg → Luxembourg Social Security
	However, if remunerated by an employer located in an EU/EFTA country and the seafarer is residing in the same country, than the social security of the latter applies	Not residing in Luxembourg - Bilateral/Multilateral convention exists: → as agreed in the convention; usually the social security of the flag state applies - No Bilateral/Multilateral convention: → Private Cover is mandatory

Please refer to Annex 1 below for a more comprehensive description.

## 30. Where can I find a list of the bilateral agreements on Social Security of Luxembourg?

The current list of bilateral agreements on social security can be found here:

[http://www.mss.public.lu/international/conventions\\_bilaterales/index.html](http://www.mss.public.lu/international/conventions_bilaterales/index.html)

## 31. What are the requirements of private social security cover?

The Convention requires that at least three (3) of the following nine (9) branches to be provided: medical care, unemployment benefit, old-age benefit, employment injury benefit, family benefit, maternity benefit, invalidity benefit and survivors benefit.

## **What are the Luxembourg provisions on the onboard complaint procedure?**

In order to ensure that complaints may be resolved at the lowest possible level, the maritime law provides that:

- a seafarer shall, as soon as possible, after the alleged occurrence of the labour grievance, bring the matter to his immediate Supervisor or to the Head of Department. A solution to the grievance shall be given within seven (7) days. If the complaint cannot be resolved by either the head of department or the superior officer to the satisfaction of the seafarer, then the seafarer may refer the matter to the master within two (2) days. The master has further seven (7) days to bring a solution to the complaint. In any case, a seafarer has the right to lodge a complaint directly with the master and as soon as possible after the alleged occurrence of the labour grievance (same time to give solution).
- if no resolution of the dispute can be obtained on board, the seafarer has ten (10) days to bring it to the shipowner. The seafarer may present his case directly, when appropriate, to the shipowner for example if the complaint is related to the Master. In such a case, the seafarer must refer as soon as possible to the shipowner after the alleged occurrence of the labour grievance. The shipowner and the seafarer concerned shall have a period of twenty (20) days to solve the matter.
- if the dispute can still not be resolved satisfactorily after the aforesaid twenty (20) days, either party shall have further twenty (20) days to bring the matter to the Government Commissioner for maritime affairs.
- in any case, the seafarer is always entitled to complain directly to the master, the shipowner or the Government Commissioner for maritime affairs.

Every seafarer shall be provided with the name of a person on board who can give impartial advice and on a confidential basis.

Notwithstanding above-mentioned procedure, every seafarer has the right to file a complaint directly to an appropriate external authority, including competent Labour courts.

### **32. Can a seafarer contact directly the administration for complaints?**

The aim is resolve complaints at the lowest possible level, but to allow a right to appeal directly to the master or appropriate external authorities.

### **33. Who can file a complaint?**

Standard A5.2.1, paragraphs 3 provides that a “complaint” means information submitted by a seafarer, a professional body, an association, a trade union or, generally, any person with an interest in the safety of the ship, including an interest in safety or health hazards to seafarers on board.

### **34. What are the Luxembourg provisions on the payment of wages?**

Seafarers must be paid for their work regularly and in full, in accordance with their employment agreement and at no greater than monthly intervals. Seafarers are given a monthly account of the payments due and the amounts paid as well as any authorized deductions.

Normal hours for calculating the basic pay shall not exceed 48 hours per week and overtime should be not less than one and one-quarter times the basic pay or wages per hour.

### **35. Can seafarers be charged for the cost of sending wages to family members (allotments)?**

Shipowners 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.

Any charge for service shall be reasonable in amount and the exchange rate shall be at the prevailing market rate and not unfavourable to the seafarer.

## **Title 5. Certification and inspection**

### **36. What is a certification in terms of the Maritime Labour Convention?**

In application of the Maritime Labour Convention in force since 20 August 2013, all Luxembourg-flagged ships of 500 GRT or more and engaged in international voyages shall hold a Maritime Labour Certificate. This document certifies that the employment, working and living conditions on board the ship comply with the provisions of the national regulations implementing the 14 points of the Convention to be certified.

The certificate is supplemented with the following documents:

- The Declaration of Maritime Labour Conditions Part I, describing the applicable national regulation, and Part II, describing the measures implemented by the shipowner in order to apply the regulation on board the ship;
- The report of the mandatory on-board inspection before the issuance of the certificate.

These documents are to be translated in English, updated and retained on board. They are controlled for compliance by the port-state authority.

The Labour Certificate is issued for a maximum of 5 years.

# Annex 1

## Social Security: applicable rules

It is the shipowner's responsibility to make sure that all seafarers employed on a Luxembourg flagged vessel are covered by a social security scheme.

Shipowners should be able to properly document this obligation.

### **1. Seafarers who are Luxembourg nationals**

*Code of social security, Article 1.1.3), 85.1.3) and 170.2, first sentence*

→ if employed on board a vessel flying Luxembourg flag, they are covered by the Luxembourg social security scheme

### **2. Seafarers who are EU, EEA (Iceland, Liechtenstein, Norway) or Swiss nationals**

*EC regulations 883/2004 on the coordination of social security systems*

*General rules*

- they are treated equally as to the rights and obligations under the legislation of any Member State as the nationals thereof
- they are subject to the legislation of a single Member State only

*Article 11.4 first sentence*

→ if employed on board a vessel flying the Luxembourg flag, they are covered by the Luxembourg social security scheme

*Article 11.4 second sentence*

→ **However**, if the seafarer is remunerated by an employer whose place of business is in another EU/EEA State or in Switzerland and if the seafarer is also residing in that State, he shall be subject to the legislation of that State

*Article 12*

→ **Posting**: persons covered by the legislation of a Member State who are sent by their employer on a vessel to perform a temporary work on this vessel, remain subject to the said legislation for a maximum of 24 months

*Article 16*

→ **Exceptions**: Member States may agree on exceptions to the above mentioned rules (example: the Belgium-Luxembourg agreement dated 25 March 1991 states that seafarers belonging to the Belgian pool are covered by the Belgian social security scheme if employed on board of a Luxembourg flagged vessel, whatever their nationality)

### **3. Seafarers who are nationals of a third State (not Luxembourg, not EU/EEA/Swiss)**

*Code of social security, Articles 1.1.3), 85.1.3) and 170.2, first sentence + Luxembourg Maritime Act of 9 November 1990, Article 106*

→ if employed on board Luxembourg flagged vessels and residing in Luxembourg, they are covered by the Luxembourg social security scheme, irrespective of their nationality

→ if employed on board Luxembourg flagged vessels and not residing in Luxembourg

- Bilateral/Multilateral convention exists: the social security scheme foreseen in the convention applies (Flag State or country of residence of seafarer);
- No bilateral convention: seafarer to be covered by social security scheme in country of residence or private cover (scheme/cover must be in line with the provisions of MLC, 2006).