



**IMO**  
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**A LAW FOR THE INCORPORATION OF  
REGULATION 3.1 OF THE MARITIME  
LABOUR CONVENTION (2006) (AS  
AMENDED), INTO THE LAWS OF THE  
DEMOCRATIC SOCIALIST REPUBLIC OF  
SRI LANKA**

**A Legislation Drafting Project submitted in partial fulfillment of the  
requirements for the award of the Degree of Master of Laws (LL.M.) in  
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**Submitted By: Lieutenant Commander KAC Jayamini  
(Sri Lanka)**

**Supervisor: Ms. Ramat Jalloh**

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## EXPLANATORY NOTE

### 1. BACK GROUND OF THE MARITIME LABOUR CONVENTION, 2006

The International Labour Organization (ILO) in the beginning of its functions identified the need of uplifting the living and working standards of the seafarers. After one year of the establishment of the organization, recommendations were adopted to improve the working conditions of them. The task foreseen in 1920, ended up with a comprehensive codification of the rights pertaining to seafarers at the international level in the year 2006 as the “Maritime Labour Convention (MLC), 2006.”

According to the report of the 94<sup>th</sup> (maritime) session of the international labour conference which took place on 7<sup>th</sup> to 23<sup>rd</sup> of February 2006 in Geneva,<sup>1</sup> over 60 maritime conventions and recommendations were revised, updated and codified into a single coherent instrument.

The MLC, 2006 entered into force on 20<sup>th</sup> August 2013 for the first 30 member States that had registered their ratifications by 20<sup>th</sup> August 2012. As of May 2018, a total of 86 countries have ratified the MLC 2006 including Sri Lanka<sup>2</sup>. In April 2014 the ILO agreed several amendments to the MLC, 2006.<sup>3</sup>

The MLC, 2006 consolidated 37 ILO conventions and related recommendations adopted since 1920. This list consists with all maritime conventions related to seafarers except the Seafarers’ Identity Documents Convention (Revised), 2003 (No. 185), as well as the Seafarers’ Pensions Convention, 1946 (No. 71), and the Minimum Age (Trimmers and Stokers) Convention, 1921 (No. 15). The ILO maritime conventions dealing with fishing and dockworkers are also not affected by the MLC, 2006.

The MLC, 2006 brings together, in one legal instrument, a diverse range of regulatory concerns including minimum standards for minimum age of seafarers, medical fitness, training, qualifications, recruitment, placement services, repatriation, onboard

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<sup>1</sup> ILO < <http://www.ilo.org/ilc/ILCSessions/94thSession/lang--en/index.htm> > accessed 3<sup>rd</sup> May 2018

<sup>2</sup> ILO < [http://www.ilo.org/global/standards/maritime-labour-convention/news/WCMS\\_541429/lang--en/index.htm](http://www.ilo.org/global/standards/maritime-labour-convention/news/WCMS_541429/lang--en/index.htm) > accessed 2<sup>nd</sup> May 2018

<sup>3</sup> ILO < [http://www.ilo.org/global/standards/maritime-labour-convention/news/WCMC\\_502387/lang-en/index.htm](http://www.ilo.org/global/standards/maritime-labour-convention/news/WCMC_502387/lang-en/index.htm) > accessed 4 May 2018

accommodation, occupational safety, social security, maritime labour inspection and certification and port State control.<sup>4</sup>

The reasons behind the codification of MLC, 2006 could be manifold. Some maritime conventions were too detailed and inflexible, some were too complicated and overlapped with others, some were quickly become out of date thus preventing ratification by states<sup>5</sup> and some conventions were failed to address all seafarers.<sup>6</sup>

The MLC, 2006 has become 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 (SOLAS), 1974 as amended (which entered into force on 25<sup>th</sup> May 1980), the International Convention on Standards of Training, Certification and Watch keeping (STCW), 1978 as amended (which entered into force on 28<sup>th</sup> April 1984) and the International Convention for the Prevention of Pollution from Ships (MARPOL), 73/78 (which entered into force on 2<sup>nd</sup> October 1983).<sup>7</sup>

With a critical look at the MLC, 2006 it is observed that the instrument intended to achieve minimum standards of living and working conditions of the seafarers under five main titles such as requirements for seafarers to work on the ship, employment condition, accommodation, social medical protection and compliance and enforcement. Further it comprises three different but related parts such as Articles, Regulations and Codes.

The applicability of the MLC, 2006 has become broad due to the nature of interpretation of “seafarers”<sup>8</sup> and the “ships.”<sup>9</sup>

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<sup>4</sup> Handbook Guidance on implementing the Maritime Labour Convention, 2006 Model National Provisions, paragraph 2 of p V

<sup>5</sup> Handbook on “A guide for the shipping industry on ILO Maritime Labour Convention” p 6

<sup>6</sup> Article 2 (b) of Seamen’s Articles of Agreement Convention, 1926 (No. 22) and Recommendation 01 of Wages, Hours of Work and Manning (Sea) Recommendation, 1958 (No. 109) “masters” were excluded from the coverage of the conventions

<sup>7</sup> Seafarers rights <<http://seafarersrights.org/mlc-shippings-fourth-pillar/>>29 April 2018

<sup>8</sup> Article II 1 (f) of MLC, 2006

<sup>9</sup> Ibid (i)

## **2. SHIPPING INDUSTRY AND SEAFARERS: AN OVERVIEW, CURRENT SITUATION AND FUTURE OUTLOOK**

### **2.1 Shipping and World Trade**

In the modern world of commerce “international trade” has taken the center stage upon which goods, services, losses and profits rest for the growth and continuous inter-dependency of different nations. This form of trade has linked the world as one community or one nation prevailing in a single economy. Over 95% of international transportation of goods depends on the use of seas and oceans.<sup>10</sup> So without shipping the international trade would not be possible.

According to the International Chamber of Shipping (ICS) over 50,000 merchant ships trade internationally, transporting different types of cargo. The world fleet is registered in over 150 nations, and manned by over a million seafarers of virtually every nationality.<sup>11</sup>

Since the international transportation of goods depend on the use of seas and oceans, in the present day context maritime trade has become an important element for all the nations in the globe irrespective of whether coastal States or land-locked States.

### **2.2 Poor Working Condition on Board Ships, Hierarchy and Workload**

For the most part, flag states do not exercise effective jurisdiction and control over the ships registered under their national registry as stipulated by international law. Due to the lack of supervision of the State administration and the lack of bargaining power of the seafarers, they often have to undergo lesser living and working conditions than accepted minimum standards set by international conventions. Generally agreed contractual terms would not be honoured after seafarers boarded the ship. The life onboard a ship is generally isolated. More often life is distressed due to noise of the engines, lack of rest, unsatisfactory conditions of the accommodation and lack of access to recreational facilities, fresh food and water. As a result of these conditions seafarers often suffer a range of health problems. Despite these health problems, usually there is limited access to medical care on board. Further due to the lack of shore based medical facilities by the port states; the seafarers do not get opportunity to access proper medical care during the whole voyage.

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<sup>10</sup> David S Jacks, Krishna Pendakur, “Global Trade and the Maritime Transport Revolution”, (vol.92(4) MIT Press, October 2010)745-755

<sup>11</sup> International Chamber of shipping, Shipping and world trade<<http://www.ics-shipping.org/shipping-facts/shipping-and-world-trade>>accessed 29April 2018

Some masters of the ships restrict the movement of the seafarers without granting shore leaves when the ships are in the port. Unfortunately some vessels do not enter into ports at all. Physical abuse and unequal distribution of sanitary and accommodation facilities also can be the case due to ranking system onboard.

The workforce of ship generally makes up of officers and ratings. The officers can be divided into two groups such as senior officers and junior officers. There are the 'top four' senior officers such as captain (master), chief engineer, chief officer and the first engineer. Apart from these top four, there are senior officers, junior officers, petty officers and other ratings from mess man to able rating. Due to the distinguished separation among officers and sailors it can be seen an occupational hierarchy among the seafarers.

The Ships are technically bound by laws and regulations of the State where they are registered. As such the living, working, health and safety conditions of the seafarers are regulated by the flag states.<sup>12</sup> So when a State regulates its laws seafarers rights need to be identified separately as their job profile/criteria completely differs from that of land based workers, as they are more likely to cause harm. Sometimes seafarers may need to travel different maritime zones and different ports of States during a single voyage where the criminal laws of the each territory may be totally different from one State to another. So there is a possibility of getting caught for unpredictable criminalization due to lack of knowledge of the local language, criminal laws and maritime regulations of the port states and coastal states. Further, the seafarers always have to be alert on security threats such as unexpected explosions and piracy/ armed robberies. Unpredictable weather is one of the most common challenges for a seafarer.

### **2.3 Global Supply and Demand for Seafarers**

As per the record of the ICS, the worldwide population of "seafarers" who are serving in international trade is estimated at 1,647,500 of which 774,000 are officers and 873,500 are ratings. China, the Philippines, Indonesia, the Russian Federation and Ukraine are estimated to be the five largest supply countries for all seafarers (for both officers and ratings). The Philippines is the biggest supplier of ratings, followed by China, Indonesia, the Russian Federation and Ukraine while China is the biggest supplier of officers,

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<sup>12</sup>Helen Sampson, *International seafarers and transnationalism in the twenty first century*, (1 edition, Manchester University Press, 2014) 77 to 79

followed by the Philippines, India, Indonesia and the Russian Federation. The global demand for seafarers is estimated at 1,545,000 with the industry requiring approximately 790,500 officers and 754,500 ratings. This indicates that the demand for officers have increased by around 24.1% while the demand for ratings have increased by around 1.0%. The current supply - demand situation highlights a shortage of approximately 16,500 officers and a surplus of around 119,000 ratings.<sup>13</sup>

#### **2.4 Conflicts between the Rights of the Seafarers and the Obligations of the Shipowners and the Requirement of Delicate Balance**

The concept of “flag of convenience” can be defined as the flag of any country allowing the registration of foreign-owned and foreign-controlled vessels under conditions which, for whatever the reasons, are convenient and opportune for the persons who are registering the vessels.<sup>14</sup> The concept provides shipowners wide latitude in choosing where to register their vessels. They can choose a “flag of convenience” with comparatively lax regulations or enforcement. Generally this concept compels the shipowners to choose registries with minimal obligations towards seafarers such as lower crewing costs, since registration in an open registry generally means an unrestricted choice of crew in the international market and freedom from onerous national wage scales.<sup>15</sup> On the other hand seafarers are always trying to find a forum where they can get maximum protection during their tenure. The registration of a ship opens the door for areas such as identity of the ship, the standard of the protection of the seafarers and the liabilities of the shipowners, etc.

The technological, financial and structural changes of recent decades have revolutionized modern international shipping. The human factor is very important for a peaceful shipping industry. Since the industry is mostly based on the capabilities of the seafarers, both shipowners and the flag states need to pay attention to the human factor of the industry. It is undoubtedly true that the ship owners need good, qualified, and motivated seafarers to operate their ships. They need to be provided decent living and working conditions and be adequately trained to be able to conduct their business in a safe and efficient manner.

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<sup>13</sup> International Chamber of Shipping <<http://www.ics-shipping.org/shipping-facts/shipping-and-world-trade/global-supply-and-demand-for-seafarers>

<sup>14</sup> BA Boczek, Flag of Convenience , An International Legal Study (Harvard University press,1962) 2

<sup>15</sup> David J Attard and others (eds), The IMLI Manual on International Maritime Law, Shipping Law, Volume ii,Oxford University press,2016)34

So a flag state, when promulgating its laws to regulate the shipping industry needs to take proper actions to harmonize the rights and obligations of both shipowners and seafarers as well.

### **3. PRIMARY STRUCTURE OF MLC, 2006**

The Seamen's Act introduced by United States of America (USA) in 1915 to promote the welfare of American Seamen can be considered as “the Magna Carta” of sailors rights. The Act recognized the rights of maritime workers in a similar manner to factory workers. This law had been promulgated soon after the sinking of the Titanic in 1912. The disaster in 1912 clearly illustrated the lack of planning and concern exhibited by major shipping companies.

The Merchant Marine Act came into force in the same year, which specifically covered on duty injuries of the sailors of the USA.<sup>16</sup>

Gradually through ILO, maritime related conventions and regulations came into force in respect of protecting fundamental rights and freedoms of the seafarers. In the year 2006 a single convention was codified. It constitutes decent conditions of works and provides the special protection for seafarers. Hence the MLC, 2006 can be considered as one of the milestones of the maritime sector.

#### **3.1 Introduction to the Main Features of MLC, 2006**

The Convention is organized in Articles, Regulations<sup>17</sup> and Codes. Articles are coming first followed by the Regulations and Code provisions. The Regulations and the Codes are organized under five specific titles such as;

Title 1: Minimum requirements for seafarers to work on a ship

Title 2: Employment conditions

Title 3: Accommodation, Recreational Facilities, Food and Catering

Title 4: Health Protection, Medical Care, Welfare and Social Security Protection

Title 5: Compliance and Enforcement

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<sup>16</sup> The Merchant Marine Act of 1920

<sup>17</sup> Article IV Maritime Labour Convention,2006

Each title has mentioned general standards, which are further specified in mandatory Regulations (List A) as well as Guidelines (List B). Guidelines are generally form of implementation of regulations according to the requirements, but States are free to use different implementation measures which are not below the standards mentioned in MLC, 2006. Regulations should be implemented fully, but a country can implement "substantially equivalent" regulation, upon ratification.

### **3.1.1 Minimum Requirements for Seafarers to Work on a Ship**

Title 1. of MLC, 2006 sets out the minimum standards that must be confirmed before seafarers work on board a ship such as minimum age, medical fitness, minimum training and qualifications and minimum standards for recruitment.

The minimum age requirements of MLC, 2006 is 16 years (18 for night work, work in hazardous areas and no seafarer under the age of 18 shall be employed or engaged or work as a ship's cook).

According to MLC, 2006 seafarers should be medically fit for the duties they are performing. Further the seafarers should be trained properly for their duties as well as have had personal safety training. Member states of the MLC, 2006 should have proper placement procedures, registration, complaint procedures and compensation if the recruitment fails.

### **3.1.2 Employment Conditions**

The title 2 of MLC, 2006 is based on condition of employment including matters such as the context for signing of the employment agreement, the basic minimum terms of employment such as wages, maximum hours of work, minimum hours of rest, right to annual leave, right to shore leave, right to obtain unemployment payments, career skill developments opportunities, repatriation facilities and the requirement that ships have sufficient and qualified personnel on board to provide a safe and secure work environment.

### **3.1.3 Accommodation, Recreational Facilities, Food and Catering**

According to title 3 of the MLC, 2006 seafarers have basic rights for decent living accommodation and recreational facilities consistent with promoting their health and



well-being. According to the provisions both quality and quantity of the food, including water should be regulated by the flag states.

Detailed provisions have been given minimum requirements for various types of accommodation spaces such as sleeping rooms, mess rooms, recreational rooms and hospital accommodation. This area being the crux of this project will be discussed in more detail in 6.2.1 below.

### **3.1.4 Health Protection, Medical Care, Welfare and Social Security Protection**

Title 4 consists of few regulations related to health, medical care, welfare, social security and shipowners liabilities. According to these regulations the seafarers should be covered and have access to medical care while on board and on shore. They are entitled to safe and hygienic environment. Seafarers should be protected from the financial effects of sicknesses, injuries or deaths occurring in connection with their employment. This includes at least 16 weeks of payment of wages after the start of sickness. Apart from that, the dependents are also entitled to benefit from social security protection no less favorable than that enjoyed by shore workers.<sup>18</sup>

### **3.1.5 Compliance and Enforcement**

Title 5 sets standards to ensure compliance with the Convention. The title distinguishes requirements for flag states, port states and labour agencies.

Flag states are responsible for ensuring implementation of the rules on the ships that fly its flag. The inspection in ports depends on whether a Certificate of Maritime Compliance is present. For ships that do not have the certificate, inspections are much more detailed and should ensure -according to a "no more favorable treatment principle."

"Labour-supplying responsibilities" of a State and complements the obligation in respect of recruitment and placement services are also stipulated under this part of MLC.<sup>19</sup>

## **4. SRI LANKAN OBLIGATIONS TOWARDS MLC, 2006**

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<sup>18</sup> Paragraph 3 of Regulation 4.5 of MLC, 2006.

<sup>19</sup> International Labour Conference, 94th (Maritime) Session 2006 Report <<http://www.ilo.org/public/english/standards/relm/ilc/ilc94/rep-i-1a.pdf>>accessed 25 April 2018

The MLC, 2006 entered into force on 20<sup>th</sup> August 2013 as the first 30 member States had registered their ratifications by 20<sup>th</sup> August 2012. The MLC, 2006 entered into force for Sri Lanka on 12 January 2018, that is, one year after its ratification. This ratification is timely as it induces Sri Lanka to develop labour conditions for its seafarers and to ensure that ships calling at its ports are inspected in compliance with the requirements of the Convention thereby promoting quality shipping and providing additional protection for seafarers transiting within its waters.<sup>20</sup>

When read Article 27(15) of the Constitution of the Democratic Socialist Republic of Sri Lanka, 1978 with Article 154(G) (11), it is observed that since Sri Lanka is a dualist country mere ratification of a Convention does not create legal obligations and required incorporation of the same through national legislation.

Since Sri Lanka is not a State Party to the Vienna Convention on Law of the Treaties (VCLT) 1969 the State hasn't penal obligations to transform the international treaties into national legal systems under Article 46 (1) of the VCLT 1969.

Even though Sri Lanka does not have a penal obligation to incorporate MLC, 2006 into its national legal system, as a nation engage in international shipping, the state requires to implement provisions of the MLC, 2006 as a measure of preventing been arrest of its fleet at foreign ports.

## **5. TRANSFORMATION OF MLC, 2006 INTO SRI LANKAN LEGAL SYSTEM**

### **5.1 General Procedure of Incorporation of International Conventions**

The MLC, 2006 is an international legal instrument and does not, therefore, apply directly to Sri Lankan shipowners, ships or seafarers. Instead, similar to all other international conventions, it relies on implementation/ incorporation by State through its legislation as Sri Lanka is a dualist State. To transform treaty law into domestic legal system it generally initiates through the parliament. However there are some instances where the relevant Minister is empowered by legislations to promulgate relevant

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<sup>20</sup> ILO (n) 2

regulations by virtue of the powers vested in him on behalf of the legislature. In such instances the relevant Minister may promulgate regulations through gazette notifications.<sup>21</sup>

## **5.2 Incorporation of MLC, 2006 into National Legal System and Introduction to the Merchant Shipping Act No 52 of 1971**

Sri Lanka's merchant shipping industry is preliminarily regulated by its Merchant Shipping Act No. 52 of 1971 as amended by No 36 of 1988 (hereinafter referred to as the Act). In accordance with Section 3(1) of the Act, the Director General of Merchant Shipping (DGMS) has powers to supervise all matters relating to shipping and seamen throughout Sri Lanka, and he is authorized to execute the provisions of this Act.

According to Section 321 (1) (i) of the Act the Minister of Ports and Shipping (hereinafter referred to as "the Minister") may make regulations in respect of enforcement of any international convention in relation to the subject matters of the Act and generally to all maritime matters.

According to Section 321 (1) (j) of the Act the Minister may make regulations in respect of enforcement of any international convention in relation to merchant shipping or any other matter incidental thereto or connected therewith.

Section 127 (1) (f) of the Act furthermore elaborates Section 321 (1) (j) and stipulates that the Minister may make regulations implementing in whole or in part of any international convention relating to the employment, welfare, security, certification or status of officers and seamen.

Since the MLC, 2006 is geared towards the welfare of the seafarers who engage in merchant shipping, the Minister is empowered to promulgate regulations incorporating MLC into the national legal system under Section 321 (1) (j) and 127 (1) (f) of the Act.

In light of the foregoing it is concluded that "the Minister" has been empowered to draft regulations related to seafarers' accommodation and recreational spaces under Section 127 and 321 of the Act. After the drafting process the Minister shall publish the said regulations in the Gazette. The regulations made by the Minister shall, as soon as convenient after its publication in the Gazette, be brought before the

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<sup>21</sup> The regulations of the Merchant Shipping  
<<http://www.dgshipping.gov.lk/web/images/pdf/rules/annex09.pdf>> accessed 4 May 2018

parliament for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of such disapproval, but without prejudice to anything previously done thereunder.<sup>22</sup>

### **5.2.1 Introduction to Merchant Shipping Act No 52 of 1971**

Merchant Shipping Secretariat (MSS) is a subsidiary institution of Ministry of Ports and Shipping. Formulation and implementation of maritime related legislations and monitoring merchant maritime and shipping activities are conducted by the MSS office.

The MSS ensures safety of life and property at sea, maritime education, training, examination and certification, registration of ships under Sri Lanka flag, Licensing of Shipping Agents, Container Depot Operators, Container Terminal Operators, Container Freight Stations, Freight Forwarders or a Non Vessel Operating Common carriers and implementing provisions of all applicable international Maritime conventions and national regulations.<sup>23</sup>

The Act divides into 12 parts such as control of shipping, registration of ships, master and seamen preliminary, construction equipment and survey, load line, safety and navigation, wreck salvage, etc. The Act has been amended once in 1988 by the Merchant Shipping (Amendment) Act No. 36 of 1988. Under the Act, the Minister of Ports and Shipping (hereinafter referred as the Minister) is empowered to promulgate regulations in terms of sections 126, 127 and 321.<sup>24</sup>

According to the Section 126 and 127 of the Act the Minister is empowered to make regulations relating to qualification of officers, seaman and manning the ship and conditions of the service respectively.

The regulations which have already been promulgated by the Minister are as follows;

- Merchant Shipping (Standards of Training, Certification and Watch Keeping for Seafarers (STCW)) Regulations, 1998.
- Merchant Shipping (Engagements and Conditions of Service of Seamen) Regulations (No.99/6-1980)

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<sup>22</sup> Section 321(3) of the Merchant Shipping Act No 52 of 1971

<sup>23</sup> Merchant Shipping Secretariat < <http://www.dgshipping.gov.lk/web/index.php?lang=en> > accessed 29 April 2018

<sup>24</sup> Merchant Shipping Act No 52 of 1971

- Merchant Shipping (Amendment) (Engagement and Conditions of Service of Seamen) Regulations (No.612/25-1990)
- Merchant Shipping (Conditions of Service and Wages of Seamen) Regulations (No.133/9-1974)
- Merchant Shipping (Apprenticeship to Sea Service) Regulations, (No.183/7-1975)
- Merchant Shipping (Distressed Seamen) Regulations (1975)
- Merchant Shipping (Amendment) (Employment of Young Persons) Regulations (No.97/5-1980 )
- Merchant Shipping (Third Mate's Certificate Examination) Regulations (No.218/3-1976)
- Merchant Shipping (Examination) Regulation (No.243/3-1976)
- Shipping (Registration of Sri Lankan Ships owned by Sri Lankan Companies with Foreign Shareholders) Regulation (No.257/5-1983)
- Merchant Shipping (Official Log Book) Regulations (167/5-1975)
- Merchant Shipping (Amendment) (Fees) Regulations- Gazette No.1,471/11

## **6. FACTS TO BE CONSIDERED WHEN INCORPORATE MLC, INTO NATIONAL LEGAL SYSTEM AND AREAS NEED TO BE PRIORATIZED**

### **6.1 Existing Legal Coverage for Seafarers**

Sri Lanka has become a member of the ILO in 1978. After becoming a party to the ILO, Sri Lanka has ratified and enacted all eight ILO core conventions and other 26 number of ILO conventions as follows,<sup>25</sup>

- Forced Labour Convention, 1930 (No. 29)
- Freedom of Association and Protection of the Right to Organize Convention, 1948 (No.87)
- Right to Organise and Collective Bargaining Convention, 1949 (No.98)
- Equal Remuneration Convention,1951 (No.100)
- Abolition of Forced Labour Convention, 1957 (No.105)
- Discrimination (employment and occupation) Convention,1958 (No.111)

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<sup>25</sup> ILO Office for Sri Lanka, Core Conventions  
<<http://www.ilo.org/public//english/region/asro/colombo/conventions/conventions.html>> accessed 19 April 2018

- Minimum age for admission for employment,1973 (No.138)
- Prohibition and immediate action for elimination of worst forms of child labour Convention,1999 (No.182)

Further Sri Lanka has already enacted large numbers of labour Acts/ Ordinance to uplift the quality of the labour force such as Industrial Dispute (Amendment) Act No.39 of 2011, Employee's Provident Fund (Amendment) Act No.02 of 2012, National Minimum Wage of Workers Act No.03 of 2016, Trade Unions Ordinance I of No. 14 of 1935, Termination of Employment of Workmen's Act No. 45 of 1971,Wages Boards Ordinance of Nos.27 of 1941, Shop and office employees Acts Nos. 19 of 1954, Employment of Trainees (Private Sector) Act No. 8 of 197, Maternity Benefits Ordinance I No. 32 of 1939, Workmen's compensation No. 19 of 193, Employees Trust Fund (Special Provisions) No. 19 of 1993, Payment of Gratuity Act No. 12 of 1983, Minimum Wages Act No. 25 of 2000.<sup>26</sup>

All these Acts and Ordinances address the working and living conditions of the general labour force. None of these Acts/ Ordinance specially discusses or addresses the specific issues of the seafarers. However regulations promulgated by the Minister under the Act has addressed some of the special areas of seafarers such as condition of service, wages, training, qualifications, certificates, distress seaman, watch keeping, etc.

The MLC, 2006 formally entered into force on 20<sup>th</sup> August 2013. Since 20<sup>th</sup> August 2013, ships globally are subject to an inspection of MLC compliance during Port State Control inspection. If found non- compliance, the ships may be detained. Even though Sri Lanka so far has not enacted legislation to cover the provisions of MLC, 2006, the DGMS through Maritime Shipping Notices (MSNs) in advance has given numerous advices to the relevant parties with regard to the requirement of compliance with MLC, 2006.

At present there are fifteen numbers of Merchant Shipping Regulations and seventy-four numbers of MSNs which have been promulgated by the Minister and DGMS respectively to cover different aspects of the training, conditions of the service of the seafarers and the technical aspects relating to shipping industry in Sri Lanka.<sup>27</sup>

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<sup>26</sup> Labour legislations,  
[http://www.labourdept.gov.lk/index.php?option=com\\_content&view=article&id=65&Itemid=59&lang=en](http://www.labourdept.gov.lk/index.php?option=com_content&view=article&id=65&Itemid=59&lang=en)  
 n>accessed 28April 2018

<sup>27</sup> Merchant Shipping Secretariat (n) 23

## **6.2 Requirement of Enacting Legislation in respect of Accommodation and Recreational Facilities on Board Ship**

When go through the above mentioned existing Acts, Ordinances, Regulations and Instruction, it is observed that all the other areas of the MLC, 2006 has been addressed up to considerable extend except regulation 3.1 of title 3 of the MLC, 2006.<sup>28</sup> In 2013 (even before the ratifications of MLC, 2006 by Sri Lanka) the MSS made recommendations through MSNs to relevant parties of the Sri Lankan flagged ships to carry their verifications as a precautionary action to be prevented from destinations at the foreign ports.

Even though Sri Lanka has become a State Party to ILO in 1948, the government so far has not ratified the ILO Conventions which address crew accommodation and recreational spaces such as;

- Convention No. 92 concerning crew accommodation on board ship (Revised 1949)
- The Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No. 133)
- Convention No. 133 concerning crew accommodation on board ship (supplementary provisions)
- Convention No. 147 concerning minimum standards in merchant ships
- Protocol of 1996 to Convention No. 147
- Recommendation 155 of 1976, recommendation concerning the improvement of standards in merchant ships
- Recommendation No. 140 concerning Crew Accommodation (Air Conditioning)
- Recommendation No. 141 concerning Crew Accommodation (Noise Control)

### **6.2.1 A Comparison between the Standard of the Existing Sri Lankan Flag Ships and the Standards of the MLC, 2006**

Sri Lanka as a shipping nation consist of 56 registered fleet, including 17 no of general cargo ships, 02 no of container ships, 09 no of bulk carriers, 09 no of oil and chemical tankers, 03 no of gas tankers, 01 other tankers, 05 no of offshore vessels,05 no of service

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<sup>28</sup>Labour Legislations (n) 26

ships and 05 no of tugs. Further as per the records there are no passenger ships, pleasure crafts, Ro - Ro cargo ships and specialized cargo ships registered in Sri Lankan flagged ships.<sup>29</sup> Despite being a small country, Sri Lanka provides about 16000 active seafarers (3700 officers and 12,300 ratings) and at any given time around 3500 of them sail on board.<sup>30</sup>

Seafarers are a unique occupational group who are recruited, by international or national recruitment agencies and work under contractual terms stipulated by the national legislations of flag states. Further the structures of the vessels may be different such as merchant cargo, container ships, deep sea fishing vessels, cruise ships, etc. Seafarers need to “travel” either globally or regionally over varying distances. They spend most of their time on board. Unlike land workers seafarers neither get the opportunity to go home after the day duty nor spend time with their families after work. On the other hand life on board is not easy as mentioned above in 2.2.

As indicated earlier, ILO has identified requirement of establishing a specific legal framework for seafarers. With a keen look at regulations 3.1 of the MLC, 2006 it is observed that wide range of welfare facilities of the seafarers have been addressed in relation to accommodation and recreational spaces on board ship.

Due to absence of an existing regulatory framework in respect of formation of accommodation spaces on board ships under Sri Lankan law, less attention has been given to that area by shipowners. This situation allows them to register their ships under any circumstances without considering the nature of the accommodation facilities on board ship.<sup>31</sup> However since 20<sup>th</sup> August 2013 all ships (subject to Article II (4.) of the MLC, 2006) need to be in compliance with the minimum requirements set out under the Convention and if a vessel does not comply with those minimum terms, they are likely to encounter long delays and possible detention in ports.

The design of a ship directly affects the lifestyle of seafarers in various manners, as ship accommodation and recreational facilities have an impact on the quality of rest of the seafarers. Uninterrupted rest periods which seafarers can achieve during non-working

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<sup>29</sup> Merchant Shipping Secretariat (n) 23 Further reference

<<http://www.vesseltracker.com/en/VesselArchive/Sri%20Lanka.html>> accessed 17 April 2018

<sup>30</sup> Sri Lankan Seafarers, <<http://www.ft.lk/article/519485/Sri-Lankan-seafarers--The-opportune-moment>> accessed 18 April 2018

<sup>31</sup> Requirements for the Sri Lankan Ship Registry

<[http://www.dgshipping.gov.lk/web/images/pdf/handbook\\_for\\_shipowners.pdf](http://www.dgshipping.gov.lk/web/images/pdf/handbook_for_shipowners.pdf)> accessed 2 May 2018



hours directly affect the degree of their mental wellbeing. The degree of mental wellbeing generally has a direct impact on the efficiency of the seafarers while they are on duty.

Due to the lack of legal framework and lack of personal interest, the accommodation and recreational spaces are poorly maintained by Sri Lankan flagged shipowners. This situation can mainly be seen in the cargo ships and container ships.

Most seafarers have to share cabins with other seafarers irrespective of their duty watches. Sometimes the seafarers' accommodations are placed at unsuitable locations such as directly over the engine room or very near to the fire alarms. These situations lead to sleep disturbances of the seafarers. Further one of the very common complaints of the seafarers is dissatisfaction with the size of their cabin and the storage space in their cabins.

Most of the time temperature control systems are not available in the seafarers' accommodation and recreational areas, and so are unable to adjust temperatures in their cabins. Less attention is also being given to the living environment such as light, noise, vibration, safety and general hygiene facilities. Some shipowners do not pay much attention to seafarers' personal hygiene. Shipowners are always targeting profits, therefore they are reluctant to supply essential hygiene items such as adequate numbers of towels, soap, and toilet paper, etc.

Availability of mixed rank mess rooms, uncomfortable chairs at the mess rooms, inadequate washing and drying facilities, poor or no access to internet facilities, poor medical facilities and poor leisure amenities on board ship are few other unfriendly living conditions that may lead to emotional and physical stress of the seafarers.

The MLC, 2006 with the "No more favorable treatment" concept (which is introduced by ILO) assigned the shipowners an obligation of compliance with MLC requirements. The international requirements of ship design and construction are stipulated in Regulation 3.1 of MLC, 2006. Regulation 3.1 of MLC concerns a broad area such as;

#### **6.2.1.1 Accommodation Design**

In respect of designing of accommodation, the following requirements have been stipulated in Regulation A.3.1.6 of the MLC, 2006.

- (a) there shall be adequate headroom in all seafarer accommodation and which
  - (i) is reasonable; and

- (ii) will not result in discomfort to the seafarers;
- (b) the accommodation shall be adequately insulated;
- (c) in ships other than passenger ships, sleeping rooms shall be situated above the load line amidships or aft, except that in exceptional cases.
- (d) in passenger ships, and in special ships the competent authority may, on condition that satisfactory arrangements are made for lighting and ventilation.
- (e) there shall be no direct openings into sleeping rooms from cargo and machinery spaces or from galleys, storerooms, drying rooms or communal sanitary areas.
- (f) the materials used to construct internal bulkheads, panelling and sheeting, floors and joinings shall be suitable for the purpose and conducive to ensuring a healthy environment;
- (g) proper lighting and sufficient drainage shall be provided; and
- (h) accommodation and recreational and catering facilities shall meet the requirements in Regulation 4.3 (Health and safety protection and accident prevention)

#### **6.2.1.2 Vibration**

In respect of ventilation and heating, the following requirements have been stipulated in the Regulation A .3.1.7. of MLC, 2006.

- (a) sleeping rooms and mess rooms shall be adequately ventilated;
- (b) ships, except those regularly engaged in trade where temperate climatic conditions do not require this, shall be equipped with air conditioning for seafarer accommodation, for any separate radio room and for any centralized machinery control room;
- (c) all sanitary spaces shall have ventilation to the open air, independently of any other part of the accommodation; and
- (d) adequate heat through an appropriate heating system shall be provided, except in ships exclusively on voyages in tropical climates.

#### **6.2.1.3 Lighting**

In respect of lighting, Regulation A.3.1.8.of MLC, 2006 is applicable and according to that regulation sleeping rooms and mess rooms shall be lit by natural light and provided with adequate artificial light.

#### **6.2.1.4 Sleeping Rooms**

When sleeping accommodation on board ships is required, Regulation A.3.1.9. of MLC, 2006 need to be applied.

- (a) in ships other than passenger ships, an individual sleeping room shall be provided for each seafarer;
- (b) separate sleeping rooms shall be provided for men and for women;
- (c) sleeping rooms shall be of adequate size and properly equipped so as to ensure reasonable comfort and to facilitate tidiness;
- (d) a separate berth for each seafarer shall in all circumstances be provided;
- (e) the minimum inside dimensions of a berth
- (f) requirements of single berth seafarers' sleeping rooms

#### **6.2.1.5 Mess Rooms**

In respect of the mess rooms facilities, following requirements have been made mandatory in Regulation A.3.1.10 of MLC, 2006.

- (a) mess rooms shall be located apart from the sleeping rooms and as close as practicable to the galley
- (b) mess rooms shall be of adequate size and comfort and properly furnished and equipped

#### **6.2.1.6 Recreation Accommodation**

In respect of recreation accommodation, following requirements have been provided in Regulation A .3.1.14 and A.3.1.17. of MLC, 2006.

- (a) All ships shall have a space or spaces on open deck to which the seafarers can have access when off duty, which are of adequate area having regard to the size of the ship and the number of seafarers on board.
- (b) Appropriate seafarers' recreational facilities, amenities and services, as adapted to meet the special needs of seafarers who must live and work on ships, shall be provided on board for the benefit of all seafarers.

### **6.2.1.7 Sanitary Facilities**

In respect of Sanitary Facilities, following requirements have been provided in Regulation A.3.1.11. of MLC, 2006.

- (a) all seafarers shall have convenient access to sanitary facilities
- (b) meeting minimum standards of health and hygiene and reasonable standards of comfort
- (c) separate sanitary facilities being provided for men and for women
- (d) 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
- (e) with the exception of passenger ships, each sleeping room shall be provided with a washbasin having hot and cold running fresh water, except where such a washbasin is situated in the private bathroom
- (f) hot and cold running fresh water shall be available in all wash places

### **6.2.1.8 Hospital Accommodation**

Regulation A.3.1.12 of MLC, 2006 provides requirements for hospital accommodation. According to the Regulation, ships carrying 15 or more seafarers and engaged in a voyage of more than three days' duration shall provide separate hospital accommodation to be used exclusively for medical purposes.

## **7. BRIEF DESCRIPTION TO THE DRAFT LAW**

### **7.1 Title**

The draft regulations will cover the standard of accommodation and recreational spaces in recognized ships registered in Sri Lankan ship registry. The title is neither broader nor narrower than the content of the draft regulations.

These regulations will implement only Regulation 3.1 of the MLC, 2006 which comes under Title 3 of the Convention. This will incorporate in to Sri Lankan laws under

Section 127 (1) (f) and Section 321 (1) (j) of the Merchant Shipping Act No. 52 of 1971 as indicated earlier. These regulations do not repeal, revise or amend former laws.

Further under Section 321 of the Act, 1971 as discussed earlier, the regulations shall come into operation on the date of such publication of the gazette notification or on such later date as may be specified in the regulations.

## **7.2 Definition**

Section 2 of the draft regulations will provide definitions such as Act, competent authority, seafarer accommodation, date of construction, existing ship, fishing vessel, GT, master, Minister, mess room, new ship, passenger ship, shipowner, seafarer and sea going ship.

All the terms have been defined under the provisions of the Merchant Shipping Act No 52 of 1971 and/or MLC and/or 2006 and/or the International Convention on Standards of Training, Certification and Watch keeping (STCW), 1978 as amended which Sri Lanka is a State Party.

## **7.3 Enforcement and Applicability of these Regulations**

Application of the draft law is explained from section 4 to section 6 and according to these sections the fishing vessels, pleasure crafts not engaged in trade and Commissioned ships in the Sri Lanka Navy, Sri Lanka Coast Guard or any other ships belonging to Government while employed otherwise than for profit in the service of Government have been exempted from application of these regulations.

## **7.4 General Formation and the Facilities to be provided by the Shipowner**

Section 7 to Section 73 will be discussed mandatory and the non-mandatory actions need to be taken by the shipowner when design the construction of the ship such as formation of the head room, surface materials and other materials, application of the area of accommodation, ventilation, heating, insulation, lighting of the seafarers accommodation, dimension of the sleeping rooms (existing and newly build), formation of the mess room,

furniture, general sanitary facilities, draining facilities, hospital accommodation, laundry facilities, facilities for prevention from the mosquitoes special facilities for engine department personnel, bedding, mess utensils, recreational facilities.

### **7.5 Inspection, Maintenance and Penalties**

Section 74, 76, 77 and 78 of the draft regulation will be assigned liabilities towards master of the ship for his negligence. The shipowner will be liable for all other violations from section 7 to section 78 except Section 74, 76, 77 and 78.

Since the Minister derives powers to promulgate the draft regulations under the Merchant Shipping Act as discussed earlier, when deciding the penalties the Minister has to refer Chapter II of the Act. According to the Chapter II of the Act the jurisdiction for the offences which come under this Act goes to the Magistrate Court. Under the Judicature Act <sup>32</sup> Magistrate's Court is vested with original criminal jurisdiction and magistrates are empowered to impose sentences up to a fine of Rs. 1,500 and/or 2 years rigorous/simple imprisonment unless power is vested in the Magistrate's Court to impose higher penalties by special provision. Considering the close connection between the proper accommodation facilities and less physical, mental stress of the seafares; in a way of dragging attentions of the relevant parties a monetary fines has been recommended at the penal section of the regulations.

### **Government Notifications**

## **THE MERCHANT SHIPPING ACT, NO.52 OF 1971**

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<sup>32</sup> Judicature Act, No. 2 of 1978

REGULATIONS made by the Ministry of Shipping by virtue of the powers vested in him by sections 127 and 321 of the Merchant Shipping Act, No.52 of 1971.

Mahinda Buddhadasa Samarasinghe

Minister of Ports Shipping and  
Aviation.

In Colombo,

.....day of .... 2018

## **Regulations**

### **Title**

1. These regulations may be cited as the Merchant Shipping (Standards of Seafarers' accommodation and recreational facilities) Regulation No... of 2018, giving effect regulation 3.1 of Maritime Labour Convention, 2006 as amended in 2014. These regulations shall come in to force on...of ..., 2018.

### **Definition**

2. In these Regulations, unless the context otherwise requires.

“**Act**” means the Merchant Shipping Act No 52 of 1971 as amended;

“**Competent authority**” mean the Director General Merchant Shipping;

“**Seafarer accommodation**” includes such sleeping rooms, mess rooms, sanitary accommodation, hospital accommodation and recreation accommodation as are provided for the use of the seafarers;

“**Date of construction**” mean on the date when its keel is laid or when it is at a similar stage of construction;

“**Existing ship**” means a ship that is not a new ship;

**“Fishing vessel”** means a boat or ship used to catch fish in the sea, or on a lake or river;

**“GT”** mean gross tonnage of the ship in accordance to the provisions of Section 37 of the Merchant Shipping Act of Sri Lanka, No 52 of 1971;

**“Junior officer”** means a watchkeeping officer whose position onboard a vessel is one that can be filled by an officer, certified at the operational level, in accordance with the STCW Convention;

**“Master”** means the seafarer who has registered at Section 48 (1 (c) of the Merchant Shipping Act of Sri Lanka No 52 of 1971 or the seafarer who has assumed the responsibilities on behalf of the master in command, control or charge of a ship;

**“Minister”** means the Minister of Ports, Shipping and aviation;

**“Mess room”** means the dining room of the ship;

**“New ship”** means a ship the keel of which is laid or which is at a similar stage of construction on or after the entry into force of these regulations;

**“Officer”** includes a Senior Officers and junior officers as per the provisions of the STCW Convention;

**“Passenger ship”** means a passenger ship as defined in the International Convention for the Safety of Life at Sea, 1974 (SOLAS), as amended;

**“Ship owner”** means the owner of the ship or any other organization or person, such as the manager, agent or bareboat charter, who has assumed the responsibility for the operation of the ship from the owner and who, on assuming such responsibilities, has agreed to take over the duties and the responsibilities imposed on the ship owners;

**“Seafarer”** means any person who is employed or engaged or works in any capacity on board a ship excluding persons providing non-scheduled or ancillary services to a ship to assist it in its maritime voyage such as, inter alia, shore based engineers, bunker crew, pilots, members of the Armed Forces of Sri Lanka;



**“Seagoing ship”** means all ships other than the fishing vessels, pleasure crafts not engaged in trade and Commissioned ships in the Sri Lanka Navy, Sri Lanka Coast Guard or any other ships belonging to Government while employed otherwise than for profit in the service of Government

**“Senior Officer”** means an officer whose position on board is, or is equivalent to, one that requires the officer to be certificated at the management level as defined in the STCW Convention.

### **Enforcement and Applicability of these Regulations**

3. These regulations shall give effect to the enforcement of seafarers’ accommodation and recreational facilities under the regulation 3.1 of the International Maritime Labour Convention, 2006 (as amended).
4. These regulations shall apply to all seagoing ships registered under the Sri Lankan flag wherever they are; other than the fishing vessels, pleasure crafts not engaged in trade and Commissioned ships in the Sri Lanka Navy, Sri Lanka Coast Guard or any other ships belonging to Government while employed otherwise than for profit in the service of Government.
5. Unless expressly provided otherwise, any requirement under these regulations relating to the provisions of seafarers’ accommodation shall apply ships constructed and equipped on or after the date when these regulations come into force.
6. A ship 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.

### **Formation of the Head Room**

7. 1) There shall be adequate headroom in all seafarers’ accommodations.
- 2) The minimum permitted headroom of a seafarer shall not be less than 203 centimeters, provided that the Minister may permit some limited reduction in headroom in any space, or part of any space, in such accommodation where it is satisfied that such reduction;
  - I. is reasonable to do so; and
  - II. will not result in discomfort to the seafarers.

## **Insulation**

8. 1) The external bulkheads of the sleeping rooms and mess rooms should be adequately insulated.
- 2) All machinery casings and all boundary bulkheads of galleys and other spaces in which heat is produced should be adequately insulated where there is a possibility of resulting heat effects in adjoining accommodation or passageways.
- 3) Measures should also be taken to provide protection from heat effects of steam or hot-water service pipes or both.
- 4) Sleeping rooms, mess rooms, recreation rooms and alleyways in the accommodation space should be adequately insulated to prevent condensation or overheating.

## **Surface Materials and other Materials**

9.
  - 1) The bulkhead surfaces and deckheads should be of material with a surface easily kept clean.
  - 2) No form of construction likely to harbour vermin should be used.
  - 3) The bulkhead surfaces and deckheads in sleeping rooms and mess rooms should be capable of being easily kept clean and light in colour with a durable, non-toxic finish.
  - 4) The decks in seafarer's accommodation should be of approved material and construction and should provide a non-slip surface impervious to damp and easily kept clean.
  - 5) Where the floorings are made of composite materials, the joints with the sides should be profiled to avoid crevices.
  - 6) External bulk head shall be constructed of steel or other approved substance.
  - 7) External bulk head shall be watertight and gas tight.
  - 8) 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.

- 9) Sound absorbing materials should be used in the construction and finishing of the bulkhead, deck head.

#### **Allocation of Area for Accommodation**

10.

- 1) All parts of the seafarer's accommodation in all ships other than passenger ships shall be situated as defined in Regulation 2(e) and (f) of the International Convention for the Safety of Life at Sea, 1974, as amended such as;
  - I. Accommodation should not be located in the fore part of the ship and in no case forward of the collision bulkhead.  
Provided however 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.
  - II. Accommodation should be located above the load line or aft unless the design of the ship makes it impracticable.
- 2) There shall be no direct opening into sleeping rooms from following areas;
  - I. cargo and machinery spaces or from galleys
  - II. storerooms
  - III. drying rooms or communal sanitary areas

#### **Ventilation, Heating and Lighting of Seafarers' Accommodation**

11. A sleeping room shall be provided for each seafarer in all circumstances.

- 1) All sleeping rooms and mess rooms shall be adequately ventilated, ensuring a sufficiency of air movement in all climatic conditions and shall be sufficient not to cause discomfort to the seafarers.
- 2) In the case of ships that are regularly employed in tropical areas shall be an air conditioning system designed to maintain the air at a satisfactory temperature and relative humidity as compared with the outside ambient conditions.

- 3) All sanitary spaces shall have ventilation to the open air, independently of any other part of the accommodation.
- 4) The heating system shall maintain the temperature in the accommodation at a satisfactory level under normal conditions of weather and climate likely to be met within the trade in which the ship is engaged. Heating systems may not be required for the ships trading only in tropical weather conditions.
- 5) The heating should be by means of hot water, warm air, electricity, steam or equivalent. However, within the accommodation area, steam should not be used as a medium for heat transmission. The competent authority should prescribe the standard to be provided.
- 6) Radiators and other heating apparatus should be placed and, where necessary, shielded so as to avoid risk of fire or danger or discomfort to the occupants.
- 7) The accommodation including sleeping rooms and mess rooms shall be sufficiently lighted by natural light and provided with adequate electric light.
- 8) If there are not two independent sources of electricity for lighting, additional lighting should be provided by properly constructed lamps or lighting apparatus for emergency use.
- 9) In sleeping room an electrical reading lamp should be installed at the head of each berth.

### **Sleeping Rooms in Existing Ships**

12. Ships that are Sri Lankan Flagged ships and existing ships, at the date of these regulations coming into operation, shall not be required to modify any part of the crew accommodation as a consequence of these regulations. Wherever practicable following provisions shall be implemented by the competent authority.

- 1) Unless the operation of the ship is such that no seafarers are required to sleep on board, sleeping rooms shall be provided for each seafarer, and wherever practicable, shall be individual sleeping rooms.
- 2) Where the size and construction of the ship makes it impracticable for a sleeping room to be provided for each seafarer, the maximum

number of seafarers that may be accommodated in a single sleeping room shall not exceed;

- I. one, in the case of Officers and Master;
  - II. two, in the case of other seafarers in ships other than passenger ships, provided that they shall both be a part of the same watch;
  - III. four, in the case of other seafarers in passenger ships, provided that they are all part of the same watch or shift; and
- provided that petty officers and cadets shall, wherever practicable, be accommodated in individual sleeping rooms.
- 3) Each seafarer shall be provided with a separate bed.
  - 4) Separate sleeping rooms shall be provided for male and female seafarers.

### **Sleeping Rooms in New Ships**

13. In new ships other than passenger an individual sleeping room shall be provided for each seafarer.

Provided that in the case of ships of less than 3000 GT or special purposes ship, the Minister may grant an exemption from this requirement after consultation with the ship owners' and seafarers' organizations, and where this consultation is not possible, after consultation with the special tripartite committee created by Article XIII of the Maritime Labour Convention.

14. Separate sleeping rooms shall be provided for male and female seafarers and each seafarer shall be provided with a separate bed.

15. So far as is possible, sleeping rooms of seafarers should be so arranged that watches are separated and that no seafarers working during the day share a room with watch keepers.

### **Dimensions of Sleeping Rooms in New Ships**

16. In new ships other than passenger ships and special purposes ship,

- 1) the floor area in single berth sleeping rooms shall be not less than;
  - I. 4.5 square meters, in the case of ships of less than 3000 GT

- II. 5.5 square meters, in the case of ships of 3000 GT or more but less than 10000 GT; and
  - III. 7 square meters, in the case of ships of more than 10000 GT.
17. In new passenger ships and new special purposes ship less than 3000 GT, in order to provide single berth sleeping room the Minister may allow reducing the floor area.
18. In new passenger ships and new special purposes ship less than 3000 GT, the sleeping rooms may be occupied maximum of two seafarers and such sleeping rooms shall not be less than 7 square meters.
19. In new passenger ships and new special purposes ship the floor area of sleeping rooms for seafarers not performing the duties of ship's officers shall;
- 1) not less than 7.5 square meters, where up to 2 seafarers are accommodated;
  - 2) not less than 11.5 square meters, where 3 seafarers are accommodated; and
  - 3) not less than 14.5 square meters, where 4 seafarers are accommodated.
20. On special purpose ships sleeping rooms may accommodate more than four persons; the floor area of such sleeping rooms shall not be less than 3.6 square metres per person.
21. 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 not be less than:
- 1) 7.5 square metres in ships of less than 3,000 gross tonnage;
  - 2) 8.5 square metres in ships of 3,000 gross tonnage or over but less than 10,000 gross tonnage;
  - 3) 10 square metres in ships of 10,000 gross tonnage or over;
22. In new ships, other than passenger ships, sleeping rooms for seafarers who perform the duties of ship's officers, and who are not provided with a private day-room or sitting room, shall have a floor area of not less than
- 1) square meters, in the case of ships of less than 3000 GT;
  - 2) 8.5 square meters, in the case of ships of 3000 GT or more but less than 10,000 GT; and

- 3) 10 square meters, in the case of ships of over 10,000 GT.
23. In new passenger ships sleeping rooms for seafarers who perform the duties of ship's officers, and who are not provided with a private day-room or sitting room, shall have a floor area of not less than
- 1) 7.5 square meters, in the case of junior officers; and
  - 2) 8.5 square meters, in the case of senior officers and master.
24. In every new ship, the master, the chief engineer, the chief mate, and whenever practicable, the second engineer shall be provided with, in addition to their sleeping rooms, an adjoining private sitting room, day-room or equivalent space, except that the Minister may, after consultation with the ship owners and seafarers organizations concerned or, where this is not possible, after consultation with the special tripartite committee created by Article XIII of the ILO Maritime Labour Convention, exempt a ship of less than 3000 GT from this requirement.

#### **Furniture**

25. For each occupant, the furniture shall include,
- 1) a clothes locker of ample space (minimum 475 litres) and
  - 2) A drawer or equivalent space of not less than 56 litres; if the drawer is incorporated in the clothes locker then the combined minimum volume of the clothes locker shall be 500 litres; it shall be fitted with a shelf and be able to be locked by the occupant so as to ensure privacy.
26. Each sleeping room shall be provided with
- 1) a table or
  - 2) desk, which may be of the fixed, drop-leaf or slide-out type, and with comfortable seating accommodation as necessary.

#### **Mess Room**

27. Mess-rooms shall be located separately from any sleeping rooms and as close as possible to the galley, provided that the Minister may grant an exemption from this requirement in the case of ships of less than 3000 GT after consultation with the ship owners' and seafarers' organizations, or, where this is not possible, after

- consultation with the special tripartite committee established by Article XIII of the ILO Maritime Labour Convention.
28. Where separate mess room facilities are to be provided to seafarers, then separate mess rooms should be provided for:
- 1) master and officers; and
  - 2) petty officers and other seafarers.
29. Except when the operation of the ship is such that no seafarers are required to eat on board,
- 1) mess-rooms shall be provided for the seafarers,
  - 2) every mess room shall be large enough to accommodate the largest number of seafarers likely to use it at any time and
  - 3) in ships other than passenger ships, every mess room should be arranged to have at least 1.5 square meters for each seafarer expected to use the mess-room.
30. In all ships, mess rooms should be equipped with tables and appropriate seats, fixed or movable, sufficient to accommodate the greatest number of seafarers likely to use them at any one time. The tops of tables and seats should be of damp-resistant material.
31. There shall be fitted in the mess-room, or in a readily available adjacent space
- 1) a refrigerator, which should be conveniently situated and of sufficient capacity for the number of persons using the mess room or mess rooms;
  - 2) a supply of cold drinking water
  - 3) a means of heating drinking water for hot beverages
32. Where available pantries are not accessible to mess rooms it should be provided;
- 1) a sink or other means for washing utensils
  - 2) sufficient storage in a dresser or equivalent piece of furniture for utensils.
- General Sanitary Facilities of Seafarers' Accommodation**
33. Separate sanitary facilities shall be provided for men and women.
34. All sanitary spaces shall have ventilation to the open air, independently of any other part of the accommodation.
35. There shall be sanitary facilities within easy access of the navigating bridge and the machinery space or near the engine room control center;



- Provided however, ships of less than 3,000 gross tonnages may be exempted by the competent authority from this requirement after consultation with the ship owners' and seafarers' organizations concerned;
36. 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;
  37. All toilets should be provided with an ample flush of water or with some other suitable flushing means.
  38. When toilets intended for the use of more than one person, the toilets should be situated convenient to, but separate from sleeping rooms.
  39. Where there is more than one toilet in a compartment, each toilet should be sufficiently screened to ensure privacy.
  40. With the exception of passenger ships, each sleeping room shall be provided with a washbasin having hot and cold running fresh water, except where such a washbasin is situated in the private bathroom provided.
  41. In passenger ships normally engaged on voyages of not more than four hours' duration, consideration may be given by the competent authority to special arrangements or to a reduction in the number of facilities required.
  42. Hot and cold running fresh water shall be available in all wash places.

### **Drainage Facilities**

43. The seafarers' accommodation shall be efficiently drained, and in particular
  - 1) drainage pipes and channels shall be provided wherever necessary to clear water shipped from the sea; and
  - 2) the soil and other waste water drainage system shall be so arranged and fitted with such water seals, air vents and storm valves as are necessary to prevent blow-back in order to preclude effluvia from entering the seafarers' accommodation.
  - 3) Each space in the sanitary accommodation (except private bathrooms) and each laundry shall be served by one or more scuppers, each to be at least 50 millimeters in diameter, which do not serve any space other than sanitary accommodation or another laundry, and shall be placed wherever water is likely to collect on the floor.

- 4) There shall be no drainage into sanitary accommodation from any source outside that accommodation, except other sanitary accommodation.

### **Hospital Accommodation**

44. Ships carrying 15 or more seafarers and engaged in a voyage of more than three days' duration shall provide separate hospital accommodation.

Provided however the competent authority may relax this requirement for ships engaged in coastal trade; in approving on-board hospital accommodation.

45. The hospital accommodation and its sanitary facilities shall be used exclusively for medical purposes.
46. In passenger ships, the hospital may be provided to serve both crew and passengers.
47. Wherever practicable, the minimum width of the entrance to any hospital shall be 760 millimeters, and every hospital or temporary hospital shall be arranged so that a stretcher can be easily carried into it and placed alongside at least one single-tier bed.
48. Every permanent hospital shall be provided with at least one bed.
49. The minimum inside dimensions of every bed accommodate a mattress of 200 centimeters in length and 84 centimeters in width.
50. The hospital accommodation may be fitted with an electric fan unless it is served by an air conditioning system or a trunked mechanical ventilation system. The bed can be covered with curtains.
51. There shall be provided a locker, an adequate number of seats and a bed pan, a call alarm connecting to a location where the doctor, nurse or person in charge of medical care can be alerted to any call, a seat; and a clothes locker.
52. A toilet shall be provided in every permanent hospital either in a separate closet or in the washing accommodation.
53. A wash basin with cold and hot water laid on to it shall be fitted in every permanent hospital or in washing accommodation in the hospital.

### **Laundry Facilities for Seafarers.**

54. Laundry facilities shall be available for seafarers. The laundry facilities must include:
  - 1) an adequate number of washing machines for the number of seafarers;

- 2) adequate drying machine or heated and ventilated drying rooms; and
- 3) irons and ironing boards or equivalent.

#### **Common areas for seafarers.**

55. All ships shall have a space or spaces on open deck to which the seafarers can have access when off duty, which are of adequate area having regard to the size of the ship and the number of seafarers on board.
56. All ships shall be provided with separate offices or a common ship's office for use by deck and engine departments; ships of less than 3,000 gross tonnage may be exempted by the competent authority from this requirement after consultation with the ship owners' and seafarers' organizations concerned.

#### **Protection from Mosquitos**

57. Except when the seafarers' accommodation is fully air conditioned and windows and port lights are not normally open, any opening doors, ventilators, port lights and windows in ships trading to areas where there is an identified risk of malaria shall be provided with suitable screening to prevent the passage of mosquitoes.

#### **Separate Facilities for Engine Department Personnel**

58. Separate facilities shall be given for engine department personnel to change their clothes. Where;
  - 1) located outside the machinery space but with easy access to it; and
  - 2) fitted with individual clothes lockers as well as with tubs or showers or both and washbasins having hot and cold running fresh water.

#### **Bedding, Mess Utensils and Miscellaneous Provisions**

59. Clean bedding and mess utensils should be supplied by the ship owner to all seafarers for use on board during service on the ship, and such seafarers should be responsible for their return at times specified by the master and on completion of service in the ship;
60. Bedding should be of good quality, and plates, cups and other mess utensils should be of approved material which can be easily cleaned; and

61. Towels, soap and toilet paper for all seafarers should be provided by the ship owner.

### **Recreational Facilities**

62. Recreation rooms, conveniently situated and appropriately furnished, shall be provided, and when not provided separately from mess-rooms, the mess-rooms shall be planned, furnished and equipped to provide recreational facilities.

63. Furnishings in recreation rooms shall include as a minimum

- 1) a bookcase;
- 2) facilities for reading and writing;
- 3) where practicable, facilities for games.

64. In every ship over 10000 GT there shall be provided for the seafarers

- 1) a smoking room;
- 2) television viewing and the reception of radio broadcasts;
- 3) showing of films, the stock of which should be adequate for the duration of the voyage and, where necessary, changed at reasonable intervals;
- 4) sports equipment including exercise equipment, table games and deck games;
- 5) where possible, facilities for swimming;
- 6) a library containing vocational and other books, the stock of which should be adequate for the duration of the voyage and changed at reasonable intervals;
- 7) facilities for recreational handicrafts;
- 8) electronic equipment such as a radio, television, video recorders, DVD/CD player, personal computer and software and cassette recorder/player;
- 9) where appropriate, the provision of bars on board for seafarers unless these are contrary to national, religious or social customs; and
- 10) reasonable access to ship-to-shore telephone communications, and email and Internet facilities, where available, with any charges for the use of these services being reasonable in amount.

65. Whenever possible seafarers are granted permission to have their partners, relatives and friends as visitors on board their ship when in port.

66. Whenever possible seafarers to be accompanied by their partners on occasional voyages where this is practicable and reasonable. Such partners should carry adequate insurance cover against accident and illness; the ship owners should give every assistance to the seafarer to affect such insurance.

**Noise and Vibration and other Ambient Factors.**

67. The limits for noise and vibration levels in working and living spaces should be in conformity as far as practicable with the current editions of the ILO code of practice entitled ‘Ambient factors in the workplace, 2001’, the IMO “Code on Noise Levels on board Ships” and internationally recognized standards for noise and vibration levels. As a minimum no accommodation facility should be exposed to excessive vibration and noise levels.

68. Seafarers shall be instructed in the dangers to hearing and health of prolonged exposure to high levels of noise and vibration.

69. Approved hearing protection equipment shall be provided to seafarers where necessary.

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

71. 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.

72. Engine rooms and other machinery spaces should be provided, wherever practicable, with soundproof centralized control rooms for engine-room personnel. Working spaces, such as the machine shop, should be insulated, as far as practicable, from the general engine-room noise and measures should be taken to reduce noise in the operation of machinery.

73. No accommodation or recreational or catering facilities should be exposed to excessive vibration.

### **Inspection of Accommodation**

74. The master of a vessel must ensure that:

- 1) seafarer accommodation is inspected weekly to ensure that it is clean, fit for human habitation without posing risks to seafarer health and safety and maintained in a good state of repair; and
- 2) a report of each inspection is recorded and kept on board and be available for review.

### **Maintenance of Seafarers' Accommodation**

75. The shipowner shall maintain the seafarers' accommodation in a clean and habitable condition, and all equipment required by these regulations shall be maintained in good working order.

76. Every part of the seafarers' accommodation shall be kept free of stores and other property not provided for or belonging to the seafarers for whom the accommodation is provided, and no cargo shall be carried or stowed in any part of the seafarers' accommodation.

77. At intervals not exceeding one month, the master, or a person authorized by him, shall make an inspection of the seafarers' accommodation.

provided that in ships where the number of crew exceeds 250, the inspections need not cover all the seafarers' accommodation but where they do not, the master shall arrange that each area is inspected at intervals not exceeding 3 months, and each inspection shall be for the purpose of establishing

- 1) that the seafarers' accommodation remains in compliance with these regulations;
- 2) that sleeping rooms, recreational facilities, sanitary facilities and mess-rooms remain clean and tidy;
- 3) and that the accommodation as a whole continues to provide decent living arrangements for the seafarers.

78. The date and the details of any defects uncovered and a record of action taken to rectify the defect shall be recorded and signed by the master following each inspection, and the record of inspections shall be retained on board for not less than 3 years and be available to any of the seafarers, and to any person duly authorized by the competent authority.

**Penalties**

79. Any contravention of regulation 74, 76, 77 and 78 are offences by the master and he/she shall be guilty of an offence and on conviction there shall be liable a fine not exceeding Rs. 10000.
80. Any contravention of mandatory regulations from 7 to section 78 except Section 74, 76, 77 and 78 the ship owner and Ship Owner shall be guilty of an offence and on conviction there shall be liable a fine not exceeding Rs. 100000.

**Sinhala Text to Prevail in Case of Inconsistency**

81. In the event of any inconsistency between the Sinhala and Tamil texts of these Regulations, the Sinhala text shall prevail.