



**IMO**  
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A specialized agency of the United Nations



**INCORPORATION OF  
MARITIME LABOUR CONVENTION 2006 INTO THE  
INDIAN MERCHANT SHIPPING ACT, 1958**

**A Legislation Drafting Project submitted in partial fulfillment of  
the requirements for the award of the Degree of Master of Laws  
(LL.M.) at the IMO International Maritime Law Institute**

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### **Declaration**

I hereby declare that the work and research in this Legislation Drafting are my own personal work and that it has not been previously submitted, or is not concurrently being submitted, in candidature for any other degree or diploma.

(KRISHNAKUMAR THAZHATHUPURAKAL)

## **ABBREVIATIONS**

DG(Shipping)	Director General of Shipping
GT	Gross Tonnage
ILO	International Labour Organisation
IMO	International Maritime Organisation
ILC	International Labour Conference
MARPOL	International Convention for the Prevention of Marine Pollution from Ships
MLC	Maritime Labour Convention
MSA	Merchant Shipping Act
SOLAS	Safety of Life at Sea
STCW	Standards of Training, Certification and Watchkeeping for Seafarers,
UCLOS	United Nations Conventions on Law of Sea
UN	United Nations

## **DETAILS OF PROPOSED MERCHANT SHIPPING ACT (AMENDMENT) BILL 2010.**

The following mandatory regulations of Maritime Labour Convention 2006 have been incorporated in this amendment bill by substituting the existing clauses and inserting new sections wherever necessary in the Merchant Shipping Act, 1958.

1. Minimum age
2. Medical certificate
3. Training and qualifications
4. Recruitment and placement
5. Seafarers' employment agreements
6. Wages
7. Hours of work and hours of rest
8. Entitlement to leave
9. Repatriation
10. Seafarer compensation for the ship's loss or foundering
11. Manning levels
12. Career and skill development and opportunities for seafarers' employment
13. Accommodation and recreational facilities
14. Food and catering
15. Medical care on board ship and ashore
16. Health and safety protection and accident prevention
17. Access to shore-based welfare facilities
18. Social security
19. Flag State responsibilities
20. General principles
21. Authorization of recognized organizations
22. Maritime labour certificate and declaration of maritime labour compliance
23. Inspection and enforcement
24. On-board complaint procedures
25. Marine casualties
26. Port State responsibilities
27. Inspections in port
28. Onshore seafarer complaint-handling procedures
29. Labour-supplying responsibilities

## **PART - I**

### **AN OVERVIEW OF MARITIME LABOUR CONVENTION 2006**

#### **1. The Maritime Labour Convention 2006.**

1.1 The 94th (Maritime) Session of the International Labour Conference (ILC) (Geneva, February 2006) has adopted the Maritime Labour Convention, 2006 (MLC, 2006). The MLC, 2006, was developed through an unprecedented five-year process of intensive international tripartite consultation, social dialogue and consensus building, engaging more than 100 ILO member countries and, at the final International Labour Conference, more than 1,000 participants. Its adoption, without objection, was described by the Director-General of the ILO as “making labour history”. It also marked the beginning of a new era for the international standard-setting activities of the ILO in general and specifically for its activities in the maritime sector.

1.2. The MLC, 2006 is an important new international agreement that consolidates almost all of the 60 existing ILO maritime labour instruments into a single modern globally applicable legal instrument. The MLC, 2006, establishes comprehensive minimum requirements for almost all aspects of working conditions for seafarers including, inter alia, conditions of employment, hours of work and rest, accommodation, recreational facilities, food and catering, health protection, medical care, welfare and social security protection. It combines rights and principles with specific standards and detailed guidance as to how to implement these standards at the national level. When the MLC, 2006, comes into force and is effectively implemented in all countries with a maritime interest:

- (a) All seafarers, whatever their nationality, serving on a ship to which the Convention applies, whatever flag it flies, will have decent working and living conditions and an ability to have concerns addressed where conditions do not meet the requirements of the Convention.
- (b) Various mechanisms in the Convention will serve to ensure, to the greatest extent possible, that the Convention requirements are respected, even on the ships that fly the flag of countries that do not ratify the Convention.



- (c) The Governments and Ship-owners are committed to establishing decent working and living conditions for seafarers will have a level playing field with strong protection against unfair competition from substandard ships.

1.3. The Maritime Labour Convention, 2006, was expressly designed to be a globally applicable, easily understandable, readily updatable and uniformly enforced legal instrument that, once it enters into force, will be the “fourth pillar” of the international regulatory regime for quality shipping, complementing the key Conventions of the International Maritime Organization (IMO): the International Convention for the Safety of Life at Sea, 1974, as amended (SOLAS), the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended (STCW) and the International Convention for the Prevention of Pollution from Ships, 1973, (MARPOL 73/78). Effective national implementation of the MLC, 2006, will necessarily contribute to the achievement of “decent employment and social conditions” for seafarers and will also support the safety, security and environmental protection objectives of these other important international Conventions by improving shipping operations in the industry worldwide and helping to eliminate substandard shipping operations. These ambitious objectives will be achieved through the rapid ratification of the Convention by a majority of countries active in the maritime sector. Two issues, Seafarers’ Pension and Identity Documents Conventions have not been covered. Thus, the Seafarers’ Pension Convention, 1946 (No.71) and the Seafarers’ Identity Documents Convention 2003 (No. 185) are not included in the consolidated Maritime Labour Convention. The aim of MLC is to ensure that all seafarers have the right to a safe and secure workplace, fair terms of employment, decent working and living conditions on ship, and rights to health protection, medical care and other social protection. The MLC is a major step in valuing the world's 1.2 million seafarers properly, treating them with the respect and dignity they deserve.

1.4. The Maritime Labour Convention 2006 is an unprecedented exercise, a single instrument covering a wide variety of different subjects and placing great emphases on compliance and enforcement measures in order to ensure a level playing field. The most ambitious exercise for the ILO since the adoption of its constitution in 1919 includes a global reference on maritime labour issues. It consists of a comprehensive set of basic maritime labour principles and rights, simplification of international requirements, strong enforcement regime backed by a certification system, verifiable compliance with basic minimum employment and social

requirements, applicable to all ships including those of non-ratifying members, improved working and living conditions for seafarers, more secure and responsible maritime workforce, more socially responsible shipping industry, improved social dialogue at all levels, improved supervision at all levels: the ship, the company, the flag state, the port state, and the ILO, global and uniform compliance and verification, improved possibilities of keeping labour conditions up to date, permanent review of maritime labour situation, positive impact on safety at sea and positive impact on the protection of the environment.

1.5. The consolidated Maritime Labour Convention 2006 has benefitted the following sectors of shipping industry.

**(a) Governments.** Simplification of reporting obligations, widened power of enforcement on all ships, improved quality of shipping services, improved protection of the environment, additional flexibility with firmness of rights and flexible as how to implement, making the convention easier to ratify and implement, mandatory certification system only for ships over 500 GT, protection against unfair competition from substandard ships through no more favorable treatment for ships of non-ratifying countries, implementation of mandatory requirements through measures that are substantially equivalent except for part V and advantages given to ships of ratifying countries.

**(b) Ship-owners.** Ensure fair competition and marginalize substandard operations from a system of certification, including the certification system applicable for ships less than 500 GT, more socially responsible shipping industry, better protected and more efficient workforce, ensure that ships are operating with safety and security with few problems and delays in ports, minimum standards that are well within the current industrial practice and should easily be met by most of the ship-owners.

**(c) Seafarers.** A comprehensive set of basic maritime labour principles and rights as well as ILO fundamental rights, seafarer's basic employment rights in one place and in clear languages, seafarers better informed of their rights and of available remedies, improved enforcement of minimum working and living conditions, right to make complaints both on board and ashore, clear identification of ship-owner with overall responsibility.

1.6. The Maritime Labour Convention 2006 contains a clear set of fundamental rights and principles and seafarers' employment and social rights pursuant to the ILO's decent work agenda, detailed provisions in the code for

the implementation of the substantive rights, clear set of principles, rights, employment and social rights for seafarers, simplified amendment procedure, formation of Tripartite Maritime Committee, strong enforcement regime, backed by a certification system for compliance with the convention, No more favorable treatment clause for ships of non-ratifying members.

1.7. The structure of Maritime Labour Convention 2006 is as follows:-

**(a) Structure.**

- (i) Mandatory articles.
- (ii) Fundamental principles and rights.
- (iii) Employment and social rights.
- (iv) Procedural and final clauses.
- (v) New amendment procedure.
- (vi) Tripartite Committee.

**(b) Regulations(code A mandatory & B non-mandatory).**

- (i) Substantive rights and obligations.
- (ii) Articles and regulations establish framework of basic obligations.

**(c) Titles**

- (i) Title 1: Minimum age, medical certificate, training and qualifications, recruitment and placement, seafarers' identity documents.
- (ii) Title 2: Seafarers' employment agreements, wages, hours of work or rest, entitlement to leave, repatriation, compensation for ship foundering, manning levels, continuity or regularity of employment in the maritime sector.
- (iii) Title 3: Accommodation and recreational facilities, food and catering.
- (iv) Title 4: Medical care on board ship and ashore, ship-owners' liability, health and safety protection and accident prevention, access to shore-based facilities, social security.
- (v) Title 5: Flag state responsibilities, port state responsibilities, labour supplying responsibilities.

1.8. The compliance awareness of the Maritime Labour Convention 2006 would be at every stage from the national system of protection to the international system. It starts with the seafarer who has to be properly informed of his/her rights, to the ship-owners, masters, flag state, states that are the source of supply of seafarers and the port state. Every ship is to carry a Maritime Labour Certificate which confirms that the working and living conditions on the ship have been inspected and conforms to the requirements of the flag state's national law implementing the convention and the measures adopted by the ship-owner to ensure on-going compliance are satisfactory. A declaration of compliance of MLC 2006 needs also to be carried on board, which would state what those national requirements are and how they are to be complied with. Copies of these as well as of inspection and verification records need to be made available, inter alia, to seafarers, or their representatives. A valid certificate and declaration are to be prima facie evidence of compliance. Certificate can be withdrawn where the ship does not meet the requirements of the convention. A ship can be detained and prohibited from leaving port until deficiencies, which could relate to seafarers' health, or safety or security are rectified.

1.9. The MLC, 2006, will come into force 12 months after ratification by at least 30 ILO member countries with a total share of at least 33 per cent of the world's gross tonnage of ships. This demanding ratification formula reflects the importance that the representatives of the governments, seafarers and ship-owners concerned placed on the need to achieve on the ground or real change in the maritime sector through global standards that are effectively implemented, at a national level, in the countries that are responsible under international law for regulating conditions on the majority of the world's merchant fleet. The MLC, 2006, aims to be effective through widespread (as close to universal as possible) ratification and implementation and by establishing a new continuous "compliance awareness" at every stage from the national systems of protection up to the international system. The Convention establishes a comprehensive enforcement and compliance system, based on cooperation among all ratifying States, which will ensure that decent working conditions, once certified by a flag state, are continuously maintained, no matter where the ship travels. In order to become a truly effective system a significant number of countries will need to ratify and implement the convention. But however one thing is certain, it will make the world's seas and oceans a better place to work upon, with all the attendant benefits, safety and environmental protections across the globe and make the seafarer profession as a desirable career aspiration for generations to come.

## **NEED FOR THE RATIFICATION OF MARITIME LABOUR CONVENTION 2006 BY INDIA**

### **2. Necessity of Ratification.**

2.1. Shipping being an international activity is required to conform to the international regulations, treaties and similar bilateral agreements. India is a party to several international conventions. India has about 7516 kilometers of coastline serviced by a total of 182 ports, 12 of them under a special status as Major Ports being under the purview of the Central Government. Seventy other ports termed as minor ones come under the jurisdiction of the respective State Governments. Presently, 90 per cent of India's international trade in terms of volume and 77 per cent in terms of value are moved by sea. India continues to have the largest merchant shipping fleet among the developing countries and ranks 17th in the world in terms of shipping tonnage. The country has abiding faith in the importance of its maritime zones as well as sea routes for an all-round development of the nation. The country also resolves to protect, preserve and defend its maritime zone and right to navigate in the high seas and international zones.

2.2. Traditionally, India is a seafaring nation. A large number of Indian seafarers are working onboard Indian and foreign flag ships. India is one of the major seafarer supplying nations in the world. Hence, it is the duty of the Government of India to ensure the safety and well being of its citizens working onboard Indian and foreign flag ships. The Maritime Labour Convention 2006 covers shipping sector that has become a driving force of globalization, increasing productivity and demand over the past decades and moving 90 per cent of world trade. And by setting solid and uniform rules for the workers, employers and governments involved in commerce at sea, it provides a model for tackling the most pressing globalization challenges of our time. The maritime industry is a highly specific, emblematic element of the global economy. Until recently, the labour standards that affected this sector had been fragmented, both in content and application. The IMO<sup>1</sup> had taken important steps to build protections in the areas of safety, certification and pollution, but the sector was awash in a wide range of international labour standards going back over eight decades. The new ILO Convention modernizes these standards to:

- (a) Consolidate and update more than 60 earlier ILO Conventions and Recommendations.

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<sup>1</sup> International Maritime Organization

- (b) Set minimum requirements for seafarers to work on a Ship, address conditions of employment, accommodation, recreational facilities, food and catering, health protection, medical care, welfare and social security protection.
- (c) Promote compliance by operators and owners of ships by giving Governments sufficient flexibility to implement its requirements in a manner best adapted to their individual laws and practices.
- (d) Strengthen enforcement mechanisms at all levels, including provisions for complaint procedures available to seafarers, the ship-owners' and shipmasters' supervision of conditions on their ships, the flag States' jurisdiction and control over their ships, and port state inspections of foreign ships.

2.3. These standards also recognize that in today's maritime sector, quality work and quality shipping go hand in hand. This exceptional vision and capacity for social dialogue among seafarer and ship-owner organizations has thus helped build the foundation for an innovative approach to social policy that represents a pioneering contribution to making globalization fair. This can be achieved by the urgent ratification and implementation of the convention:-

- (a) By providing a necessary balance between labour standards and regulations needed in the sector with the promotion of productivity and competitiveness. Such balance is essential today across the globalized world. It is not an "either/or" proposition, but one that provides both fairness and efficiency in a diverse and changing sector.
- (b) It is the first major comprehensive set of global labour standards to be adopted without the opposition of any of its tripartite stakeholders – in this case, representatives of seafarers, ship-owners and governments. Of the more than 300 delegates attending the recent ILO Maritime Conference, not one voted against the Convention.
- (c) The Convention contains common sense and viable provisions for its own enforcement. No longer will seafarers or ship-owners face a bewildering array of national laws subject to differing international labour standards. Under its provisions, for the first time in history, there will be a truly

global foundation available for the various national laws in the maritime labour sector.

(d) This Convention shows that the human capacity, intelligence and political will, exists to find balanced solutions to help make globalization fair. Other globalized sectors face similar challenges. Governments are trying to manage and develop national economies and specific sectors while dealing with the demands of adjustments to financial and trade liberalization. Businesses are struggling to succeed, grow and survive in the face of intensifying competition in domestic, regional and global markets. And workers often feel they are at the receiving end of these tensions.

2.4. In the search for a way forward it has become more and more evident that there can be no lasting success with purely national solutions to global problems. The sooner we have the necessary ratifications (30 countries representing 33 per cent of world tonnage), the sooner it will come into force and the sooner we can confirm the Convention's role as a harbinger of a new era in our globalized world – one in which workers, employers and government came together to produce an international instrument that benefits us all. The latest status of the ratification of MLC 2006 is mentioned below for ready reference.

<b>1.</b> Bahamas	11:02:2008	ratified
<b>2.</b> Liberia	07:06:2006	ratified
<b>3.</b> Marshall Islands	25:09:2007	ratified
<b>4.</b> Norway	10:02:2009	ratified
<b>5.</b> Panama	06:02:2009	ratified

2.5. The ratification of the Convention at a sufficient level to make it a truly global instrument can realistically be expected for a number of reasons, largely related to the high degree of consensus obtained through the development process and reflected in its adoption by 314 votes, without objection, by the 94th (Maritime) Session of the ILC. The ratification of the MLC, 2006, in June 2006, less than four months after its adoption, by Liberia, currently the second largest flag State (by gross tonnage), provides important support for this view.

2.6. Both the Preparatory Technical Maritime Conference (PTMC) in September 2004 and the ILC in February 2006 have adopted important resolutions regarding the promotion of early and widespread ratification of the convention and the need to provide technical support to countries requesting assistance in securing effective national-level implementation, particularly in the areas mentioned in those resolutions. The resolution concerning the promotion of the MLC, 2006, specifically noted that the success of the convention will depend upon its being widely ratified and upon its requirements being effectively implemented, and requested that priority in the allocation of the resources of the organization's technical cooperation programme be given to promoting the ratification of the convention and to assisting countries which request assistance in its implementation in areas such as:

- (a) Technical assistance for Members, including on capacity building for national administrations and the drafting of national legislation to meet the requirements of the convention.
- (b) The development of training materials for inspectors and other staff.
- (c) The training of inspectors, the development of promotional materials and advocacy tools for the convention.
- (d) The national and regional seminars, as well as workshops, on the convention.
- (e) The noted the need also to ensure uniform and harmonized implementation of port state and flag state responsibilities in accordance with the convention through guidelines for authorized officers in port states (port state control) and flag state inspectors to help them with the performance of their duties (these guidelines are to be developed by the International Labour Office with the assistance of tripartite expert meetings).
- (f) The noted the need for measures to promote career opportunities and improve working conditions for women seafarers.



- (g) Noted the need for an inventory of social protection and social security arrangements and measures for seafarers.
- (h) Recommended to the IMO and the ILO that the way forward would be for the Joint IMO/ILO Ad Hoc Expert Working Group on Liability and Compensation regarding Claims for Death, Personal Injury and Abandonment of Seafarers to develop a standard accompanied by guidelines, which could be included in the MLC, 2006, or another existing instrument, at a later date. Promoting ratification and providing technical assistance, where needed, for implementation are interrelated activities in many cases; ratification will depend upon the availability of technical assistance to help governments to develop national laws and institutional and administrative capacity.

2.7. India, being a large seafarer supplying nation of the world, the ratification of this convention will not only have a profound impact on the confidence placed in the MLC but will more importantly create a global legal framework for security and trust. Mr. Juan Somavia, Director-General of the International Labour Office (April 2006) has stated that "this is just the beginning, the history will one day record that dialogue could address not only the challenges of living, working and conducting business at sea – but provide a new paradigm for dealing with the challenges of a fair globalization as well".

## **RATIFICATION PROCESS OF INDIA**

### **3. Procedure of Ratification.**

3.1. To give effect to the requirements of all these conventions, suitable statutory provisions have been made in the Merchant Shipping Act 1958. The Act is also suitably amended as per the requirements of the conventions for giving statutory backing for implementation of the provisions of these conventions. International treaties or conventions do not automatically become part of the Indian national law. They have to be incorporated into the appropriate domestic legal system.

3.2. The Indian constitution provides that the International Treaties and Conventions are to be ratified with the approval of the Parliament of India. Thereafter, the Treaty/Convention is incorporated into the Indian domestic legal system by enactment of a new law in the subject matter or amending the existing law, if there is any pre-existing law in the matter.

3.3. The Maritime Labour Convention 2006 consolidates and updates more than 60 earlier ILO Conventions and Recommendations. India has ratified the most of the conventions and incorporated into the domestic legal system by amending the Indian Merchant Shipping Act. The Maritime Labour Convention 2006 is to be incorporated into the Indian Merchant Shipping Act, 1958 by amending the relevant sections or inserting new sections wherever applicable in the act. Accordingly a draft Merchant Shipping Act (Amendment) Bill 2010 is prepared and placed at Part - III.

3.4. The detail legislative procedure of incorporation of the International Convention/ Treaties into the Indian domestic legal system is elaborated in the Part – II.

## **PART II**

### **INDIAN LEGISLATIVE PROCEDURES**

#### **4. Legislative Procedures.**

4.1. International treaties or conventions do not automatically become part of the national law. They have to be incorporated into the appropriate domestic legal system. To give effect to the requirements of all these conventions, suitable statutory provisions have been made in the Merchant Shipping Act 1958. The Act is also suitably amended as per the requirements of the conventions for giving statutory backing for implementation of the provisions of these conventions. The Constitution of India Part IV, 'Directive Principles of State Policy' provides for promotion of international peace and security under Article 51.<sup>2</sup> It stipulates that the State shall endeavor to promote international peace and security, maintain just and honorable relations between nations, foster respect for international law and treaty obligations in the dealings of organized peoples with one another. International treaties/conventions do not automatically become part of the national law. They have to be incorporated into the legal system by appropriate law. As per Article 253 of the Constitution<sup>3</sup>, Parliament has the power to make any law for the whole or any part of the territory of India for implementing any treaty, agreement or convention with any other country or countries or any decision made at any international conference, association or other body. As per the Constitutional provisions in India the international treaties/conventions are to be ratified with the approval of the Parliament of India. Thereafter, the treaty/convention is incorporated by enactment of a new law in the subject matter or amending the existing law, if there is any pre-existing law in the matter.

4.2. The Government of India has a separate Ministry for the Shipping. The Ministry of Shipping is headed by a Minister of Cabinet rank and responsible for general transport, coordination and the administration and development of major ports, maritime shipping and lighthouses, inland water transport. The Minister of Shipping is assisted by a Secretary (Shipping), Joint Secretary (Shipping), Joint Secretary (Ports), Development Adviser (Ports), Chief Controller of Chartering and other officers at the level of Directors, Deputy Secretaries, Under Secretaries and other Secretariat/Technical Officers.

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<sup>2</sup> Article 51, Part IV, Constitution of India.

<sup>3</sup> Article 253, Part XI, Chapter I, Constitution of India.

The Finance Wing is headed by Additional Secretary & Financial Adviser who assists in formulating and processing all policies and other proposals having financial implications. The Additional Secretary & Financial Adviser is assisted by one Deputy Financial Adviser, two Assistant Financial Advisers, one Under Secretary (Budget) and other Secretariat officers and Staff. The Accounts side of the Ministry is headed by a Chief Controller of Accounts who is inter alia responsible for accounting, payment, budget, internal audit and cash management. Adviser (Transport Research) renders necessary data support to various Wings of the Ministry for policy planning, transport coordination, economic & statistical analysis on various modes of transport with which the Ministry of Shipping is concerned. Various autonomous organization, societies/associations and public sector undertakings are also functioning under the administrative control of the Ministry of Shipping. All works in connection with the IMO is directly dealt by the Ministry of Shipping, Government of India. The Directorate General of Shipping is a separate and exclusive department working under the Ministry of Shipping, Government of India. The DG (Shipping) Mumbai is a Statutory Authority constituted under Merchant Shipping Act, 1958. Major activities of DG (Shipping) are:-

- a. Administration of Merchant Shipping Laws and matters affecting Merchant Shipping and Navigation.
- b. Ensuring safety of life and ships at sea.
- c. Development of Indian Shipping.
- d. International Convention relating to maritime matters.
- e. Providing facilities for training of officers and ratings of the Merchant Navy.
- f. Employment Regulation and Welfare of seamen.

4.3. The Director General of Shipping is a regulatory authority of shipping in India. All the IMO/ILO Conventions/Treaties in connection with shipping are examined and takes up the proposal to the Ministry for ratification and preparation of draft bill for amendment of existing law for the domestication of the convention/treaty. Initially, the Directorate would examine the relevant convention/treaty in detail and prepare a report with its purported advantages of ratification and the importance of the same into the Indian Law. The report is to be submitted to the Ministry of Shipping, Government of India for the administrative approval. After obtaining the administrative approval, the Directorate through its technical and legal expert, would prepare a draft legislative bill and a statement of objectives and submit to the Ministry of

Shipping. The Ministry refers the draft bill to the Ministry of Law, Justice & Company Affairs, Government of India for their details examination and study to ensure that the draft bill with its statements of objectives is fully in consonance with the provisions of the Indian Constitution. It is pertinent to mention that if any law is enacted in ultra virus to the Constitution of India, the Supreme Court of India has the power to strike down that legislation by invoking the Doctrine of Judicial Review.

4.4. All legislative proposals are brought before the Parliament in the form of Bills. A Bill is statute in draft and to be in proper format such as long and short titles, enacting formula, date of commencement, extent of application etc, it is divided into clauses, sub-clauses and items. It may also contain schedules etc. A Bill is to be accompanied with:-

- a. A statement of object and reasons giving the aims and purpose of the proposed legislation.
- b. A memorandum regarding delegated legislation, indicating the delegation of power to a subordinate authority to make rules etc.
- c. A financial memorandum containing the financial aspect of the Bill, if enacted.

4.5. After obtaining the approval of the Ministry of Law, Justice & Company Affairs, the draft bill is placed before the Cabinet by the Minister of Shipping. Thereafter with the approval of the Cabinet, the Bill is introduced along with 'Statement of Objects and Reasons' in either House of the Parliament by the Minister of Shipping. If the Bill has some financial implication before the introduction consent of the President is obtained, then the Bill is introduced in the Lower House i.e., the Lok Sabha of the Parliament.

4.6. After introduction, it may be discussed in that House, and passed or rejected after due deliberation in the said House. It may also be referred to a Parliamentary Standing Committee for detailed examination and its recommendation if the House so desired. Once the House refers the draft Bill to a Parliamentary Standing Committee for examination of the same which will take considerable time. The Committee shall examine the Bill, gets the public opinion, may hold meetings with the stake-holders and submit its report to the Parliament with recommendations and suggestions. If the draft Bill needs certain changes and modification, then it is returned to the administrative Ministry for such modification and improvements.

The suggestions and recommendations of the Committee are examined in consultation with the experts and specialists. Again with the approval of the Cabinet the Bill is sent to the said House of the Parliament and the same process is repeated for passing of the Bill.

4.7. If passed, it is sent to the other House (Rajya Sabha) of the Parliament and considered in that House as well. After passing in the said House it is sent to the assent of the President for his signature. Once the President signs the Bill it gets the force of law. Thereafter, the Act is notified in the Government gazette for the implementation of the convention in the domestic law of India

## **STATEMENT OF OBJECTS AND REASONS**

1. The General Conference of International Labour Organization(ILO) having been convened at Geneva by the Governing Body of the International Labour Office, and having met its Ninety-fourth Session on 07 February 2006 and adopted this twenty-third day of February of the year two thousand and six the Maritime Labour Convention 2006.

2. India being a large seafarer supplying nation of the world determined to improve the safety, security and working environment of the seafarers in the maritime context as well as its commitment to International Labour Organisation, International Maritime Organisation and this together with the purpose and principles of the UN charter concerning the maintenance of international peace and security and promotion of friendly relations and cooperation amongst States was instrumental in adoption of the Maritime Labour Convention 2006 in its true spirit and acceded to the Convention on 01 January 2009, by deposition of the instrument of ratification with the Director General of the International Labour Organisation at Geneva. The Convention came into effect in respect of India w. e. f. 01 January 2010.

3. The Maritime Labour Convention 2006 in its successive forms is generally regarded as the most important of all international treaties concerning the seafarers working onboard merchant ships. The main objective of the convention is to set a solid and uniform rule for the seafarers, employers and governments involved in commerce at sea covering entire global shipping sector that has become a driving force of globalization, increasing productivity and demand over the past decades and moving 90 per cent of world trade. It also provides a model for tackling the most pressing globalization challenges of our time. The maritime industry is a highly specific, emblematic element of the global economy. Until recently, the labour standards that affected this sector had been fragmented, both in content and application. The IMO had taken important steps to build protections in the areas of safety, certification and pollution, but the sector was awash in a wide range of international labour standards going back over eight decades.

4. The MLC provides comprehensive rights and protection at work for the India's more than 120 thousand seafarers working onboard Indian and foreign flag ships. The new labour standard consolidates and updates more than 60 international labour standards related to seafarers adopted over the last 80 years. The

Convention sets out seafarers' rights to decent conditions of work on a wide range of subjects, and aims to be globally applicable, easily understandable, readily updatable and uniformly enforced. It has been designed to become a global instrument known as the "fourth pillar" of the international regulatory regime for quality shipping, complementing the key Conventions IMO.

5. With a view to implement the provisions of the Maritime Labour Convention 2006, it is proposed to amend the Merchant Shipping Act, 1958 so as to incorporate therein provisions relating to minimum requirements for almost all aspects of working conditions for seafarers including, inter alia, conditions of employment, hours of work and rest, accommodation, recreational facilities, food and catering, health protection, medical care, welfare and social security protection measures and compliance. India being a major seafarer supplying nation, it is essential to ensure that our seafarers' employment prospects and movements of Indian Ships to other countries are not hampered for want of MLC Compliance certificate. Accordingly, it is proposed to incorporate necessary provisions in the Bill.

6. The Bill seeks to achieve the above objects.

Honourable Minister of Shipping  
Government of India

New Delhi

.....January 2010.



## **MEMORANDUM REGARDING DELEGATED LEGISLATION**

1. In exercise of the powers conferred by section 457 of the Merchant Shipping Act, 1958 the Central Government to make rules for carrying out the provisions of the Bill.
2. The rules to be made by the Central Government shall be laid, as soon as may be, after they are made, before each House of Parliament.
3. The matters in respect of which rules may be made are general matters of procedure and administrative detail and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

Honourable Minister of Shipping  
Government of India

New Delhi

.....January 2010.

## **Part - III**

AS INTRODUCED IN LOK SABHA

**Bill.No....of 2010**

### **THE MERCHANT SHIPPING ACT(AMENDMENT) BILL, 2010**

A

BILL

further to amend the Merchant  
Shipping Act 1958.

Be it enacted by Parliament in the Sixty first  
Year of the Republic of India as follows:-

#### **CHAPTER – I**

##### **PRELIMINARY**

Short title and  
commence-  
ment

**1.** (1) An Act to amend the Merchant Shipping Act, 1958 to give effect to the International Labour Organization Maritime Labour Convention 2006.

44  
of 1958

(2) WHEREAS the General Conference of International Labour Organization has been convened at Geneva by the Governing Body of the International Labour Office, and having met its Ninety-fourth Session on 07 February 2006 and adopted this twenty-third day of February of the year two thousand and six the Maritime Labour Convention 2006.

(3) AND WHEREAS India, having acceded to the said Convention of 2006, should make provisions for giving effect thereto and for matters connected therewith;

(4) BE it enacted by the Parliament in the Sixty-first Year of the Republic of India as follows:-

**2.** This Act may be called the Merchant Shipping (Amendment) Act 2010.

**3.** It shall come into force on such date as the Central Government may, by notification in the Official Gazette.

## CHAPTER - II

### AMENDMENT OF THE MERCHANT SHIPPING ACT, 1958.

#### PART VII

**4.** In section 88 of the principal Act, the following sections shall be inserted namely:-

Insertion of  
new section  
88A

**(88A) Flag State Responsibilities. (1)**

The Competent Authority shall establish an effective system for the inspection and certification of maritime labour conditions, in accordance with International Labour Organization Maritime Labour Convention 2006 ensuring that the working and living conditions for seafarers on ships that fly its flag meet and continue to meet the standards stipulated in the Convention.

**(2)** In establishing an effective system by the Competent Authority for the inspection and certification of maritime labour conditions, where appropriate may, authorize public institutions or other organizations which it recognizes as competent and independent to carry out inspections or to issue certificates or to do both. In all cases, the Competent Authority shall remain fully responsible for the inspection and certification of the working and living conditions of the seafarers concerned on ships that fly its flag.

**(3)** A maritime labour certificate, complemented by a declaration of maritime labour compliance, shall constitute prima facie evidence that the ship has been duly inspected by the Competent Authority that the requirements of this Convention relating to working and living conditions of the seafarers have been met to the extent so certified.

**(4)** The Information about the system referred including the method used for assessing its effectiveness, shall be included in the Competent Authority reports to the International Labour Office.

Insertion of  
new section  
88B

**(88B) Authorization of recognized organizations.(1)** The public institutions or other organizations referred to in paragraph 3 above shall have been recognized by the Director General of Shipping as meeting the requirements in the Act regarding competency and independence. The inspection or certification functions which the recognized organizations may be authorized to carry out shall come within the scope of the activities that are expressly mentioned in the Act as being carried out by the competent authority or a recognized organization.

**(2).** The reports referred to in paragraph 4 above shall contain information regarding any recognized organization, the extent of authorizations given and the arrangements made by the Member to ensure that the authorized activities are carried out completely and effectively.

Insertion of  
new section  
88C

**(88C) Maritime labour certificate and declaration of maritime labour (1).** This Act applies to ships of 500 gross tonnages or over, engaged in international voyages.

**(2).** The Competent Authority shall:

**(a)** require that ships to carry and maintain a maritime labour certificate, certifying that the working and living conditions of seafarers on the ship, including measures for ongoing compliance to be included in the declaration of maritime labour compliance.

**(b)** require ships that fly its flag to carry and maintain a declaration of maritime labour compliance stating the national requirements implementing this Convention for the working and living conditions for seafarers and setting out the measures adopted by the ship-owner to ensure compliance with the requirements on the ship or ships concerned.

**(c)** ensure that the maritime labour certificate and the declaration of maritime labour compliance shall conform to the model prescribed by the Act.

**(d)** ensure the requirements for the maritime labour certificate and the declaration of maritime labour compliance, including a list of the matters that must be inspected and approved.

Insertion of  
new section  
88D

**(88D) Inspection and enforcement.**

**(1)** The Competent Authority shall verify, through an effective and coordinated system of regular inspections, monitoring and other control measures that ships that comply with the requirements of this Act.

**(2)** ensure the requirements regarding the inspection and enforcement system referred to in the Act.

Insertion of  
new section  
88E

**(88E) Inspections in port. (1)** The Competent Authority shall ensure that:

**(a)** every foreign ship calling, in the normal course of its business or for operational reasons, in any port of India, may be the subject of inspection in accordance with Act (for the purpose of reviewing compliance with the requirements of this Convention, including seafarers' rights relating to the working and living conditions of seafarers on the ship).

**(b)** accept the maritime labour certificate and the declaration of maritime labour compliance required under Regulation 5.1.3 as prima facie evidence of compliance with the requirements of this Convention (including seafarers' rights). Accordingly, the inspection in its ports shall, except in the circumstances specified in the Code, be limited to a review of the certificate and declaration.

**(c)** inspections in a port shall be carried out by authorized officers in accordance with the provisions of the Code and other applicable international arrangements governing port State control inspections in the Member. Any such inspection shall be limited to verifying that the matter inspected is in conformity with the relevant requirements set out in the Act.

**(d)** inspections that may be carried out in accordance with this Act shall be based on an effective port state inspection and monitoring system to help ensure that the working and living conditions for seafarers on ships entering a port.

**(e)** information about the system referred to in paragraph (d) above, including the method used for assessing its effectiveness shall be included in the report.

**(f)** ensure the working and living conditions of seafarers including the following subjects must be inspected and approved by the flag State before certifying a ship in accordance with the Convention:

- (a) Minimum age
- (b) Medical certification
- (c) Qualifications of seafarers
- (d) Seafarers' employment agreements
- (d) Use of any licensed or certified or regulated private recruitment and placement service
- (f) Hours of work or rest
- (g) Manning levels for the ship
- (h) Accommodation
- (i) On-board recreational facilities
- (k) Food and catering
- (l) Health and safety and accident prevention
- (m) On-board medical care
- (n) On-board complaint procedures
- (o) Payment of wages

**(g).** where the competent authority of the member or a recognized organization duly authorized for this purpose has ascertained through inspection that a ship that flies the Member's flag meets or continues to meet the standards of this Convention, it shall issue or renew a maritime labour certificate to that effect and maintain a publicly available record of that certificate.

Insertion of  
new section  
88F

**(88F). Definitions.** (1). In this part, unless the context provided otherwise requires, the term:

Definitions

**(a) "Competent Authority"**

means the Director General of Shipping appointed under section 7 of this Act having power to issue and enforce regulations, orders or other instructions having the force of law in respect of the subject matter of the provision concerned.

**(b) "Declaration of maritime labour compliance"** means the declaration referred to in the Act.

**(c) "Gross tonnage"** means the gross tonnage calculated in accordance with the tonnage measurement regulations contained in Annex I to the International Convention on Tonnage Measurement of Ships, 1969, or any successor Convention; for ships covered by the tonnage measurement interim scheme adopted by the International Maritime Organization, the gross tonnage is that which is included in the REMARKS column of the International Tonnage Certificate (1969).

**(d) "Maritime labour certificate"** means the certificate referred to in the Act.

**(e) "Requirements of this Convention"** refers to the requirements mentioned in the Act.

**(f) "Seafarer"** means any person who is employed or engaged or works in any capacity on board a ship to which this Act applies.

**(g) "Seafarers' employment agreement"** includes both a contract of employment and articles of agreement.

**(h) "Seafarer recruitment and placement service"** means any person, company, institution, agency

or other organization, in the public or the private sector, which is engaged in recruiting seafarers on behalf of ship-owners or placing seafarers with ship-owners.

**(i) "Ship"** means a ship other than one which navigates exclusively in inland waters or waters within, or closely adjacent to, sheltered waters or areas where port this Act apply.

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

**(2).** Except as expressly provided otherwise, this Act applies to all seafarers.

**(3).** In the event of doubt as to whether any categories of persons are to be regarded as seafarers for the purpose of this Convention, the question shall be determined by the Competent Authority after consultation with the ship-owners' and seafarers' organizations concerned with this question.

**(4).** Except as expressly provided otherwise, this Act applies to all ships, whether publicly or privately owned, ordinarily engaged in commercial activities, other than ships engaged in fishing or in similar pursuits and ships of traditional build such as dhows and junks. This Act does not apply to warships or naval auxiliaries.



**(5).** In the event of doubt as to whether this Act applies to a ship or particular category of ships, the question shall be determined by the Competent Authority after consultation with the ship-owners' and seafarers' organizations concerned.

**(6).** Where the Competent Authority determines that it would not be reasonable or practicable at the present time to apply certain details of the Act to a ship or particular categories of ships, the relevant provisions of the Act shall not apply to the extent that the subject matter is dealt with differently by national laws or regulations or collective bargaining agreements or other measures. Such a determination may only be made in consultation with the ship-owners' and seafarers' organizations concerned and may only be made with respect to ships of less than 200 gross tonnage not engaged in international voyages.

Insertion of  
new section  
88G

**(88G) Power to make rules (1)** The Central Government may make rules for the effective implementation of Maritime Labour Convention 2006.

**(2)** In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters pertaining to seafarers, namely :-

- (a) Minimum age
- (b) Medical certificate
- (c) Training and qualifications
- (d) Recruitment and placement
- (e) Seafarers' employment agreements
- (f) Wages
- (g) Hours of work and hours of rest
- (h) Entitlement to leave
- (i) Repatriation
- (j) Seafarer compensation for the ship's loss or foundering
- (k) Manning levels
- (l) Career and skill development and opportunities for seafarers'

- employment
- (m) Accommodation and recreational facilities
- (n) Food and catering
- (o) Medical care on board ship and ashore
- (p) Health and safety protection and Accident prevention
- (q) Access to shore-based welfare facilities
- (r) Social security
- (s) Flag State responsibilities
- (t) General principles
- (u) Authorization of recognized organizations
- (v) Maritime labour certificate and declaration of maritime labour compliance
- (w) Inspection and enforcement
- (x) On-board complaint procedures
- (y) Marine casualties
- (z) Port State responsibilities
- (aa) Inspections in port
- (bb) Onshore seafarer complaint handling procedures
- (cc) Labour-supplying responsibilities

Amendment to section 91      **5. Minimum age.** In section 91 of the principal Act, for the words "fifteen", the words "**sixteen**" shall be substituted.

**6.** In section 91 of the principal Act, the following clause shall be inserted namely:-

Insertion of new section 91A      **(91A)** The employment, engagement or work on board a ship of any person under the age of 16 shall be prohibited. Night work of seafarers under the age of 18 shall be prohibited.

**7.** In section 95 of the principal Act, the following section shall be inserted namely:-

Insertion of new section 95A      **(95A) Recruitment and placement. (1).** All seafarers shall have access to an efficient, adequate and accountable system for finding employment on board ship without charge to the seafarer.

(2). Seafarer recruitment and placement

services operating in the Indian territory shall conform to the standards set out in the MLC.

(3). Competent Authority shall require, in respect of seafarers who work on ships that fly its flag, that ship-owners who use seafarer recruitment and placement services that are based in countries or territories in which this Act does not apply, ensure that those services conform to the requirements set out in the Act.

Insertion of  
new section  
95B

**(95B) Career and skill development and opportunities for seafarers' employment.**

(1) The Competent Authority shall make national policies that encourage career and skill development and employment opportunities for seafarers, in order to provide the maritime sector with a stable and competent workforce. The aim of the policies referred above paragraph shall be to help seafarers strengthen their competencies, qualifications and employment opportunities.

(2). The Competent Authority shall, after consulting the ship-owners' and seafarers' organizations concerned, establish clear objectives for the vocational guidance, education and training of seafarers whose duties on board ship primarily relate to the safe operation and navigation of the ship, including ongoing training.

Insertion of  
new section  
95C

**(95C) Labour supplying responsibilities.**

(1). Without prejudice to the above principle, it is the responsibility of the Competent Authority to ensure that the ship owners to provide proper working and living conditions of seafarers on ships that fly its flag and to ensure the implementation of the requirements regarding the recruitment and placement of seafarers as well as the social security protection of seafarers that are its nationals or are resident or are otherwise domiciled in its territory, to the extent that such responsibility is provided for in this Convention.

(2) The Competent authority shall establish an effective inspection and monitoring system for enforcing its labour-supplying responsibilities under this Act.

**8.** In section 98 of the principal Act, the following clause shall be inserted namely:-

Insertion of  
new section  
98A

**(98A). Medical certificate (1)** Seafarers shall not work on a ship unless they are certified as medically fit to perform their duties.

(2) The Competent Authority shall require that, prior to beginning work on a ship, seafarers hold a valid medical certificate attesting that they are medically fit to perform the duties they are to carry out at sea.

Insertion of  
new section  
98B

**(98B) Training and qualifications. (1).** Seafarers shall not work on a ship unless they are trained or certified as competent or otherwise qualified to perform their duties.

(2). Seafarers shall not be permitted to work on a ship unless they have successfully completed training for personal safety on board ship.

(3). Training and certification in accordance with the mandatory instruments adopted by the International Maritime Organization shall be considered as meeting the requirements of paragraphs 1 and 2 above.

**9.** In section 100 of the principal Act, the following sections shall be inserted namely:-

Insertion of  
new section  
100A

**(100A) Seafarer's employment agreements.**(1) The terms and conditions for employment of a seafarer shall be set out or referred to in a clear written legally enforceable agreement and shall be consistent with the standards set out in the Code.

(2). Seafarers' employment agreements shall be agreed to by the seafarer under conditions which ensure that the seafarer has an opportunity to review and seek

advice on the terms and conditions in the agreement and freely accepts them before signing.

(3). To the extent compatible with the Member's national law and practice, seafarers' employment agreements shall be understood to incorporate any applicable collective agreements.

Insertion of  
new section  
100B

**(100B) Entitlement to leave.** (1). Competent Authority shall require that seafarers employed on ships that fly its flag are given paid annual leave under appropriate conditions, in accordance with the provisions in the Act.

(2). Seafarers shall be granted shore leave to benefit their health and well-being and with the operational requirements of their positions

Insertion of  
new section  
100C

**(100C) Manning levels.** (1). Competent Authority shall require that all ships that fly its flag have a sufficient number of seafarers employed on board to ensure that ships are operated safely, efficiently and with due regard to security under all conditions, taking into account concerns about seafarer fatigue and the particular nature and conditions of the voyage.

Insertion of  
new section  
100D

**(100D) Shipowner's liability.** (1) Competent Authority shall ensure that measures, in accordance with the Act are in place on ships that fly its flag to provide seafarers employed on the ships with a right to material assistance and support from the ship-owner with respect to the financial consequences of sickness, injury or death occurring while they are serving under a seafarers' employment agreement or arising from their employment under such agreement

(2) This Act does not affect any other legal remedies that a seafarer may seek.

Insertion of  
new section  
100E

**(100E) Health and safety protection and accident prevention.** (1).Competent Authority shall:

(a) ensure that seafarers on ships that fly its flag are provided with occupational health protection and live, work and train on board ship in a safe and hygienic environment.

(b) develop and promulgate national guidelines for the management of occupational safety and health on board ships that fly its flag, after consultation with representative shipowners' and seafarers' organizations and taking into account applicable codes, guidelines and standards recommended by international organizations, national administrations and maritime industry organizations.

(c) shall adopt laws and regulations and other measures addressing the matters specified in the Act taking into account relevant international instruments, and set standards for occupational safety and health protection and accident prevention on ships that fly its flag.

Insertion of  
new section  
100F

**(100F)Access to shore-based welfare facilities.** (1) Competent Authority shall ensure that shore-based welfare facilities, where they exist, are easily accessible. The Member shall also promote the development of welfare facilities, such as those listed in the Act, in designated ports to provide seafarers on ships that are in its ports with access to adequate welfare facilities and services.

(2). The responsibilities of Competent Authority with respect to shore-based facilities, such as welfare, cultural, recreational and information facilities and services, are set out in the Act.

Insertion of  
new section  
100G

**(100G) Social security.** (1). Competent Authority shall:-

(a) ensure that all seafarers and, to the extent provided for in its national law, their dependants have access to social security protection in accordance with the Act

without prejudice however to any more favourable conditions referred to in the Act.

(b) take steps, according to its national circumstances, individually and through international cooperation, to achieve progressively comprehensive social security protection for seafarers.

(c) ensure that seafarers who are subject to its social security legislation, and, to the extent provided for in its national law, their dependants, are entitled to benefit from social security protection no less favourable than that enjoyed by shore workers.

Insertion of  
new section  
101(1)((a)(b)&  
(c)

**10. Seafarer's employment agreements. (1)** In section **101(1)** of the principal Act, the following clauses shall be inserted:-

**(a)** The terms and conditions for employment of a seafarer shall be set out or referred to in a clear written legally enforceable agreement and shall be consistent with the standards set out in the MLC.

**(b)** Seafarers' employment agreements shall be agreed to by the seafarer under conditions which ensure that the seafarer has an opportunity to review and seek advice on the terms and conditions in the agreement and freely accepts them before signing.

**(c)** To the extent compatible with the national law and practice, seafarers' employment agreements shall be understood to incorporate any applicable collective bargaining agreements.

Amendment to  
section 101(2)  
(a) to (l)

**(2)** In section **101(2) (a) to (l)** of the principal Act, the following clauses shall be substituted:-

(a) Seafarer's full name, date of birth or age, and birthplace.

(b) Ship owner's name and address.

(c) Place where and date when the seafarers' employment agreement is entered into.

(d) Capacity in which the seafarer is to be employed.

(e) Amount of the seafarer's wages or, where applicable, the formula used for calculating them.

(f) Amount of paid annual leave or, where applicable, the formula used for calculating it.

(g) Termination of the agreement and the conditions thereof, including:

(i) If the agreement has been made for an indefinite period, the conditions entitling either party to terminate it, as well as the required notice period, which shall not be less for the ship-owner than for the seafarer.

(ii) If the agreement has been made for a definite period, the date fixed for its expiry.

(iii) If the agreement has been made for a voyage, the port of destination and the time which has to expire after arrival before the seafarer should be discharged.

(h) Health and social security protection benefits to be provided to the seafarer by the ship-owner.

(i) Seafarer's entitlement to repatriation.

(j) Reference to the collective bargaining agreement.

**11.** In section **123** of the principal Act, the following clause shall be inserted namely:-

Insertion of  
new section  
123A

**(123A) Repatriation.** (1) Seafarers have a right to be repatriated at no cost to themselves in the circumstances and under the conditions specified in the Act.

(2) Competent Authority shall require ships that fly its flag to provide financial security to ensure that seafarers are duly repatriated in accordance with the Act.



Amendment to  
section 138A

**12.** In section **138A Working Hours of Seamen** of the principal Act, the long title, for the words "the ordinary hours of work for all seamen shall not exceed forty-eight hours in a week" shall be substituted with following clauses, namely:-

The limits on hours of work or rest shall be as follows:

(a) maximum hours of work shall not exceed:

- (i) 14 hours in any 24-hour period; and
- (ii) 72 hours in any seven-day period;

or

(b) minimum hours of rest shall not be less than:

- (i) 10 hours in any 24-hour period; and
- (ii) 77 hours in any seven-day period.

**13.** In section 138 of the principal Act, the following section shall be inserted namely:-

Insertion of  
new section  
138B

**(138B) Wages.** All seafarers shall be paid for their work regularly and in full in accordance with their employment agreements.

**14.** In section **143** of the principal Act, the following section shall be inserted namely:-

Insertion of  
new section  
143A

**(143A) Seafarer compensation for the ship's loss or foundering.** (1) Seafarers are entitled to adequate compensation in the case of injury, loss or unemployment arising from the ship's loss or foundering.

**15.** In section **168** of the principal Act, the following section shall be inserted namely:-

Insertion of  
new section

**(168A) Food and catering.** (1). Competent authority shall ensure that ships

168A

that fly its flag carry on board and serve food and drinking water of appropriate quality, nutritional value and quantity that adequately covers the requirements of the ship and takes into account the differing cultural and religious backgrounds.

(2). Seafarers on board a ship shall be provided with food free of charge during the period of engagement.

(3). Seafarers employed as ships' cooks with responsibility for food preparation must be trained and qualified for their position on board ship.

**16.** In section **174** of the principal Act, the following section shall be inserted namely:-

Insertion of  
new section  
174A

**(174A) Medical Care on board and ashore.** (1). Competent authority shall ensure that all seafarers on ships that fly its flag are covered by adequate measures for the protection of their health and that they have access to prompt and adequate medical care whilst working on board.

(2). The protection and care under paragraph 1 of this Act shall, in principle, be provided at no cost to the seafarers.

(3). Competent authority shall ensure that seafarers on board ships in its territory who are in need of immediate medical care are given access to the Government medical facilities on shore.

(4). The requirements for on-board health protection and medical care set out in the Code include standards for measures aimed at providing seafarers with health protection and medical care as comparable as possible to that which is generally available to workers ashore.

**17.** In section **175** of the principal Act, the following section shall be inserted namely:-

Insertion of  
new section  
175A

**(175A) Accommodation and recreational facilities.** (1). Competent authority shall ensure that ships that fly its flag provide and maintain decent

accommodations and recreational facilities for seafarers working or living on board, or both, consistent with promoting the seafarers' health and well-being.

(2). The requirements in implementing this Act which relate to ship construction and equipment apply only to ships constructed on or after the date when this Act comes into force. For ships constructed before that date, the requirements relating to ship construction and equipment that are set out in the Accommodation of Crews Convention (Revised), 1949 (No. 92), and the Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No. 133), shall continue to apply to the extent that they were applicable, prior to that date, under the law or practice of the Member concerned. 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.

(3). Unless expressly provided otherwise, any requirement under an amendment to the Act relating to the provision of seafarer accommodation and recreational facilities shall apply only to ships constructed on or after the amendment takes effect.

**18.** In section **184** of the principal Act, the following sections shall be inserted namely:-

Insertion of  
new section  
184A

**(184A) On-board complaint procedures.** (1) Competent authority shall:

(a) require having on-board procedures for the fair, effective and expeditious handling of seafarer complaints alleging breaches of the requirements of this Act.

(b) prohibit and penalize any kind of victimization of a seafarer for filing a complaint.

(2) The provisions in this Act are without prejudice to a seafarer's right to seek redress through whatever legal means the seafarer considers appropriate.

Insertion of  
new section  
184B

**(184B) Onshore seafarer complaint-handling procedures.**

(1) Competent authority shall ensure that seafarers on ships calling at a port in the Member's territory who allege a breach of the requirements of this Act have the right to report such a complaint in order to facilitate a prompt and practical means of redress.

**19.** In section **358** of the principal Act, the following section shall be inserted namely:-

Insertion of  
new section  
358A

**(358A) Marine casualties.** (1) Competent authority shall:

(a) hold an official inquiry into any serious marine casualty, leading to injury or loss of life that involves a ship that flies its flag. The final report of an inquiry shall normally be made public.

(b) cooperate with each other to facilitate the investigation of serious marine casualties referred in above paragraph.