

The Maritime Labour Convention 2006



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In the Standard Bulletin editions of February and April 2013, we reported on the Maritime Labour Convention 2006 (MLC), and its enforcement and compliance. In this article, we discuss several features of the Convention that present distinctive challenges peculiar to the offshore sector.

Does the Convention apply to all offshore ship types?

The MLC came into force on 20 August 2013 and applies to ships of 500gt and above that are ordinarily engaged in commercial activities. 'Ship' is expressly defined in the Convention as "a ship other than one which navigates exclusively in inland waters or waters within, or closely adjacent to, sheltered waters or areas where port regulations apply". Given this wide definition of 'ship', the Convention ostensibly applies to most offshore ship types, including Mobile Offshore Drilling Units (MODUs) and Mobile Offshore Production Units (MOPUs).

However, several Flag States that have ratified the Convention have taken the view that MODUs and MOPUs should be exempted from the certification requirements of the Convention as they consider them to be installations rather than ships. Accordingly, MODUs and MOPUs that are flagged in states such as the Marshall Islands, Panama and the Bahamas will not be required by those states to comply with the requirements of the MLC. Similarly, Singapore has exempted MODUs from MLC compliance, although a decision on whether MOPUs should also be exempted will be made by Singapore at a later date. Despite exempting MODUs and MOPUs, these Flag States generally encourage voluntary compliance so as to avoid adverse action by Port States that do not share the view that these units should be exempted. Members that operate MODUs and MOPUs should consult with

their Flag States if they are in any doubt about the applicability of the MLC to their particular units.

Definition of 'seafarer'

Under the Convention, a shipowner has strict obligations in respect of the working conditions and welfare of 'seafarers'. A 'seafarer' is defined under the Convention as "any person who is employed or engaged or works in any capacity on board a ship to which this Convention applies". In light of this broad definition, operators of offshore ship types may find themselves liable in the first instance for MLC compliance in respect of not only their own marine crew, but also other persons who are working on board, such as the charterer's or the client's personnel. To counteract this, BIMCO has developed the **MLC 2006 Clause for SUPPLYTIME 2005**, which provides that the charterer contractually assumes liability for MLC compliance in respect of charterer's personnel, which includes those persons employed by the charterer, their contractors, subcontractors and client. Whilst primarily designed to be used with the **SUPPLYTIME 2005 form**, offshore members should consider incorporating similar clauses into their other offshore contracts.

Members operating in the offshore sector should inform the club of the number of persons working on board, other than their own marine crew (e.g. charterer's personnel or subcontractors). In addition, they should particularly ensure that the employers of such other persons on board have adequate insurance in place to respond to repatriation liabilities under MLC in the event that the employer becomes insolvent.

Members should consult with their usual club contact if they have any queries. The club will continue to follow developments in respect of the implementation of the MLC.