



**IMO**  
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**GHANA SHIPPING  
(ACCOMMODATION, RECREATIONAL  
FACILITIES, FOOD AND CATERING)  
REGULATIONS, 2015**

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# **DEDICATION**

To my family

## **ACKNOWLEDGMENTS**

I wish to first and foremost thank the Almighty God for making this dream fulfilled.

I also wish to express my gratitude to the Director-General of the Ghana Ports and Harbours Authority, Mr. Richard Anamoo who also shared this dream and readily facilitated and agreed to my sponsorship by the Authority.

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## EXPLANATORY NOTES

### INTRODUCTION

Global support for the International Labour Organization's (ILO) Maritime Labour Convention (MLC) 2006 continues to increase. Currently, the ILO has registered ratification of the Convention by 56 ILO member States responsible for regulating conditions for seafarers on more than 80 per cent of the world's gross tonnage of ships.<sup>1</sup>

The Convention, came into force on 20 August 2013 – effectively becoming binding in international law – and established minimum working and living standards for all seafarers on those ships. Additionally, it is also an essential step toward ensuring fair competition and a level-playing field for quality owners of ships flying the flags of ratifying countries.<sup>2</sup> Perhaps it would not be an over-statement to point out that the “MLC 2006” has brought much comfort to seafarers and at the same time guaranteeing and securing their future.

In this Explanatory Note to the Ghana Shipping (Accommodation, Recreational Facilities, Food and Catering) Regulations 2015, an attempt would be made to trace the origin and history of the MLC, 2006. Further, this work would seek to answer the questions regarding the objects of the Convention; its structure and the unique features of the Convention.

Again, the Explanatory Note will discuss the need for Ghana being a State Party to International Labour Organization (ILO) and International Maritime Organization (IMO) respectively to incorporate provisions of the MLC 2006 by making Regulations in respect of Accommodation, Recreational Facilities, Food and Catering for seafarers in a Ghanaian flagged ships.

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<sup>1</sup> [www.ilo.org/global/standards/maritime-labour-convention/what-it-does/lang--index.htm](http://www.ilo.org/global/standards/maritime-labour-convention/what-it-does/lang--index.htm). Date last visited 4<sup>th</sup> December, 2014.

<sup>2</sup>Ibid.

The Explanatory Note would elucidate the way and manner treaties and international conventions are domesticated and incorporated into Ghanaian laws so as to become binding on its citizens and courts.

Finally, the Explanatory Note will show how the Ghanaian Parliament enacts laws and other legislative instruments such as regulations. The Drafting process itself will also be discussed regarding the provisions therein as to whether it is amending an existing regulations or a new regulation altogether. The structure of this part of the Explanatory Note will mostly be narrative and descriptive.

## **HISTORICAL BACKGROUND OF THE MLC 2006**

The origin of the MLC, 2006 which was adopted at the 10<sup>th</sup> Maritime Session of the International Labour Conference (ILC), can be traced back to two important developments or phenomena in the late 1990s;<sup>3</sup> the review being undertaken of the ILO standards by the Governing Body of the ILO and the major changes that were taking place in the maritime industry.<sup>4</sup>

After series of consultations amongst stakeholders such as the Joint Maritime Commission (JMC),<sup>5</sup> and other interested parties like shipowners, seafarers and governments representatives, a broad consensus was reached. The negotiating process for the MLC 2006 involved intensive and extensive consultation at both the formal and informal level. The formal level spanned five year.<sup>6</sup>

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<sup>3</sup> McConnell, Moira L, Dominick Devlin, Cleopatra Doumbia-Henry : The Maritime Labour Convention, 2006 , A Legal Primer to an Emerging International Regime, Martinus Nijhoff Publishes, Liden,Boston 2011, p.39.

<sup>4</sup> Ibid citing chapter 1 and 3 of the book, the Governing Body is the executive arm of the ILO. It is composed of 28 government, 14 employers and 14 worker representatives.

<sup>5</sup> Ibid, JCM is a standing bipartite body established by the ILO Governing Body. It provides advice to the Governing Body on maritime questions including standard setting for the shipping industry. It is composed of 40 titular members for each of the two groups. They are all nominated by the ILC. The meetings of the JMC are chaired by the Chairperson of the Governing Body. p.38.

<sup>6</sup> Ibid p. 59.

According to the International Labour Standards Department, the MLC 2006 is set to achieve near universal ratification, this is because of the unprecedented vote in favor of the Convention. It was adopted by International Labour Conference by a record vote of 314 in favour and none against (two countries (four votes) abstained for reasons unrelated to the substance of the Convention) after detailed review by over 1 000 participants from 106 countries.<sup>7</sup> It is important to observe that the unprecedented level of support reflects the lengthy international tripartite consultation that took place between 2001 and 2006 by governments, workers and employers.<sup>8</sup>

### **MLC 2006 AND OTHER CONVENTIONS**

The MLC 2006 otherwise known as the Seafarers' Bill of Right, incorporates and builds on existing sixty-eight maritime labour conventions and recommendations as well as more general principles, to ensure decent working and living conditions for all seafarers.<sup>9</sup>

The Convention revises, consolidates and incorporates a number of ILO conventions among others the following : Minimum Age (sea) Convention, 1920 (No. 7); Unemployment Indemnity (shipwreck) Convention, 1920 (No.8); Placing of Seamen Convention, 1920(No.9); Medical Examination of young Persons (Sea) Convention, 1921 (No.16); Seamen's Article of Agreement Convention, 1926 (No.22); Repatriation of Seamen Convention, 1926 (No.23); Officer's Competency Certificate Convention, 1936 (No.53); Holiday with Pay (Sea) Convention, 1936 (No. 54); Shipowners' Liability(sick and Injured Seamen) Convention,1936 (No.55); Sickness Insurance(Sea) Convention, 1936 (No.56); Hours of Work and Manning(Sea) Convention, 1936 (No.57); Minimum Age (Sea) Convention(Revised) 1936 (No.58); Food and Catering (Ships' Crews) Convention, 1946 (No.68) Certification of Ships' Cooks Convention, 1946 (No.69); Social Security(Seafarers) Convention, 1946(No. 70); Paid Vacations (Seafarers) Convention, 1946 (No. 72); Medical Examination(Seafarers) Convention, 1946 (No.73).<sup>10</sup>

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<sup>7</sup> Maritime Labour Convention, 2006 Frequently asked question. Revised edition, 2012, p.10.

<sup>8</sup> Ibid.

<sup>9</sup> Ifseafarer.org; last date visited 5<sup>th</sup> December, 2014.

<sup>10</sup> Maritime Labour Convention, 2006, p.7.



Indeed, the consolidation and revision of all the existing ILO maritime conventions, protocols and recommendations into the Convention will also bring consistency and uniformity in the application and enforcement of the provisions of the MLC 2006 by Ratifying States.

The two basic aim of the Convention is to ensure comprehensive worldwide protection of the right of seafarers and to establish a level playing field for countries and shipowners committed to providing decent working and living conditions for seafarers, protecting them from unfair competition on the part of substandard ships.<sup>11</sup>

The MLC 2006, has been designed to become a global legal instrument that will be the “fourth pillar” of the international regulatory regime for quality shipping, complementing the key Conventions of the International Maritime Organization (IMO), such as the International Convention for the Safety of Life at Sea 1974, as amended (SOLAS), the International Convention on Standards of Training, Certification and Watchkeeping, 1978, as amended (STCW), the International Convention for the Prevention of Pollution from Ships, 73/78 (MARPOL).<sup>12</sup>

## **THE STRUCTURE AND CONTENT OF THE MLC 2006**

The MLC 2006, starts with a Preamble, which sets out the purpose, the underlying philosophy of the Convention. In other words it contains the spirit of the Convention.

According Moira L. McConnell, Dominick Devlin and Cleopatra Doumbia-Henry, the extended preamble contextualizes the Convention’s provisions and serves to firmly situate the Convention in the wider international law of the sea and international maritime legal regime.<sup>13</sup> In addition to providing information as to the drafters’ intention, preambles can also play a functional role in

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<sup>11</sup> *Supra* footnote 7, p.3.

<sup>12</sup> *Ibid* p.2.

<sup>13</sup> *Supra* footnote 3, p.168.

treaty negotiations as a mechanism for resolving conflict over specific text or references that are problematic,<sup>14</sup> however, the preamble does not contain any legal binding obligations.<sup>15</sup>

## **THE CONVENTION**

The MLC, 2006 has sixteen (XVI) articles, an Explanatory Note to the Regulations and Code of the Maritime Labour Convention, Regulations and Code and five (5) Titles each with distinct heading.

The Convention begins in Article I, with general obligations, which are followed by definitions and scope of application of the Convention (Article II). Indeed Article II is said to contain the most important provisions in the Convention this is because it explicitly widens coverage to all workers (Seafarers) on ships covered by the Convention. It also introduces mandatory certification of working and living conditions on ships (ships GT on international voyages or voyages between or from non-flag State ports from a shipowner. Articles III-VII set out the core obligations, including implementation and enforcement related obligations. The remaining nine articles (VIII-VXI) are directed more to administration and operation of the Convention itself with provisions on entry into force, effect of entry into force on existing conventions, authoritative languages, depository functions, and conventions amendment procedures. They also include provisions on the establishment of the special Tripartite Committee to oversee the working of the Convention and with specific function in the amendment procedures.<sup>16</sup>

## **REGULATIONS AND CODE**

The MLC 2006, apart from the XVI Articles and the Explanatory Notes, has Regulations AND Code which are divided into five Titles with different headings. The Provisions in Part A are Standards which are mandatory and Part B are Guidelines to the Code namely:

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<sup>14</sup>Ibid (citing Vienna Convention on the Law of the Treaties, 23<sup>rd</sup> May 1969, entered into force on 27 the January 1980).

<sup>15</sup>Supra footnote.

<sup>16</sup>Ibid, p. 172.

- Title 1. Minimum requirements for seafarers to work on ship
- Title 2. Conditions of Employment
- Title 3. Accommodation, recreational facilities, food and catering
- Title 4. Health protection, medical care, welfare and social security protection
- Title 5. Compliance and Enforcement

Each regulation has a purpose clause indicating its objective in ‘plain language’. The Provisions in the Titles are, as a matter of international law, directed to States, primarily as flag States, with an international obligation to regulate conditions on board ships that fly their flag.<sup>17</sup>

According to Moira L. McConnell, Dominick Devlin and Cleopatra Doumbia-Henry, the provisions in Titles 1 to 4 and, in part, Title 5 are ‘regulatory’ in that they set specific minimum requirements for working and living condition for seafarers, primarily on board ships.<sup>18</sup>

The Regulations are general, non-negotiable points of principle.<sup>19</sup> The Standards are referred to as *Part A*, and the Guidelines are called *Part B*. Part A is mandatory, Part B contains recommendations that set out in more detail how Part A can be put into practice, and has to be given due consideration. Together Part A (the standards) and Part B (the guidelines) are called *The Code*.<sup>20</sup>

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<sup>17</sup> *Supra* footnote 3, p.244.

<sup>18</sup> *Supra* footnote 3, (Further explain Article II of the convention regarding the definitions of seafarer and ship represents a fundamental change in the scope of the Convention, which in turn affects national implementation. A much wider group of workers, indeed all persons working at sea with very few exclusion for category of ships are now covered as ‘seafarers’ under the MLC, 2006.

<sup>19</sup> See footnote 9, p.5.

<sup>20</sup> *Ibid*.

## **TITLE 1: MINIMUM REQUIREMENT FOR SEAFARERS TO WORK ON A SHIP**

Title 1 covers minimum age to work on a ship, medical certificate, Training and qualifications, Recruitment and placement.

### **Minimum Age**

The Convention, under Regulation 1.1 paragraph 2, set 16 years as the current minimum age for a person to work as a seafarer. If a country has a higher age then it already meets and exceeds the minimum age and would not need to adjust its minimum age. Night work for seafarers under the age of 18 is prohibited (with some possible exception). The MLC 2006 also requires in respect of hazardous work or ships' cook the seafarer minimum age must be 18 years of age.<sup>21</sup>

### **Medical Certificates**

The purpose under Regulation 1.2 is to ensure that all seafarers are medically fit to perform their duties. Hence seafarers cannot work on board a ship unless they are certified medically fit for their duties. Certificates must meet with accepted international standards, such as those issued to comply with the requirements of the International Convention on Standards of Training, Certification Watchkeeping for Seafarers (STWC).<sup>22</sup>

### **Training and qualifications**

This is also to ensure that seafarers are trained or qualified to carry out their duties on board ships. Regulation 1.3, paragraph 2, of the MLC 2006, provides that seafarers shall not be permitted to work on a ship unless they have successfully completed training for personal safety irrespective of their duties on board a ship.<sup>23</sup> The question of other training or

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<sup>21</sup>*Supra* footnote 7, p.16.

<sup>22</sup>*Supra* footnote 9, p. 8.

<sup>23</sup>*Supra* footnote 7, p. 19.

qualifications for seafarers not covered by STCW requirements would depend on the relevant national requirements for the work the seafarer is to perform on board a ship.<sup>24</sup> For instance, a person hired as a nurse or doctor on a ship would be expected to meet any national standards for that position. However, the competent authority of a Member State will not be responsible for the training or evaluation of the person for that position, but simply for requiring shipowners to ensure that personnel meet relevant national standards.<sup>25</sup>

### **Recruitment and placement**

The MLC, 2006, does not require that public or private seafarer recruitment and placement services be established. However under Article V, paragraph 5, Regulation 1.4, paragraph 2 and Regulation 5.3, paragraph 1, if such services are established in a Member State, they must be regulated in accordance with MLC, 2006, requirements.<sup>26</sup> The Convention does not require shipowners to use seafarers recruitment and placement services and may directly recruit seafarers to work on their ships. However, where shipowners use a private seafarer recruitment and placement service, they must take steps to ensure that the service is licenced or certified or regulated in accordance with the requirements for recruitment and placement under the Convention.<sup>27</sup> Again, this responsibility, which is subject to inspection and also certification, is particularly important where the recruitment and placement service is in a country that has not ratified the MLC 2006.<sup>28</sup>

It is obvious from the fore- going that the MLC 2006, is trying to close all possible gaps where innocent seafarers could be exploited.

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<sup>24</sup>Ibid.

<sup>25</sup>Ibid.

<sup>26</sup>Ibid.

<sup>27</sup>Ibid.

<sup>28</sup>Ibid.

## **TITLE 2: CONDITIONS OF EMPLOYMENT**

This deals with Seafarers' employment agreements; Wages; Hours of work and hour of rest; Entitlement to leave; Repatriation; Seafarer compensation in the event of a ship's loss or foundering; Manning levels; Career and skill development opportunities.

### **Seafarers' Employment Agreements (SEA)**

This is to ensure that seafarers' have a fair employment agreement. Seafarers are entitled to a fair employment agreement or contract setting out the terms and conditions of employment. SEA must be signed by the seafarer and his employer, and it must be easy to understand and legally enforceable.<sup>29</sup> The Employer, that is the shipowner, the shipowner's representative or another person acting as the shipowner, such as the ship manager, agent or bareboat charterer shall also sign the SEA. It is the responsibility of the shipowner to ensure that seafarers' right under the employment agreement or contract is respected even if the seafarer is working for another company on the ship (eg. seafarers working as hotel staff on cruise ship).

A seafarer is entitled to receive and keep a signed original of the agreement, a copy of which must also be available on board. A seafarer is also entitled to seek advice from a lawyer or where he belongs to Union before he signs. Applicable Collective Bargaining Agreement are normally incorporated in the employment agreement.<sup>30</sup>

All information on the terms and conditions of employment, including the CBA, must be freely accessible to everyone on board and available for inspection in port. If the SEA is not in English for ship operating international waters, an English language version must be available on board. The seafarer is also entitle to receive a record of his employment or discharge book when he is

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<sup>29</sup>*Supra* footnote 9, p.12.

<sup>30</sup>*Ibid.*

either in employment or discharged from the ship since this will help him when seeking another job or making a case for promotion.<sup>31</sup>

## **Wages**

This is to ensure that seafarers are paid for their services. Regulation 2.2 of the MLC, 2006, states that seafarers shall be paid in full in accordance with their employment agreements. The Convention does not establish a mandatory minimum wage for seafarers, but leaves this question to be dealt with under the national law of the flag State.<sup>32</sup>

The ILO sets a recommended minimum wage for Able Seafarers based on a formula that takes into consideration changes in the cost of living and exchange rates against the US dollar in a range of maritime countries.<sup>33</sup> This minimum wage is set periodically by the JMC.<sup>34</sup>

## **Hours of work and Hours of rest**

This is to ensure that seafarers have regulated hours of work or hours of rest. Hours of work and rest are regulated to avoid fatigue and to ensure that the ship is operated safely.<sup>35</sup> The flag State can decide whether to base the limits on maximum hour of work or minimum hours of rest.<sup>36</sup> Under maximum hours of work a seafarer is not supposed to work more than 14 hours in any 24-hour period. Regarding minimum hours of rest a seafarer must at least have 10 hours of rest in any 24-hour period and have at least 77 hours rest in any seven day period.<sup>37</sup>

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<sup>31</sup>Ibid.

<sup>32</sup>*Supra* footnote 7, p.24.

<sup>33</sup>*Supra* footnote 9, p.14.

<sup>34</sup>*Supra* footnote 7, ([www.ilo.org/global/industries-and-sectors/shipping-ports-fisheries-inland-waterways](http://www.ilo.org/global/industries-and-sectors/shipping-ports-fisheries-inland-waterways)) p.24.

<sup>35</sup>*Supra* footnote 9, p. 16.

<sup>36</sup>Ibid.

<sup>37</sup>Ibid.

## **Entitlement to Leave**

Under Standard A2.4, paragraph 1 and 2, the annual leave with pay entitlement must in general, be calculated on the basis of a minimum of 2.5 calendar days per month of employment. This is determined by the competent authority or through the appropriate machinery in each country. Justified absences from work are not to be considered as annual leave.<sup>38</sup>

## **Repatriation**

The MLC 2006, provides general entitlements and some parameters, however the specific entitlements are a matter for flag State implementation. Regulation 2.5, paragraph 1, provides the basic right of seafarers to repatriation at no cost to themselves<sup>39</sup>. Again, paragraph 2 of the same Regulation provides that flag States must require their ships to provide financial security to ensure that seafarers are duly repatriated in accordance with the code.<sup>40</sup>

Standard A2.5, paragraph 3 of the MLC 2006, prohibits shipowners from requiring that seafarers make an advance payment towards the cost of repatriation at the beginning of their employment, and also from recovering the cost of repatriation from the seafarers' wages or other entitlements except where the seafarer has been found, in accordance with national laws or regulations or other measures or applicable collective bargaining agreements, to be in serious default of the seafarer's employment obligations.<sup>41</sup>

## **Seafarers' compensation for the ship's loss or foundering**

Under Regulation 2.6, paragraph 1, seafarers are entitled to adequate compensation in the case of injury, loss or unemployment arising from the ship's loss or foundering.<sup>42</sup>

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<sup>38</sup>*Supra* footnote 7, p.26.

<sup>39</sup>*Ibid*, p.27.

<sup>40</sup>*Ibid*.

<sup>41</sup>*Ibid*.

<sup>42</sup>*Ibid*.



## **Manning Levels**

The MLC, 2006, does not set specific number of seafarers who must be working on board a ship as this is a matter that the competent authority in the flag State would need to decide for a ships. However, it sets out some parameters that must be followed when deciding on the manning levels for ships.<sup>43</sup>

Standard A2.7 requires every ship to be manned by a crew that is adequate, in terms of size and qualification, to ensure that the safety and security of the of the ship and its personnel, under all operating conditions, in accordance with the minimum safe manning document or an equivalent issued by the competent authority, and to comply with the standard of MLC, 2006.<sup>44</sup>

## **Career and skill development and opportunities for seafarers' employment.**

The obligations under Regulation 2.8 and the related Code are directed to governments with seafarers domiciled in their territory. Specifically Regulation 2.8, paragraph 1, requires countries to have national policies to promote employment in the maritime sector and to encourage career and skill development and greater employment opportunities for seafarers domiciled in their territory.

## **TITLE 3- ACCOMMODATION, RECREATIONAL FACILITIES, FOOD AND CATERING.**

The purpose of this title is to ensure that seafarers have decent accommodation and recreational facilities on board. To this end flag States have to pass laws and regulations obliging ships flying their flag to comply with a set of standards that must be inspected for compliance. Inspections have to be carried out when a ship is registered, re-registered or when substantial structural changes are made to the accommodation on board.<sup>45</sup>

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<sup>43</sup>Ibid.

<sup>44</sup>Ibid.

<sup>45</sup> *Supra* footnote 9.p.22.

Regulation 3.1, paragraph 2, of the MLC, 2006, provides that the requirements in the Code that relate to ship construction and equipment apply only to ship constructed on or after the date MLC, 2006 comes to force for a flag State. For ships constructed before the entry into force for the flag State, the requirements relating to ship construction and equipment that are set out of Crew Convention (Revised), 1949, (No.92) and the Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No. 133) apply to the extent that they were already applicable, under the law or practice of the Member concerned.<sup>46</sup>

Where a country has not ratified any of the Convention mention *supra*, all ships must comply with the basic requirement in Regulation 3.1, paragraph 1, that is, provide and maintain decent accommodation and recreational facilities for seafarers working or living on board or both, consistent of promoting the seafarers' health and well-being in accordance with the ships national legislation.<sup>47</sup>

### **Food and catering**

This is to ensure that seafarers have access to good quality food and drinking water provided under regulated hygienic conditions. National laws or other measures would address the detail of what is required on board a ship.<sup>48</sup> The MLC, 2006, provides some minimum standards for food on board ships under Regulation 3.2. The Standards cover the quantity, nutritional value, quality and variety of food and drinking water supplies having regard to the number of seafarers on board, their religious requirement and cultural practices as they pertain to food. The duration and nature of the voyage should also be taken into consideration and such food should be suitable in respect of quantity, nutritional value, quality and variety. Food provided to seafarers on board a ship shall be free of charge during the period of engagement.<sup>49</sup>

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<sup>46</sup>*Supra* footnote 7 p. 29.

<sup>47</sup>*Ibid.*

<sup>48</sup> *Supra* footnote 9, p.33.

<sup>49</sup> *Supra* footnote 7, pp.31-32.

## **TITLE 4. HEALTH PROTECTION, MEDICAL CARE WELFARE AND SOCIAL SECURITY PROTECTION**

### **Medical Care on board ship and ashore**

Since the ship is literally the home of seafarers whilst at sea, it is essential for them to have access to medical on board the ship. Shipowners are required to provide free medical care for seafarers on board their ships in accordance with Regulation 4.1. The Convention does not identify any particular treatment- other than “essential dental care”- as this would be a matter for national laws or regulations. All State parties to the Convention are required to provide and make accessible medical care to seafarers whilst in their territory.

### **Shipowners’ liability**

The Convention requires a flag State under Regulation 4.2, to ensure that all seafarers employed on their ships have material assistance and support from the shipowner regarding the cost of treatment of sickness, injury or death occurring while they are serving under seafarers’ employment agreement or arising from the employment under such agreement. The financial consequences includes loss of wages and also medical and other costs. This complements the protection set out in Regulation 4.1 in respect of medical care on board and ashore including long-term protection under Regulation 4.5.<sup>50</sup>

### **Health and safety protection and accident prevention**

The primary obligation under Regulation 4.3, paragraph 1-3 regarding what is usually called marine or maritime occupational safety and health (MOSH) are directed to the flag State. Each Member is to ensure that a seafarer on a ship which flies its flag is provided with occupational health protection, which will enable him to live, work and train on board the ship in a safe and

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<sup>50</sup> Ibid.

hygienic environment. Members are also required to develop and promulgate national guidelines for the management of occupational safety and health on board ships that fly its flag.

### **Access to shore-based welfare facilities**

The purpose of including a requirement for shore-based welfare centres is to help ensure that seafarers working on board a ship have access to shore-based facilities and services to secure their health and well-being. These facilities, which are located in or near ports, are important way to provide seafarers, who may be on extended voyages at sea, with access to health and welfare services in a foreign country as well as a social environment.

### **Social Security**

Regulation 4.2 and the related Standard A4.5 of the Convention deals with the provision of social security to Seafarers. Under Standard A4.5, paragraphs 1, 2 and 3, a ratifying country is required “to take steps according to its national circumstances” to provide the complementary social security protection, in at least three branches of social security to all seafarers ordinarily resident in its territory.<sup>51</sup> The social security protection must not be less favourable than that enjoyed by shoreworkers resident in its territory.<sup>52</sup> Branches of social security refer to various types of benefit classified in relation to the contingency which they seek to address for the support of which they are provided. The nine branches are medical care, sickness benefit, unemployment benefit, old-age benefit and employment injury benefit.<sup>53</sup> The rest are family benefit, maternity benefit, invalidity benefit and survivors’ benefit.<sup>54</sup>

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<sup>51</sup>Supra footnote 7, p. 32.

<sup>52</sup>Ibid.

<sup>53</sup>Ibid.

<sup>54</sup>Ibid.

## **TITLE 5: COMPLAINT AND ENFORCEMENT**

This basically deals with the flag State responsibilities, Port State responsibilities and Labour-supplying responsibilities.

### **Flag States Responsibilities**

This is to ensure that each Member implements its responsibilities under the Convention with respect to ships that fly its flag. The term 'flag State' refers to the country where a ship is registered and/or the country whose flag the ship is flying. Under international law, the flag State is the government that has authority and responsibility for regulating ships and the conditions on board ships, that fly its flag no matter where they travel in there world.

Article 94 of the United Nations Convention of the Law of the Sea, provides on that "Every State shall effectively exercise its jurisdiction and control in administrative, technical and social matters over ships flying its flag". Likewise Regulation 5.1.1, paragraph 2, requires flag States to establish an effective system for the inspection and certification of maritime labour conditions ensuring that the working and living and living conditions for seafarers on ships that fly its flag meet, and continue to meet the standard in the Convention. The certificates include Maritime Labour Certificate, Safety of life at Sea (SOLAS).

### **Port State Control**

The term is used to describe the authority under international law for a country to exercise regulatory control with respect to foreign ships that come into its port. Inspections in ports are as a matter of practice limited to a review of the certificates and declaration, except in circumstances where there is a suspicion of non-compliance then a detailed inspection may be carried out.

Under Regulation 5.2.1, paragraph 1 every foreign ship calling, in the normal course of its business or for operational reason, in the port of an ILO Member may be the subject of inspection in accordance with paragraph V of the Convention for the purpose of reviewing compliance with the requirement of the Convention (including seafarers rights) relating to working and living conditions of a seafarers on the ship.

It appears from the above that whether the ship is from State which is a party to the Convention or not the port State officer could go on board to carry out inspection. However, the ship is not under any obligation to allow the port state control officer to board the ship. The port State could launch a complaint against the ship in the event that she refuses access to the port State control officer.

### **Labour – supplying responsibilities.**

Under MLC 2006, labour supplying states must establish an effective inspection and monitoring system for enforcing its labour-supplying responsibilities, particularly those relating recruitment and placement of seafarers; they must also implement social responsibilities for seafarers that are its nationals or resident or are otherwise domiciled in its territory; must report on its system for enforcing these obligations in its article 22 report under the ILO Constitution.

Article 22 of the ILO Constitution provides that each of the Members agrees to make an annual report to the International Labour office on the measures which it has taken to give effect to the provisions of the Convention to which it is a party. These reports shall be made in such form and shall contain such particulars as Governing Body may request.<sup>55</sup>

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<sup>55</sup>[www.ilo.org/public/English/bureau/leg/download/Constitution.pdf](http://www.ilo.org/public/English/bureau/leg/download/Constitution.pdf) date last visited 25<sup>th</sup> January, 2015.

## **UNIQUE FEATURES OF THE MLC 2006**

The uniqueness of the MLC 2006 from other maritime labour conventions stems from the fact that it has a number of new features which made it universally acceptable by a number of countries. Below are some of the unique features of the Convention:-

- The Convention carries no ILO number
- Substantial equivalence provision
- Special tripartite committee
- No more favourable treatment
- Tacit amendment procedure

The MLC 2006, unlike the previous maritime labour conventions is marked by an ILO number. The reasoning behind this is that it is supposed to be the last maritime labour convention. This Convention will not be superseded by any other maritime labour convention but rather the same has been drafted to be easily updatable without necessarily changing the whole Convention.

### **Substantial Equivalence**

The MLC 2006 allows for a certain amount of flexibility as to how its provisions are to be implemented. One such flexibility is in the area of substantial equivalence. This principle states that if a flag State can prove that its approach is substantially equivalent to MLC's requirement, ie, it covers the basic principles but in a different way from that set out in the MLC, this can be acceptable for Part A requirements in Titles 1 to 4. Title 5 is an exception to this principle. Here there can be no substantial equivalence, the measures for compliance and enforcement must be strictly adhered to as is laid down by the Convention.<sup>56</sup>

The Member's obligation is principally to 'satisfy itself', which does not imply total autonomy, since it is incumbent on the authorities responsible for monitoring implementation at the national

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<sup>56</sup> *Supra* footnote 7.

and international levels to determine not only whether it has been carried out, but also whether it has been carried out in good faith in such a way as to ensure that the objective implementing the principles and rights set out in the regulations adequately achieved.<sup>57</sup>

### **Special Tripartite Committee**

The Convention provides under Article XIII for the establishment of a Special Tripartite Committee by the ILO's Governing Body. The mandate of the Committee is to 'keep the working of the Convention under continuous review'. The Committee would be made up of two representatives nominated by the Government of each country that has ratified the Convention and representatives of Shipowners and Seafarers appointed by the Governing Body after consultation with the ILO's Joint Maritime Commission (JMC).<sup>58</sup>

### **No more favorable Treatment**

The 'no more favourable treatment' clause is contained in Article V, paragraph 7 of the MLC 2006. It seeks to ensure a 'level playing field' under which the ships of countries that have ratified the Convention will not be placed at a competitive disadvantage as compared with ships flying the flag of countries that have not ratified the Convention.<sup>59</sup>

Indeed, under the 'no more favourable treatment' clause a port State which is not a party to the Convention is obliged to exercise regulatory control with respect to foreign ships that call on its port. This would usually be a detail inspections on board of the vessels to ensure that the ship is in compliance with the requirement of the Convention.

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<sup>57</sup> Ibid.

<sup>58</sup> Ibid p.11, citing [www.ilo.org/global/industries-and-sectors/shipping-ports-fisheries-inland-waterways](http://www.ilo.org/global/industries-and-sectors/shipping-ports-fisheries-inland-waterways).

<sup>59</sup> Ibid. p.4.



## **Tacit amendment procedure**

Article XV of the Convention provides tacit amendment. Under this procedure, an amendment comes into force on a given date, unless a certain number of contracting parties raise objection before the date. The advantages of this procedure is that it accelerates the entry into force of the amended provision.

## **THE NEED FOR INCORPORATING MLC 2006 INTO GHANAIAN LAW**

Ghana a member of the International Labour Organization is one of the few African countries which have ratified the Maritime Labour Convention 2006. This is a significant milestone for the Maritime Industry in Ghana because Ghana would be bound by the provisions, regulations in the Convention.

Ghana, through her Parliament ratified the MLC 2006 on the 13<sup>th</sup> August 2013, her Instrument of Ratification having been deposited with the ILO, that notwithstanding, the Ghanaian Parliament has not made any Act of Parliament or Regulations incorporating the provisions (wholly or partly) of the Convention.

Receiving the Instrument of ratification, Ms. Cleopatra Doubia-Henry, the Director of International Standard Department stated that the ratification by Ghana of the MLC 2006 which I hope will boost the Youth Employment Programme in Ghana which has targeted the Ghanaian Seafarering industry as potential source of generating jobs for youth and would elevate the position of its seafarers in the international market.<sup>60</sup>

It must be observed that Ghana Shipping Act, 2003, Act 645, pre-dates the MLC 2006, that notwithstanding, the Ghanaian shipping Act makes a number provisions for engagement of and welfare of seafarers on board of Ghanaian Flagged Ships, which are substantially equivalent to

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<sup>60</sup> Ilo.org; dated last visited 14<sup>th</sup> December, 2014.

most of the regulations in the MLC 2006. However, Ghana has no Regulations regarding Accommodation, Recreational Facilities, Food and Catering, hence the need to incorporate these provisions in the Convention into Ghanaian Law in order to heighten it to a level recognized in the international maritime industry.

Ghana, though is not a big registry of ship, the potential of expanding is great with the discovery of oil, rapid growth of the economy and above all stable multi-party constitutional democracy. As at 2011, the total number of ships on the Ghana Ship Register stood up to 428.<sup>61</sup>

It is submitted that by incorporating standards set under Tittle 3 of the MLC 2006 into Ghanaian Laws by way of Regulations, it will help build confidence for seafarers to prefer to work on Ghanaian flag ships and generate employment for the youth.

It is in light of this, that the present project is relevant for Ghana as it will come up with Regulations incorporating *Title 3 – Accommodation, Recreational Facilities, Food and Catering*, contained in the MLC 2006. It is therefore apposite the present drafting project for Ghana since it is new Regulations which would eventually become part of the domestic laws of Ghana.

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<sup>61</sup> ghanamaritime.org; dated visited 14<sup>th</sup> December, 2014.

## **PROCESS OF INCORPORATING INTERNATIONAL CONVENTIONS/TREATIES INTO GHANAIAN LAW.**

Ghana is a multi-party constitutional democracy with separation of powers of all the three arms of government, namely the Executive, Judiciary and the Legislature. The Executive is headed by the President who is the Head of State and Head of Government and the Commander in Chief of the Armed Forces of Ghana.<sup>62</sup> The Parliament of Ghana has the legislative power which it exercises by making laws through bills which are assented to by the President.<sup>63</sup> Judicial power of Ghana is vested in the judiciary, accordingly, neither the President nor the Parliament shall have or be given judicial power.<sup>64</sup>

Indeed, it is clear from the above that the role expected of each arm of government is explicitly spelt out by the 1992 Constitution of Ghana. Hence it is the President who may execute or cause to be executed treaties, agreement or conventions in the name of Ghana.<sup>65</sup>

Ghana is a dualist State as such the execution of international convention/ treaty by the President or his representative is not sufficient for it to become a binding law on its citizen and courts. For an international convention/treaty to become part of the domestic laws of Ghana, the said international convention/treaty shall be subject to parliamentary ratification by an Act of Parliament or by a resolution of Parliament supported by the votes of more than one-half of all the members of Parliament. Thereafter, the provision of the international convention/treaty has to be enacted in a separate Act of Parliament, Regulations, Order or Rules for it to become part of the domestic laws of Ghana and therefore binding on her citizens and courts.

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<sup>62</sup>Art. 57(1) of the 1992 Constitution of the Republic of Ghana p. 50.

<sup>63</sup> Ibid. Art. 106(1) p.80.

<sup>64</sup> Ibid Art. 125(3) p. 91.

<sup>65</sup> *Supra* footnote 74, Art. 75(1).

## PROCESS OF MAKING LEGISLATIVE INSTRUMENT IN GHANA

The 1992 Constitution of Ghana in Chapter four lays down the procedures to be followed before any Order, Rule or Regulation could come into force.

It provides that Any Order, Rule or Regulation made by a person or authority under a power conferred by this Constitution or any other law shall-

- (a) be laid before Parliament;
- (b) be published in the *Gazette* on the day it is laid before Parliament; and
- (c) come into force at the expiration of twenty-one sitting days after being so laid unless Parliament, before the expiration of the twenty-one days, annuls the Order, or Regulation by votes of not less than two-thirds of all the members of Parliament.

Therefore in making *Regulations for Accommodation, Recreational Facilities, Food and Catering*, the Minister of Transport, who is authorized by Ghana Shipping Act, 2003, (Act 645) section 157 to make such Regulations will lay the Regulations before Parliament, it will be published in a *Gezzette* on the day that it would be laid before parliament and the Regulations will come into force at the expiration of twenty-one days after it has been laid, unless before the expiration of twenty-one days Parliament annuls it by votes of not less than two-thirds of all members present.

## **EXPLANATORY OF THE DRAFT REGULATIONS**

As stated elsewhere in this work, the title of the draft Regulations is *Ghana Shipping (Accommodation, Recreational Facilities, Food and Catering) Regulations 2015*. The Regulations is made pursuant to section 157 of the Ghana Shipping Act, 2003, (Act 645) which authorizes the Minister of Transport to make such Regulations. The draft Regulations is a new law in the sense that it is not amending any existing law which covers the subject matter of the draft Regulations.

This draft is divided into two parts, containing twenty-two Regulations. It also has preliminary section which deals with the scope of application of the Regulations. The Regulations shall apply to only Ghanaian registered ships engaged in commercial activities. However, the Regulations shall not be applicable to ships engaged in fishing or similar pursuit; warship or naval ships and ships of traditional build including canoe. The draft Regulations shall also apply to all seafarers on board a Ghanaian registered ships.

Similarly, it shall be applicable to ships constructed on or after coming into force of this Regulation. However, requirements relating to ship construction and equipment that are set in Accommodation of Crews Convention (1949, (no.92) and Accommodation of Crews (Supplementary Provision) Convention, 1970 (No.133) shall be applicable to Ghanaian register ships constructed before the coming into force of this Regulations. The reason is that since those ships were constructed before coming into force of this Regulations it would be practically impossible to comply with these Regulations.

Part I is made up of fifteen Regulations. It covers Accommodation, Inspection by Master, Requirement for Accommodation, Ventilation, Heating, Lighting, Prevention of Noise, Sanitary Facilities, sleeping Rooms, Furnishing of Sleeping Rooms. The rest include Mess Rooms, Laundry Facilities, Hospital Accommodation, Other Facilities and Recreational Facilities.

Part II consists of four Regulations. It is titled Food and Catering. It deals with Food and Drinking Water, Catering Staff, Inspection and Offences and Penalties.

There are also miscellaneous provisions made up of Inspection and Detention of Ghanaian Ships, Inspection and Detention of Foreign Ships and the Interpretation section which explains the meaning of certain words used in the draft Regulations.

It is worth noting that the Offences and Penalty section in the draft Regulations provides that: a shipowner who contravenes the provisions of these Regulations commits an offence and is liable on summary conviction to a fine of not more than *two thousand penalty units* or to a term of imprisonment of not more than two years.

In Ghana, Fines (Penalty Units) Act, 2000 (Act 572) provides that fines in any enactment be expressed in penalty units. Penalty units are therefore used to define the amount payable by a person who has been ordered by a court of competent jurisdiction to pay a fine. The reason for this is believed to ensure that fines paid do not become valueless due to inflation which in most instances are high. At the time of making the draft Regulations one penalty units was equivalent to 12 Ghana cedis. To convert the penalty units into the Ghanaian currency (Ghana Cedis), is the multiplication of the penalty units by Ghana cedis. Penalty Unit is akin to the Special Drawing Rights (SDR) used in many International Liability Regime Conventions.

**GHANA SHIPPING (ACCOMMODATION, RECREATIONAL FACILITIES,  
FOOD AND CATERING) REGULATIONS, 2015**

**ARRANGEMENT OF THE REGULATIONS**

Preliminary

Application

**PART I - ACCOMMODATION**

|                |                               |
|----------------|-------------------------------|
| Regulation - 1 | Accommodation                 |
| Regulation - 2 | Inspection by Master          |
| Regulation - 3 | Requirement for Accommodation |
| Regulation - 4 | Ventilation                   |
| Regulation - 5 | Heating                       |
| Regulation - 6 | Lighting                      |
| Regulation - 7 | Prevention of Noise           |
| Regulation - 8 | Sanitary Facilities           |
| Regulation - 9 | Sleeping Rooms                |
| Regulation -10 | Furnishing of Sleeping Rooms  |
| Regulation -11 | Mess Rooms                    |
| Regulation -12 | Laundry Facilities            |
| Regulation -13 | Hospital Accommodation        |
| Regulation -14 | Other Facilities              |
| Regulation -15 | Recreational Facilities       |

**PART II - FOOD AND CATERING**

|                |                         |
|----------------|-------------------------|
| Regulation -16 | Food and Drinking Water |
| Regulation -17 | Catering Staff          |
| Regulation -18 | Inspection              |
| Regulation -19 | Offences and Penalties  |

**MISCELLANEOUS PROVISIONS**

|                |  |
|----------------|--|
| Regulation -20 | Inspection and detention of Ghanaian ships |
| Regulation -21 | Inspection and detention of foreign ships  |
| Regulation -22 | Interpretation                             |

**GHANA SHIPPING (ACCOMMODATION, RECREATIONAL FACILITIES,  
FOOD AND CATERING) REGULATIONS, 2015**

**IN exercise of the power conferred on the Minister responsible for Transport by section 157 of the Ghana Shipping Act, 2003 (Act 645) these Regulations are made on...**

**Application.**

These Regulations shall apply to:

- (a) Ghanaian registered ships engaged in commercial activities-  
Except -
  - (i) ships engaged in fishing or similar pursuit
  - (ii) warships or naval ships
  - (iii) Ships of traditional build including canoe.
- (b) All seafarers.

**Accommodation**

1. (1) A shipowner shall provide and maintain safe and decent accommodation and recreational facilities for seafarers working or living on board a Ghanaian flagged ship.

(2) For the purpose of these regulations, a ship:

- (a) constructed on or after the date of ratification of the Maritime Labour Convention (2006) by Ghana.
- (b) Shall be deemed to have been constructed on the date when its keel is laid or when it is at a similar stage of construction.
- (c) constructed before the ratification of the Convention by Ghana, the requirements relating to ship construction and equipment that are set in Accommodation of Crews Convention (1949), (No. 92), and the Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No.133) shall be applicable.

**Inspection by Master**

2. (1) The master or his representative shall –

- (a) inspect the crew accommodation at intervals not exceeding 8 days;



- (b) be accompanied by at least one member of the crew during the inspection of the crew accommodation; and
- (c) the findings entered in the ship's official log book including ;
  - (i) the time and date of the inspection,
  - (ii) the names, signature and ranks of the persons conducting the inspection, and
  - (iii) the particulars of the crew accommodation or any part of it that is not compliant with these regulations or any other relevant law; and
  - (iv) The ship's official log book shall be made available for review by an authorized officer.

### **Requirements for Accommodation Design and Construction**

3. (1) The design and construction of a ship shall done in such a manner so as to provide adequate headroom in all seafarers accommodation; and

- (a) the minimum permitted headroom in all seafarers accommodation where full and free movement is necessary shall be not less than 203 centimetres.

(2) The Authority may permit some limited reduction in headroom in any space, or part any space, in such accommodation where it is satisfied that such reduction;

- (a) is reasonable; and
- (b) will not result in discomfort to the seafarers.

(3) The accommodation shall be adequately insulated.

(4) In ships other than passenger ships, sleeping rooms shall be situated above the load line amidships or aft, except that in exceptional cases, where the size, type or intended service of the ship renders any other location impracticable, sleeping rooms may be located in the fore part of the ship, but in no case forward of the collision bulkhead.

(5) In passenger ship, and in a special purpose ship, the Authority may on condition that satisfactory arrangements are made for lighting and ventilation, permit the location of sleeping rooms below the load line, but in no case shall they be located immediately beneath working alleyways.

(6) There shall be no direct openings into sleeping rooms from cargo and machinery spaces or from galleys, storerooms, drying rooms or communal sanitary areas; that part of a bulkheads separating such places from sleeping rooms and external bulkheads shall be efficiently constructed of steel or other approved substance and be watertight and gas-tight.

(7) The materials used to construct internal bulkheads, paneling and sheeting, floors and joining shall be suitable for the purpose and conducive to ensuring a healthy environment.

(8) There shall be proper lighting and sufficient drainage.

(9) Accommodation, recreational and catering facilities shall meet the requirements of Regulation 4.3 of the Convention on health and safety protection and accident prevention, with respect to preventing the risk of exposure to hazardous level of noise and vibration and other ambient factors and chemicals on board ships, and to provide an acceptable occupational and on-board living environment for seafarers.

### **Ventilation**

4. (1) Sleeping rooms and mess room shall be adequately ventilated.

(2) Ships shall be equipped with air conditioning for seafarers' accommodation, any separate radio room; and any centralized machinery control room except those regularly engaged in trade where temperate climatic conditions do not require it.

(3) All sanitary spaces shall have ventilation to the open air, independently of any other part of the accommodation.

### **Heating**

5. Except in ships exclusively on voyage in the tropical climates, adequate heating through appropriate heating system shall be provided.

### **Lighting**

6. Subject to such special arrangements as may permitted by the Authority in passenger ships, sleeping rooms and mess rooms shall be lit by natural light and provided with adequate light.

## **Prevention of Noise**

7. (1) Accommodation and recreational and catering facilities should be located as far as practicable from engines, steering gear rooms, deck winches, ventilation, heating and air-conditioning equipment and other noisy machinery and apparatus.

(2) Acoustic insulation or other appropriate sound-absorbing materials should be used in the construction and finishing of bulkheads, deckheads and decks within the sound-producing spaces as well as self-closing noise-isolating doors for machinery spaces.

## **Sanitary Facilities**

8. (1) All seafarers shall have convenient access on the ship to sanitary facilities meeting minimum standards of health and hygiene and reasonable standards of comfort, with separate sanitary facilities being provided for men and women.

(2) There shall be sanitary facilities within easy access of the navigating bridge and the machinery space or near the engine room control centre.

(3) In all ships a minimum of one toilet, one wash basin and one tub or shower or both for every six persons or less who do not have personal facilities shall be provided at a convenient location.

(4) Except in passenger ships, each sleeping room shall be provided with a washbasin having hot and cold running fresh water, unless where such a washbasin is situated in the private bathroom.

(5) In passenger ships normally engaged on voyages of not more than four hours' duration, the Authority may approve special arrangements or to a reduction in the number of facilities required.

(6) There shall be hot and cold fresh running water available in all wash places.

## **Sleeping Rooms**

1) 9. (1) A sleeping room shall be provided:

- (a) in a ship other than passenger ships, an individual sleeping room for each seafarer.

- (b) in ships of less than 3,000 gross tonnage other than passenger ships and a special purpose ships, sleeping rooms may be occupied by a maximum of two seafarers and the floor area of such sleeping rooms shall not be less than 7 square meter.
- (c) in passenger ships and special purpose ships the floor area of sleeping rooms
  - (i) for seafarers not performing the duties of ships' officers shall not be less than ;
  - (ii) 7.5 square meters in rooms accommodating two persons;
  - (iii) 11.5 square meters in rooms accommodating three persons;
  - (iv) 14.5 square meters in rooms accommodating four persons;
- (d) on special purpose ships sleeping rooms may accommodate more than four persons and the floor area of such sleeping rooms shall not be less than 3.6 square meters per person.
- (e) separate sleeping rooms shall be provided for men and for women.
- (f) sleeping rooms shall be of adequate size and properly equipped so as to ensure reasonable comfort and to facilitate tidiness
- (g) on ships other than passenger ships and special purpose ships, sleeping rooms for seafarers who perform the duties of ships' officers, where no private sitting room or day room is provided, the floor area per person shall be a minimum of:
  - (i) 7.5 square meters in ships of less than 3,000 gross tonnage;
  - (ii) 8.5 square meters in ship of less than 3,000 gross tonnage or over but less than 10,000 gross tonnage;
  - (iii) 10 square meters in ship of 10,000 gross tonnage or more.
- (h) on passenger ships and a special purpose ships, the floor area for seafarers performing the duties of a ships' officer where no private sitting room or day room is provided, the floor area per person for junior officers shall not be less than 7.5 square meters and for senior officers a minimum of 8.5 square.
- (i) the master, the chief engineer and the chief navigating officer, in addition to their sleeping rooms shall have an adjoining sitting room, day room or equivalent additional space.

(j) Berths shall meet the following standards:

- (i) each seafarer shall be provided with a separate berth
- (ii) the inside dimensions of a berth shall be a minimum of 198 centimeters by 80 centimetres;
- (iii) there shall be adequate arrangement on board;
- (iv) berths shall not be arranged in tiers of more than two; if a berth is placed along the ship's side, there shall be only a single tier where a sidelight is situated above a berth;
- (v) the lower berth in a double tier shall be a minimum of 30 centimetres above the floor; the upper berth shall be placed approximately midway between the bottom of the lower berth and the lower side of the deckhead beams;
- (vi) the framework and the lee-board, if any, of a berth shall be of approved material, hard, smooth, and not likely to corrode or to harbour vermin;
- (vii) if tabular frames are used for the construction of berths, they shall be completely sealed and without perforation;
- (viii) when one berth is placed over another, a dust proof bottom shall be fitted beneath the bottom mattress or spring bottom of the upper berth.

### **Furnishing of Sleeping Rooms**

(10).1 Each sleeping room for a seafarer shall have furniture, of smooth, hard material not liable to warp or corrode as follows:

- (a) clothes locker of ample space of not less than 475 litres and a drawer or equivalent space of not less than 56 litres;
- (b) where the drawer is incorporated in the clothes locker then the combined minimum volume of the clothes locker shall be 500 litres and it shall be fitted with a shelf and be able to be locked by the occupant so as to ensure privacy;

- (c) each sleeping room shall be provided with a table or desk, which may be of the fixed, drop-leaf or slide-out type, with comfortable seating accommodation.
- (d) each sleeping room shall be fitted with curtains or equivalent for the sidelights, and mirror, small cabinets for toilets requisites, a book rack and sufficient number of coat hooks.

### **Mess Room**

11. (1) A mess room shall be:

- (a) located apart from the sleeping rooms and as close as practicable to the galley;
- (b) of adequate size and comfort and properly furnished and equipped including ongoing facilities for refreshment.

### **Laundry Facilities**

12. (1) A shipowner shall provide laundry facilities for the use of seafarers on board a ship and it include:

- (a) washing machines;
- (b) drying machines or adequately heated and ventilated drying rooms;  
and
- (c) irons and ironing boards or their equivalent.

### **Hospital Accommodation**

13.(1) Where a ship carries 15 or more seafarers and engages in a voyage exceeding three days' duration, it shall be provided with separate accommodation for medical purposes with sanitary facilities, berths, lighting, ventilation, heating and water supply.

(2)The accommodation shall be accessible, comfortable and conducive to the seafarer receiving prompt and proper attention.

### **Other Facilities**

14. (1) Where separate facilities for engine department personnel to change their clothes are provided, they shall be:

- (a) located outside the machinery space but with easy access to it; and
- (b) fitted with individual clothes lockers as well as with tubs or showers or both and washbasins having hot and cold running fresh water.

### **Recreational Facilities**

15(1) A shipowner shall provide recreational facilities, amenities and services for seafarers including:-

- (a) a smoking room;
- (b) television viewing and the reception of radio broadcasts
- (c) showing of films, the stock of which shall be adequate for the duration of the voyage
- (d) sports equipment including exercise equipment, table tennis games and deck games
- (e) a library containing vocational and other books which shall be adequate for the duration of the voyage
- (f) provision of bars
- (g) reasonable access to ship-to-shore telephone communication, e-mail and internet facilities, where available.

**PART II**  
**FOOD AND CATERING**

**Food and Drinking Water**

16.(1) A shipowner shall ensure that food and drinking water appropriate quality, nutritional value and quantity to adequately cater for the number of seafarers on board the ship and sufficient for the duration of the voyage.

(2) A shipowner shall take into account the cultural and religious background of the seafarers in the provision of food.

(3) A seafarer on board a ship shall, be provided with food free of charge during the period of engagement.

**Catering Staff**

17.(1) A shipowner shall ensure that the catering department is organized and equipped to provide seafarers adequate, varied and nutritious meals prepared and served in hygienic conditions.

(1) A shipowner shall ensure that catering staff are properly trained or qualified.

(2) A shipowner shall ensure that seafarers who are engaged as ships' cooks are trained, possess the requisite qualification and are competent for the position.

(3) A shipowner shall not employ, engage a seafarer under the age of 18 as a ship's cook.

**Inspection**

18. (1) The master or his representative and member of the crew shall:

(a) inspect the following at intervals not exceeding 7days:

(i) supplies of food and drinking water;

(ii) spaces and equipment used for the storage and handling of food and drinking water; and

(iii) galley and other equipment for the preparation and service of meals.



## **Offences and penalties**

19. A shipowner who contravenes the provisions of these Regulations commits an offence and is liable on summary conviction to a fine of not more than two thousand penalty units or to a term of imprisonment of not more than two years.

## **MISCELLANEOUS**

### **Inspection and detention of Ghanaian ships**

20. (1) A duly authorized officer may inspect any Ghanaian ship and if he is satisfied that the ship is not in compliance with the provisions of these regulations or any other relevant law, may detain the ship the health and safety of the persons aboard the ship is secured.

(a) A duly authorized officer shall not unreasonably detain or delay the ship.

### **Inspection and detention of foreign ships**

21. (1) A duly authorized officer may inspect any ship other than Ghanaian ship when the ship is in a Ghanaian port and if the officer is satisfied that the ship is not in compliance with these regulations or any other relevant law, the officer may:

(a) send a report to the government of the country in which the ship is registered, and a copy of the report to the Director-General of the International Labour office; and

(b) where the conditions on board are clearly hazardous to the safety or health of the seafarers:

(i) take the necessary measures to rectify those conditions; or

(ii) detain the ship;

provided that the measures specified may be taken only when the ship has called at a Ghanaian port in the normal course of business or for operational reasons.

(2) Where the officer undertakes either of the measures specified in paragraph (1)(b), the officer shall immediately notify the nearest maritime, consular or diplomatic representative of the State whose flag the ship is entitled to fly.

## Interpretation

22. In these Regulations unless the context otherwise requires,

- “Authority”** means Ghana Maritime Authority.
- “Convention”** means Maritime Labour Convention 2006.
- “crew accommodation”** includes such sleeping rooms, mess rooms, sanitary facilities, hospital accommodation and recreational accommodation as are provided for the use of the crew
- “duly authorized officer”** an officer duly authorized by the Ghana Maritime Authority.
- “existing ship”** means a ship which is not a new ship
- “Minister”** means Minister responsible for Transport.
- “new ship”** means a ship of which the keel is laid or which is at similar stage at time Ghana ratified the convention
- “passenger ship”** means a ship carrying more than 12 passengers.
- “seafarer”** means a person, including the master, who is employed, engaged or works in any capacity on board a ship to which the Convention applies.
- “shipowner”** includes the owner of the ship, or an organization or a person such as the manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the ship.
- “special purpose ship”** means a ship constructed in compliance with the IMO Code of Safety for Special Purpose Ships, 1983 or the Code of safety for Special Purpose Ship, 2008.
- “penalty units”** means the conversion of penalty units into equivalent of Ghana Cedis.



