

EXPLANATORY MEMORANDUM TO
THE MERCHANT SHIPPING (MARITIME LABOUR CONVENTION)
(EXTENSION OF MARITIME LABOUR CERTIFICATE) (AMENDMENT)
REGULATIONS 2019

2019 No. 716

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 This instrument makes amendments to the Merchant Shipping (Maritime Labour Convention) (Survey and Certification) Regulations 2013 (S.I. 2013/1785) to implement the mandatory 2016 amendments to the International Labour Organisation's Maritime Labour Convention, 2006, ("the MLC") regarding extension of the validity of the Maritime Labour Certificate following its due expiry date where a new Certificate cannot reach the ship.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is the whole of the United Kingdom.
- 4.2 The territorial application of this instrument is the whole of the United Kingdom.
- 4.3 This instrument applies to all sea-going United Kingdom ships wherever they are, excluding pleasure vessels, fishing vessels, ships of traditional build, naval auxiliaries, warships and vessels which are not ordinarily engaged in commercial activities.

5. European Convention on Human Rights

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

- 6.1 The MLC was presented to Parliament in a White Paper (Cm 7049). The MLC came into force internationally on 20 August 2013. The UK ratified the MLC on 7 August 2013 and legislation meeting the requirements of the Convention was in force by 7 August 2014.

- 6.2 The MLC as a whole consolidates and updates around 60 International Labour Organization instruments and sets out minimum standards for living and working conditions for seafarers. The MLC has been ratified by 84 countries representing 91% of the world's gross tonnage of ships.
- 6.3 It was implemented in the UK by a combination of existing legislation (some of which was amended to fully implement the MLC) and new regulations. The instruments which implement the MLC are:
- the Merchant Shipping (Maritime Labour Convention) (Medical Certification) Regulations 2010 (SI 2010/737),
 - the Merchant Shipping (Maritime Labour Convention) (Survey and Certification) Regulations 2013 (SI 2013/1785),
 - the Merchant Shipping (Maritime Labour Convention) (Hours of Work) Regulations 2018 (S.I. 2018/58),
 - the Merchant Shipping (Maritime Labour Convention) (Minimum Requirements for Seafarers, etc.) Regulations 2014 (S.I. 2014/1613),
 - the Merchant Shipping (Maritime Labour Convention) (Consequential and Minor Amendments) Regulations 2014 (S.I. 2014/1614),
 - the Merchant Shipping (Maritime Labour Convention) (Recruitment and Placement) Regulations 2014 (S.I. 2014/1615),
 - the Merchant Shipping (Maritime Labour Convention) (Health and Safety) (Amendment) Regulations 2014 (S.I. 2014/1616), and
 - the Merchant Shipping (Maritime Labour Convention) (Compulsory Financial Security) (Amendment) Regulations 2018 (S.I. 2018/667).
- 6.4 The Merchant Shipping (Maritime Labour Convention) (Survey and Certification) Regulations 2013 contain provisions on issue of a Maritime Labour Certificate following survey to ensure that the ship meets the relevant UK standards implementing the MLC.

7. Policy background

What is being done and why?

- 7.1 The objective of the instrument is to implement the 2016 amendments to Standard A5.1.3 of the MLC in UK legislation, in order to allow for the extension of an expiring Maritime Labour Certificate where the new certificate cannot reach the ship in time.
- 7.2 The changes made by this instrument to the Merchant Shipping (Maritime Labour Convention) (Survey and Certification) Regulations 2013 (SI 2013/1785) are as follows:
- 7.3 a new provision to allow a certifying authority of the United Kingdom to extend the period of validity of a Maritime Labour Certificate by up to 5 months where a renewal survey has been completed but a new Maritime Labour Certificate cannot be immediately issued and made available on board the ship;
- a new requirement that, where the certifying authority exercises this power, it must endorse the extended Maritime Labour Certificate accordingly;

- a new requirement that the new Maritime Labour Certificate must be issued as being valid from the original date of expiry of the existing certificate.
- 7.4 The “original date of expiry” is defined in the instrument as the final day of the period of validity of the certificate, excluding any extension to that period added by virtue of the provisions being inserted by our SI.
- 8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union**
- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.
- 9. Consolidation**
- 9.1 There are no plans at this time to consolidate the amendments made by this SI.
- 10. Consultation outcome**
- 10.1 The provisions were developed and agreed by the ILO’s Special Tripartite Committee on the MLC at which UK shipowners and seafarer unions were represented. UK implementation has also been discussed with the MCA’s Tripartite Working Group on the MLC. In addition, a short public consultation from was held from 20 to 27 March 2019. Twenty industry associations and organisations were notified, and the consultation was available on the gov.uk website. This was considered proportionate to the limited impact of the instrument, taking into account the prior discussions with those affected. Two responses were received, both supporting making the instrument. One response made some comments on the supporting guidance, which has been amended to take account of those comments.
- 11. Guidance**
- 11.1 Merchant Shipping Notice MSN 1848(M) Amendment 2 which sets out arrangements for survey and certification will be amended to include guidance on the new provision for extension of certificates and will be published as Merchant Shipping Notice MSN 1848 Amendment 3 before the Regulations come into force. It will be available online and in paper format from the address below.
- 12. Impact**
- 12.1 There is no impact on business, charities or voluntary bodies.
- 12.2 There is no impact on the public sector.
- 12.3 An Impact Assessment has not been prepared for this instrument because no, or no significant impact is expected.
- 13. Regulating small business**
- 13.1 The legislation applies activities that are undertaken by small businesses.
- 13.2 The instrument is beneficial for the shipowner as it introduces some flexibility in respect of the validity of a Maritime Labour Certificate.

14. Monitoring & review

- 14.1 The approach to monitoring of this legislation that the Maritime and Coastguard Agency will evaluate how the Regulations have impacted through consultation with industry using the representative organisations referred to in paragraph 10.
- 14.2 A statutory review clause is included in the instrument affected by the amendment requiring the Secretary of State to review the operation of the Regulations five years after those instruments came into force and at five yearly intervals thereafter.

15. Contact

- 15.1 Louise Unsworth at the Maritime and Coastguard Agency Telephone: 020 3817 2505 or email: Louise.Unsworth@mca.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Ajit Jacobs Deputy Director for Seafarer Safety and Health at the Maritime and Coastguard agency can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Nusrat Ghani at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.