

IMO

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**THE INCORPORATION OF TITLE 2
(CONDITIONS OF EMPLOYMENT) OF
MARITIME LABOUR CONVENTION, 2006 (AS
AMENDED) INTO THE LAWS OF MALDIVES**

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

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DEDICATION

To my beloved parents and grandparents

To all seafarers

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A) EXPLANATORY NOTE

1) HISTORICAL BACKGROUND

Shipping as a commercial activity has been regulated from the prehistoric times. A clear evidence of this is the codification of written maritime customs known as “Rhodian Sea Code”. The Rhodian Sea Code was a Byzantine creation in the 8th Century which reiterated customary laws of the previous centuries.¹ It was a comprehensive provision of laws covering a wide spectrum of commercial laws at that time while its chapters 5 to 7 are exclusively dedicated to seafarers, establishing seafarer’s liability for fights, and the responsibility of the ship for seafarer’s injuries.²

Although codified laws existed as far as in the 8th Century, being employed at sea was believed to be submission into an uncertain and perilous situation. Even up until 18th century, it was believed that being held captive in ships away from family and friends in a complete status of isolation and poor living conditions were trademarks inherent to seafarer’s professionalism.³ During this time, the concept of flag state responsibility was not developed and hence, the isolation of seaboard employment had a negative legal consequence in the sense that a ship on the high seas or outside the country’s territorial waters were fully immune to its national laws.⁴ Therefore, seafarers working on such a ship had no means of enforcement of their rights. Indeed, seafarers were subjected to the laws which evolved from the ship environment⁵ and it was the ship master who held adjudicative power thereby enforcing subjective and unjust rules on seafarers.

The laws were so harsh that master had the absolute discretion to confine seafarers, and to place them in irons.⁶ Furthermore, their salaries were not paid unless the voyage ends and at times seafarers were also held accountable for the damage to cargo on board, thus deducting the

¹ Deirdre Fitzpatrick and Michael Anderson, *Seafarer's Rights* (Oxford University Press, New York, 2005) 4.

² *Ibid.*

³ Desislava N Dimitrova and R. Blanpain, *Seafarers' rights in the globalized maritime industry: Roger Blanpain; author, Desislava Nikolaeva Dimitrova* (Bulletin of comparative labour relations, 0770-3724 vol 75, Kluwer Law International 2010) 32.

⁴ Fitzpatrick and Anderson (n 1) 8.

⁵ *Ibid.*

⁶ Fitzpatrick and Anderson (n 1) 9.

damages from their wages.⁷ This notion of seafarer's professionalism persisted until seafarer's rights began to be regulated at a global level upon the establishment of the International Labour Organisation (ILO).

1.1) Establishment of ILO (International Labour Organisation)

The ILO was established in 1919 in accordance with part XIII "Labour" of the treaty of Versailles and other peace treaties in the wake of a destructive war, to pursue a vision based on the premise that, universal lasting peace can be established only if it is based on social justice.⁸ The ILO is unique from the other United Nations (UN) organizations that its tripartite character allows for inclusion of employers and workers on an equal footing with government representatives.⁹

Since 1919, the ILO has been bringing together governments, employers and workers of a majority of the states together and its main objective is to set labour standards, develop policies and devise programmes promoting decent work for all women and men.¹⁰ The ILO being the sole international body specializing in the field of labour, has three main functions which include setting labour standards, increasing technical cooperation in implementation of labour standards, and taking lead in research and studies in the context of labour.¹¹

As per Article 7 of the ILO Constitution, the governing body of ILO consists of fifty-six people including twenty-eight representing governments, fourteen representing employers and fourteen representing the workers. Thus, it is evident that ILO runs on fundamental principles which include freedom of association and the right to collective bargaining. Quoting the words of ILO's former Director-General Juan Somavia, "social dialogue is particularly important in difficult times" and is a key component in finding solutions.¹²

Seafarers have always been a major concern for the ILO and from the beginning itself, ILO realized that seafarers were different from the people working on land. Thus, when the first

⁷ Fitzpatrick and Anderson (n 1) 10.

⁸ <<http://www.ilo.org/global/about-the-ilo/lang--en/index.htm>> accessed on 06.05.2018.

⁹ ILO Constitution, Article 7.

<http://www.ilo.org/dyn/normlex/en/f?p=1000:62:0::NO:62:P62_LIST_ENTRIE_ID:2453907:NO#A3> accessed on 06.05.2018.

¹⁰ <<http://www.ilo.org/global/about-the-ilo/lang--en/index.htm>> accessed on 06.05.2018.

¹¹ Christine Kaufmann, *Globalisation and labour rights: The conflict between core labour rights and international economic law* (Studies in international trade law, Hart 2007) 52.

¹² International Labour Office, 'World of work' (No: 62, April 2008) 1, 43.

International Labour Conference (ILC) assembled in June of 1919, a year later in 1920, the second ILC was convened in Genoa, Italy. The second ILC was dedicated to seafarers and so, urging on a specific approach to living and working conditions in the maritime sector, it adopted the National Seamen's Code Recommendation, 1920, which read as "the International Labour Conference recommends that each Member of the International Labour Organisation undertake the embodiment in a seamen's code of all its laws and regulations relating to seamen in their activities as such".¹³

Additionally, within a year of the ILO's establishment, it addressed specific issues of seafarers by codifying those through various legal instruments such as the ILO Minimum Age (Sea) Convention 1920 (ILO C7), the ILO Unemployment Indemnity (Shipwreck) Convention 1920 (ILO C8), the ILO placing of Seamen Convention 1920 (ILO C9).¹⁴ By the end of the twentieth century, there were a total of 11 maritime sessions of the ILC and 40 maritime labour conventions, one protocol and 29 maritime labour recommendations which covered numerous subjects such as recruitment and placement, minimum age, hours of work, safety, health and welfare, labour inspection and social security of seafarers.¹⁵

1.2) Establishment of IMO (INTERNATIONAL MARITIME ORGANISATION)

In 1958, another UN organization namely International Maritime Organisation (IMO) calling for safety of ships and protection of seafarer's rights came into existence.¹⁶ As stated by IMO, there would be no shipping without seafarers¹⁷ and it is the human element of shipping which keeps the industry alive. For those reasons, IMO has continuously been engaging in works relating to fatigue, fair treatment and liability and compensation for seafarers.¹⁸ On various other issues

¹³ National seamen's code recommendation, 1920

<http://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100_INSTRUMENT_ID,P12100_LANG_CODE:312347,en:NO> accessed on 06.05.2018.

¹⁴ Fitzpatrick and Anderson (n 1) 22.

¹⁵ Iliana Christodoulou-Varotsi and D. A Pentsov, *Maritime work law fundamentals: Responsible shipowners, reliable seafarers/ Iliana Christodoulou-Varotsi, Dmitry A. Pentsov* (1st ed. Springer 2008) 11.

¹⁶ <<http://www.imo.org/en/MediaCentre/HotTopics/Pages/SustainableDevelopmentGoals.aspx>> accessed on 06.05.2018.

¹⁷ <<http://www.imo.org/en/MediaCentre/HotTopics/Pages/SustainableDevelopmentGoals.aspx#number8>> accessed on 06.05.2018.

¹⁸ *Ibid.*

relating to maritime labour, the IMO has been working closely with the ILO, thus establishing joint working groups.¹⁹

1.3) The need for a Unified Maritime Labour Convention

Since 1920, the ILO has adopted 70 conventions and recommendations to ensure decent working and living conditions for seafarers while at sea and port.²⁰ However, due to the numerous number of codifications and their extensiveness in terms of details, governments found it difficult to ratify and enforce them all.²¹ An example of this is Article 2 of ILO Convention No: 109 (Wages, Hours of Work and Manning 1958 Convention). Under that Article, one shall see the way the vessel is being propelled, the country where she is registered and the purpose for which she is being used to identify whether the vessel in question falls within the scope of that convention.

Thus, states interested to ratify those conventions also had to undergo lots of research to identify the legal implications of ratification and this again acted as an obstacle for states to ratify them. Consequently, though the ILO adopted various maritime labour related legal instruments, only a few have been recognized and implemented by states. Hence, there was no harmonized set of global rules at that time.

Also, the inconsistency of the language used in ILO's maritime labour conventions was an overwhelming issue which lead to lack of harmonization of labour standards across the globe.²² Looking at previous ILO conventions, Article 3 of the ILO Convention No: 109 (Wages, Hours of Work and Manning 1958 Convention) expressly excludes persons who work on board such as masters, doctors, musicians et cetera from the benefit of wages and hours of work provisions in that Convention. In contrast to this, Article 1 of ILO Convention No: 134 (Prevention of Accident 1970 Convention) gives a broader definition to seafarers and goes on saying that "seafarer" covers all persons who are employed in any capacity on board a ship, other than a ship of war. The same problem continues in the definition of the vessel as can be seen from Article 2

¹⁹ *Ibid.*

²⁰ International Labour Office, 'World of work' (No: 64, December 2008) 1, 48.

²¹ *Ibid.*

²² Lliana Christodoulou-Varotsi, 'Critical Review of the Consolidated Maritime Labour Convention (2006) of the International Labour Organization: Limitations and Perspectives' (2012)
<http://heinonline.org.ejournals.um.edu.mt/HOL/Page?handle=hein.journals/jmlc43&div=30&start_page=467&collection=journals&set_as_cursor=10&men_tab=srchresults> accessed on 06.05.2018.

of the ILO Convention No: 109 (Wages, Hours of Work and Manning 1958 Convention), that extensive details as to the way the vessel is being propelled, the country where she is registered and the purpose for which she is being used are given in the definition of “vessel” which makes the job of law enforcers difficult and practically impossible. Thus, there were lots of doubts as to the scope of the previous ILO conventions and seafarers travelling abroad were left in a state of uncertainty as to what laws they may be subjected to while travelling in various maritime zones and this is one of the main reasons for unification of labour codes.

Moreover, while the shipping industry kept on evolving day by day, the operational and technical changes became abundant and frequent. Notwithstanding this fast-growing nature of the industry, various legal instruments adopted by ILO were not updated to incorporate the changes in industry which rendered them too outdated²³ and obsolete. Thus, it was a necessity at that time to review those instruments in order to reflect technical changes flowing within the shipping industry, for the reason that otherwise, it would turn to be a law ineffective and unrecognized by its subordinates.

Additionally, since both the High Seas Convention, 1958 and United Nations Convention on the Law of Sea, 1982 (UNCLOS) did not provide any definition of the term “genuine link” between the state and the ship, the promulgation of flags of convenience accelerated in 1973.²⁴ In a flag of convenience system, it is implied that states are free to grant their nationality to any vessels willing to register in their territory which weakens the socio economic bond between the vessel and the flag state, thus leading to lesser forms of control and enforcement of laws over such vessels.²⁵ This notion of flags of convenience had a huge impact on the employment of seafarers.²⁶ Notably, it had an impact on ship operating economics (including ship maintenance, costs and crew wage rates) as well as the competence and conditions of employment of crew and the use of such “convenient registration” has thus been a source of controversy, especially since

²³ *Ibid.*

²⁴ Fitzpatrick and Anderson (n 1) 25.

²⁵ Laura Carballo Piñeiro, *International maritime labour law* (Hamburg studies on maritime affairs, 1614-2462 volume 24, Springer 2015).

²⁶ Fitzpatrick and Anderson (n 1) 25.

the most damaging accidents have involved tankers flying the flags of open registry countries (e.g, the “Erika” and the “Prestige”) and have even lead to the loss of life of seafarers on board.²⁷

One such an event was also seen very recently from the sinking of the Panamanian oil tanker, *Sanchi* which sank on after an explosion rocked it along with its 30 Iranian and two Bangladeshi crew working on board. The Sanchi was carrying around 1 million barrels of oil from Iran to South Korea when it collided with the Hong Kong-registered *CF Crystal freighter* in the East China Sea on 7th January, 2018. The explosion was so massive that even the rescue teams could not get near the vessels and except the discovered dead bodies of three seafarers, status of the remaining 29 crew of the ship were unknown and thus, were presumably dead due to toxic gas and excessive heat.²⁸

As the previous case illustrates, it is the seafarer’s lives that are endangered upon the occurrence of a maritime peril. In other words, it is them who indeed bear the consequence of such maritime perils at the expense of their right to live. For these reasons, there is a pressing need to adopt a coherent bill of rights of seafarers, to ensure that seafarer are accorded maximum protection at all times throughout their term of employment.

However, flags of convenience became a leading method of registration preferred by various nations and any international attempts against flags of convenience have failed. The United Nations Convention on Conditions for Registration of Ships (UNCROS) adopted on 6th February 1986 which attempted to strengthen genuine link between flag states and vessels never entered into force and hence, problems such as paying extremely low wages and submission of seafarers into unsafe and unhealthy living condition persisted. Very often, seafarers working at the grass root level in the shipping industry became the victims of substandard shipping practices associated with such convenient flags as the main attraction towards such flags were lowers tax and lower ship operating economics. Sometimes, shipowners even fail to pay by abandoning seafarers and as it can be seen from the ILO database, countries like Panama having the largest open ship registry since 1993²⁹, also has the highest number of reported abandonment cases.

²⁷ Francisco PINIELLA and others, ‘Who will give effect to the ILO’s Maritime Labour Convention, 2006?’ (2013) <http://heinonline.org.ejournals.um.edu.mt/HOL/Page?handle=hein.journals/intlr152&div=8&start_page=59&collection=journals&set_as_cursor=2&men_tab=srchresults> accessed on 06.05.2018.

²⁸ <<http://edition.cnn.com/2018/01/14/asia/china-oil-tanker-sanchi-sinks/index.html>> accessed on 6th May 2018.

²⁹ <<http://www.segumar.com/about-us/>> accessed on 06.05.2018.

Therefore, as the literature suggests, there is a direct relationship between flags of convenience and “crew of convenience”.³⁰

According to the ILO database, total number of 83 cases were reported so far from ships flying Panama flag while the reported cases from other countries remained relatively low, below fifteen.³¹ This gap is huge and from this, one can draw the conclusion that there is the need for protecting seafarer’s rights irrespective of the flag the ship flies. In other words, irrespective of which nationality the ship has, or in which waters the ship is being maneuvered on, or which port she is being berthed at, the human element of shipping industry shall be preserved. This could only be achieved through unification of maritime labour code and adopting a globalized labour code.

Moreover, as the shipping industry continued to grow, shipowners became unapproachable for his employees. Most of the time, seafarers were not employed through direct communication with the shipowner. Instead, it was through shipowner’s agents.³² Thus, at the end of the day, it is the seafarer who has signed a one sided and unfair contract and on the basis of these terms, it is the seafarer who possesses a vulnerable bargaining power. Despite this fact, the growing demand of the shipping industry continued as the statistics show that the global demand for seafarers is estimated at 1,545,000, with the industry requiring approximately 790,500 officers and 754,500 ratings.³³ This indicates that the demand for officers has increased by around 24.1%, while the demand for ratings has increased by around 1.0%.³⁴ Therefore, despite seafarer’s vulnerable position in the growing market, their demand in the foreign market lead them to work in foreign jurisdictions and this further uplift the compelling need for a unified regime of labour laws.

Further, the ILO’s legal instruments were fragmented on different pieces of legislations which were complex, overlapping and left uncoordinated, they were difficult for one to grasp and fathom the legal consequences.³⁵ Hence, despite the continuing validity of their substantive content, it had less impact than other widely ratified conventions in the maritime arena and due

³⁰ Francisco PINIELLA and others (n 27).

³¹ < http://www.ilo.org/dyn/seafarers/seafarersBrowse.search?p_lang=en> accessed on 06.05.2018.

³² Fitzpatrick and Anderson (n 1) 29.

³³ < <http://www.ics-shipping.org/shipping-facts/shipping-and-world-trade/global-supply-and-demand-for-seafarers>> accessed on 06.05.2018.

³⁴ *Ibid.*

³⁵ Christodoulou-Varotsi and Pentsov (n 15) 12.

to these reasons, in January 2001, the Joint Maritime Commission (JMC) unanimously adopted the resolution known as the Geneva Accord, which called for review of ILO maritime labour instruments and their main concern was that the international standards which existed at that time had no sufficient “on the ground” impact on the working and living conditions experienced by seafarers.³⁶

Through this initiation of JMC, and after a considerable five years of work to consolidate the maritime labour conventions and regulations existing at that time, a single instrument was adopted at the 94th (Maritime) session of the international labour conference, held in Geneva on 23rd February, 2006³⁷ by successful 314 votes in favour and none against with a tripartite support of participants from 106 member-states³⁸. This historical moment lead to the emergence of the widely known seafarer’s bill of rights, namely the Maritime Labour Convention, 2006 (MLC). The Convention entered into force on 20th August 2013.³⁹

In 2007, recognizing the importance of implementing MLC effectively, ILO launched its Maritime Labour Convention, 2006, Action Plan 2006-2011.⁴⁰ According to the Action Plan, it is designed to achieve, first, the goal of rapid and widespread ratification in order to bring the Convention into force, and second, the related objective of laying a foundation, including developing the institutional and other tools for effective national-level implementation to meet the objectives of the Convention.⁴¹ Looking into the contents of the action plan, it included providing assistance for Member States including capacity building and drafting of national laws to meet the requirements under the Convention, development of training materials for inspectors, development of promotional materials and advocacy tools for the Convention.⁴²

³⁶ *Ibid.*

³⁷ Provisional Record, Ninety-Forth (Maritime) session, Geneva 2006, International Labour Organisation, <<http://www.ilo.org/public/english/standards/relm/ilc/ilc94/pr-10.pdf>> accessed on 06.05.2018.

³⁸ <http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/presentation/wcms_229914.pdf> accessed on 06.05.2018.

³⁹ <<http://www.ilo.org/global/standards/maritime-labour-convention/what-it-does/lang--en/index.htm>> accessed on 06.05.2018.

⁴⁰ <http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/publication/wcms_088034.pdf> accessed on 06.05.2018.

⁴¹ ILO, ‘Action plan 2006-2022’ (first published 2007) 1, 3.

⁴² ILO, ‘Action plan 2006-2022’ (first published 2007) 1, 4.

2) STRUCTURE AND OVERVIEW OF MLC AND ITS AMENDMENTS

As stated by the ILO's former Director-General Juan Somavia, adoption of MLC is "making labour history"⁴³ as MLC consolidated and updated 37 conventions which existed at the time including conventions on socio-economic issues such as liability of seafarer's sickness and injury and repatriation.

While International Convention for the Safety of Life at Sea, 1974 (SOLAS), International Convention for the Prevention of Pollution from Ships, 1973 (MARPOL) and International Convention on Standards of Training, Certification and Watch keeping, 1978 (STCW) are widely known as the three main pillars of maritime industry, MLC is regarded as the fourth pillar of the international maritime regulatory regime.⁴⁴ MLC fills both fills a gap in the 1982 United Nations Convention on the Law of the Sea and complements the International Maritime Organization's core conventions on ship safety and security, training and pollution prevention and thus, it is widely known as a "super Convention".⁴⁵

The Convention applies to all "seafarers" and as it has been explained in the Convention, "seafarer means any person who is employed or engaged or works in any capacity in a ship to which the Convention applies."⁴⁶ This implies that seafarers include captain of a ship as well as comedian or singers employed on a cruise ship.⁴⁷ In order to minimize doubts as to whether a particular group of persons could be designated as a "seafarer" under the Convention, ILO has adopted resolution at its 94th (Maritime) Session, held in Geneva on February 2006.

According to the criteria set under the resolution, state maritime administrations could consider the duration of the stay on board, the frequency of periods of work spent on board, the location of the person's principal place of work, the purpose of the person's work on board, and the protection available to those persons in considering whether the persons fall within the definition of "seafarer" under the Convention.⁴⁸ Thus, ultimately, it falls on the State to determine the

⁴³ International Labour Office, 'World of work' (No: 64, December 2008) 1, 48.

⁴⁴ Olukayode Aguda, *Maritime Labour Convention 2006: Implications for Seafarers after a decade* (2017) <http://heinonline.org.ejournals.um.edu.mt/HOL/Page?handle=hein.journals/naujilj8&div=35&start_page=125&collection=journals&set_as_cursor=1&men_tab=srchresults> accessed on 06.05.2018.

⁴⁵ *Ibid.*

⁴⁶ MLC, 2006, Article 2 (f).

⁴⁷ Olukayode Aguda (n 44).

⁴⁸ Resolutions adopted by the International Labour Conference at its 94th (Maritime) Session, Geneva, February 2006, 6.

extensiveness of this Convention and according to the author Thomas A.Mensah, in proposing laws and regulations at the national level for implementation of international treaties and standards, national administrations and legislatures should consider the possibility of extending the basic rights and protections available to their nationals and foreign seafarers.⁴⁹ Therefore, when formulating national policies, it is vital to ensure that seafarers are given maximum benefits and protection through legal instruments.

Except as excluded expressly by the Convention, the Convention applies to all ships, whether publicly or privately owned, ordinary engaged in commercial activities, other than ships engaged in fishing or in similar pursuits and ships of traditional build such as dhows and junks.⁵⁰ Like any other maritime convention, the Convention expressly states that it does not apply to warships or naval auxiliaries.⁵¹

The Convention consists of three main parts namely, the Articles, the regulations and the code.⁵² The Articles and regulations set out the fundamental rights and obligations of member states while Code contains the details for the implementation of regulation.⁵³ The Code has two parts (Part A which are mandatory standards and Part B which are recommendatory guidelines).⁵⁴

The Convention has 16 Articles while the Regulation and Code is divided into five titles⁵⁵ which are as follows.

- a) Title 1: Minimum requirements for seafarers to work on a ship
- b) Title 2: Conditions of employment
- c) Title 3: Accommodation, recreational facilities, food and catering
- d) Title 4: Health protection, medical care, welfare and social security protection
- e) Title 5: Compliance and enforcement

It is paramount to note that, though Articles, Regulations and Codes are three distinct parts of the Convention, they have to be read in an intertwined manner with regard to each title of the

⁴⁹ Thomas A.Mensah, *Seafarers in the modern maritime industry: the need for reform* (Lloyd's Maritime and Commercial Law Quarterly, Part 2, May 2006) 176.

⁵⁰ MLC, 2006, Article 2 (4).

⁵¹ MLC, 2006, Article 2 (4).

⁵² MLC, 2006, Explanatory note to the regulations and Code of Maritime Labour Convention, paragraph 2.

⁵³ MLC, 2006, Explanatory note to the regulations and Code of Maritime Labour Convention, paragraph 3.

⁵⁴ MLC, 2006, Explanatory note to the regulations and Code of Maritime Labour Convention, paragraph 4.

⁵⁵ MLC, 2006, Explanatory note to the regulations and Code of Maritime Labour Convention, paragraph 5.

Convention. In other words, Articles and Regulations shall be read in light of the mandatory and recommendatory parts of the code and wherever possible, states are required to give effect to the recommendatory guidelines as well.

2.1) Title 1: Minimum Requirements for Seafarers to Work on a Ship

The first title establishes the minimum age of sixteen for seafarers, mandates recruitment and training procedures and also requires submitting medical certificate to verify seafarer's fitness and competency for the job.

Looking at specific provisions of this title, Standard A 1.1 prohibits the employment, engagement or work on board a ship of any person under the age 16 as well as the night work of seafarers under the age 18.⁵⁶ The Convention clearly prohibits the engagement of a seafarer as a ship's cook where the seafarer is below the age 18.⁵⁷ Under Standard A 1.2, 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 employed to carry out at sea.

Previously under Article 2 of ILO Convention No: 58 (Minimum Age 1920 Revised 1936 Convention), the minimum age of seafarers to work on board was 15 while under Article 3 of the same Convention, children even younger than 15 could be employed on board for training purposes. Thus, it was through this loophole that shipowners exploited child labour on board ships thereby paying extremely low wages. However, under title 1 of MLC, this issue is resolved which is a very significant change.

2.2) Title 2: Conditions of Employment

The second title requires all shipowners to enter into a written employment agreement with seafarer and calls for payment on at least a monthly basis, establishes the standard working hours and grants the seafarer the right to shore leave and repatriation.

Standard A 2.1 sets the requirements that flag states shall ensure at all times in relation to Seafarer's employment Agreement. Paragraph (d) of the previously referred Standard particularly says that shipowners shall provide clear information relating to terms of Agreement

⁵⁶ MLC, 2006, Standard A1.1, Paragraph 1, 2, 4.

⁵⁷ MLC, 2006, Standard A3.2, Paragraph 8.

even while seafarers are on board and that a copy of employment Agreement shall be made accessible for review by officers from competent authority as well. Moreover, it also sets out the fundamental terms that such employment Agreements shall contain and include information as to wages, procedures for dismissal from employment, social security protection et cetera.⁵⁸

According to Standard A2.5, each member shall ensure that seafarers on ships that fly its flag are entitled to repatriation in circumstances where seafarer's employment Agreement expires while abroad or where his Agreement is terminated or where the seafarer is no longer competent to carry out the duties under Agreement.⁵⁹ The sole purpose of that is to ensure that seafarers return home safely in any such event.

Where the shipowner fails to repatriate the seafarer in the aforesaid circumstances, the competent authority of the flag state shall arrange for repatriation and if flag state fails to do this, the state from which seafarer is to be repatriated or the state of which the seafarer is a national may arrange repatriation and recover the expenses incurred from the flag state following which, the flag state could recover the expense from the shipowner involved in the case.⁶⁰ The Convention further mentions that the expense of repatriation in no case shall be payable by seafarer unless where seafarer has been in serious default of his employment obligations.⁶¹

The Convention also provides indemnity against unemployment. Under Standard A2.6, each member has to ensure that, in every case of loss or foundering of any ship, the shipowner pays to each seafarer on board an indemnity against unemployment resulting from such loss or foundering.⁶² As per Standard A2.7, each member 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 conditions⁶³ and via this Standard, the Convention regulates the manning levels in a ship and protects crew members from being overburdened.

⁵⁸ MLC, 2006, Standard A2.1, Paragraph 4.

⁵⁹ MLC, 2006, Standard A2.5, a (a), (b), (c).

⁶⁰ MLC, 2006, Standard A2.5, Paragraph 5.

⁶¹ MLC, 2006, Standard A2.5, Paragraph 5.

⁶² MLC, 2006, Standard A2.6, Paragraph 1.

⁶³ MLC, 2006, Standard A2.7, Paragraph 1.

2.3) Title 3: Accommodation, Recreational Facilities, Food and Catering

The third title establishes standards for the size and furnishings of living quarters and mandates the shipowner to comply with all religious and cultural food requirements of seafarers. According to Standard A3.1, each member shall adopt laws and regulations requiring that ships that fly its flag meet the minimum standards of accommodation of seafarers and that ships are inspected to ensure initial and ongoing compliance with those standards.⁶⁴

The Convention further goes on to cover the minute details as to accommodation facilities⁶⁵ such as requirement for ventilation and heating⁶⁶, lighting⁶⁷, sanitary facilities⁶⁸, recreational facilities⁶⁹, devices against mosquitoes⁷⁰ et cetera. Also, as per the Convention, each member shall ensure that ships that fly its flag meets the food and drinking water requirements having regard to number of seafarers on board, the religious and cultural practices pertaining to food, duration of voyage and further adds that it should be of suitable nutritional value and served in hygienic conditions.⁷¹

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

The fourth title requires that onboard medical care be given to seafarers in need at the expense of the shipowner and ensures that sick or injured seafarers would be paid as long as they remain on board the ship. This title also sets the standards to ensure occupational safety.

Looking at the specific provisions of this tile, under Regulation 4.1, it is the obligation of each member to 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.⁷² It is imperative that seafarer should not be responsible for any costs with regard to such protection and care.⁷³

⁶⁴ MLC, 2006, Standard A3.1, Paragraph 1.

⁶⁵ MLC, 2006, Standard A3.1, Paragraph 6.

⁶⁶ MLC, 2006, Standard A3.1, Paragraph 7.

⁶⁷ MLC, 2006, Standard A3.1, Paragraph 8.

⁶⁸ MLC, 2006, Standard A3.1, Paragraph 11.

⁶⁹ MLC, 2006, Standard A3.1, Paragraph 17.

⁷⁰ MLC, 2006, Standard A3.1, Paragraph 16.

⁷¹ MLC, 2006, Standard A3.2, Paragraph 2, 4.

⁷² MLC, 2006, Standard A4.1, Paragraph 1.

⁷³ MLC, 2006, Standard A4.1, Paragraph 2.

As per Standard A4.1, members must ensure that ships that fly its flag meet the requirements for on board hospital and medical care facilities, equipment and training⁷⁴ and as per the Convention, national laws shall ensure that all ships carry a medicine chest, medical equipment and a medical guide, the specifics of which shall be prescribed and subjected to regular inspection by the Competent Authority.⁷⁵ Also, ships carrying 100 or more persons and ordinarily engaged on international voyages of more than three days duration, shall carry a qualified medical doctor responsible for providing health care and ships which do not carry medical doctor shall have at least one seafarer on board responsible for providing medical care as part of their regular duty or at least one seafarer on board competent to give first aid.⁷⁶

In cases of death or long-term disability of seafarers due to an occupational injury, illness or hazard while they are serving as seafarers under employment Agreement or arising from their employment under such Agreement, shipowners shall provide financial security to ensure compensation and shipowners have to be responsible for burial expenses.⁷⁷

2.5) Title 5: Compliance and Enforcement

The fifth title requires that ships carry a maritime labour certificate which is regarded as the *prima facie* evidence of the vessel's compliance to labour standards. This title also grants protection to whistleblowers and allows member states to perform inspection on all the ships that enter their ports.

As per the Convention, each member shall establish an effective system for the inspection and certification of maritime labour conditions, ensuring that the working and living conditions for seafarers on ships that fly its flag meet and continue to meet the standards in the Convention.⁷⁸ In establishing such a system, a member may where appropriate authorize public institutions or other organizations (including those of another member, if the latter agrees) which it recognizes as competent and independent to carryout inspections or to issue certificates or to do both.⁷⁹

⁷⁴ MLC, 2006, Standard A4.1, Paragraph 3.

⁷⁵ MLC, 2006, Standard A4.1, Paragraph 4 (a).

⁷⁶ MLC, 2006, Standard A4.1, Paragraph 4 (b) (c).

⁷⁷ MLC, 2006, Standard A4.2, Paragraph 4 (b) (d).

⁷⁸ MLC, 2006, Standard A5.1.1, Paragraph 2.

⁷⁹ MLC, 2006, Standard A5.1.1, Paragraph 3.

Under the Convention, ships should be carrying a Maritime Labour Certificate certifying that the working and living conditions of seafarers on the ship.⁸⁰ In addition to Maritime Labour Certificate, each member shall also require that ships that fly its flag to carry and maintain a Declaration of Maritime Labour Compliance stating that the national requirements implementing the Convention for the working and living conditions for seafarers and setting out the measures adopted by the shipowner to ensure compliance with the requirements on the ship.⁸¹ The Maritime Labour certificate and Maritime Labour Declaration shall conform with the model prescribed by the Code and those documents are required only for ships of 500 gross tonnage or over, engaged in international voyages and for ships of 500 gross tonnage or over, flying the flag of a member and operating from a port or between ports in another country.⁸² Previously mentioned Maritime Labour Certificate and Maritime Labour Declaration act as *prima facie* evidence that the ship has been duly inspected by the member and requirements have been met up to the extent certified.⁸³

The Convention further lays down the port state responsibilities. Paragraph 1 of Regulation 5.2.1 states that every foreign ship calling in the normal course of its business or for operational reasons, in the port of a Member may be the subject of inspection in accordance with Paragraph 4 of Article V of the Convention for the purpose of reviewing compliance with the requirements of the Convention.

The inspection by Port state is limited to review of certificate and declaration.⁸⁴ However, room for detailed inspection by Port States is also available in limited circumstances laid in Standard A5.2.1, Paragraph 6 which include situations such as maintenance of false or invalid documents. If the ship is found to be in breach of the convention after the detailed inspection, the Authorized Officer shall take steps to prevent the ship sailing into sea until non-conformities are rectified or until a plan of action to rectify them up to the satisfaction was accepted by authorized officer.⁸⁵

⁸⁰ MLC, 2006, Standard A5.1.3, Paragraph 3.

⁸¹ MLC, 2006, Standard A5.1.3, Paragraph 4.

⁸² MLC, 2006, Standard A5.1.3, Paragraph 1.

⁸³ MLC, 2006, Standard A5.1.1, Paragraph 4.

⁸⁴ MLC, 2006, Standard A5.2.1, Paragraph 2.

⁸⁵ MLC, 2006, Standard A5.1.3, Paragraph 6.

2.6) Appendices of the Convention

There are four appendices to the MLC all of which relate to the certification system under the compliance and enforcement measures provided in the Convention. The appendices include conditions to be inspected by flag state before certifying a ship, model Maritime Labour Certificate, model Declaration for Maritime Labour Compliance, and model Interim Maritime Labour certificate, list of general areas to be covered by detailed port state inspection, and a sample of a National Declaration of Maritime Labour compliance.⁸⁶

2.7) Amendments to MLC

Though MLC dealt with repatriation as a measure against abandonment of seafarers, it has no particular provisions regarding abandonment. Hence, at the 103rd International Labour Conference (ILC), amendments to the MLC, 2006, were adopted in June 2014.⁸⁷ The mentioned amendments established new binding international law to better protect seafarers against abandonment and provide for compensation of death or long-term disability, thus providing solution to two crucial issues in the industry.⁸⁸

It is significant that, the 2014 Amendments require a financial security system (in the form of social security scheme or insurance or national fund) to be in place to ensure that shipowners ensure compensation to seafarers and their families in the event of abandonment, death or long-term disability of seafarers due to an occupational injury, illness or hazard and therefore, mandatory certificates and other evidentiary documents are required to be carried on board to establish that the financial security system is in place to protect the seafarers working on board.⁸⁹

Following the first amendment, it is significant to note that new appendices were added to the Convention which include evidence of financial security under Regulation 2.5, paragraph 2, Evidence of financial security under Regulation 4.2, and model Receipt and Release Form referred to in Guideline B4.2.2.⁹⁰ The First amendment entered into force on 18th January 2017.⁹¹

⁸⁶ MLC, 2006, Appendix A5-I, 5-II, 5-III, B5-I.

⁸⁷ <http://www.ilo.org/ilc/ILCSessions/103/reports/WCMS_248905/lang--en/index.htm> accessed 14.2.2018.

⁸⁸ <<https://www.sdir.no/en/news/news-from-the-nma/2014-mlc-amendments-have-entered-into-force-on-january-18th-2017/>> accessed on 06.05.2018.

⁸⁹ *Ibid.*

⁹⁰ MLC, 2006 as amended, Appendices A2-1, A4-1, B4-1.

⁹¹ Amendments (2014) to MLC, 2006, <http://www.ilo.org/ilc/ILCSessions/103/reports/WCMS_248905/lang--en/index.htm> accessed on 06.05.2018.

The second amendment to the MLC, 2006 was brought in 105th Session of the International Labour Conference on 8th July 2016 and is currently not in force and formal disagreement period will continue until 08 July 2018.⁹² The second amendment deals with elimination of seafarers from shipboard harassment and bullying and also it has added provisions to minimize operational difficulties by way of including provisions regarding extension of maritime labour certificate for a further period of not exceeding five months.⁹³

3) UNIQUE FEATURES OF MLC

Looking at the Compliance and enforcement provisions under the Convention, it is significantly remarkable that the Convention includes flag state as well as port state jurisdictions. Thus, even the states which have not ratified the Convention shall meet the labour requirements under the Convention if it wishes to sail on the waters of other member states and failure to so, may lead to detention or prevention of ship from sailing unless the breach has been rectified. In other word, the Convention provides “no favourable treatment” to non-member states and in that way, it indirectly affects countries which have not ratified the Convention and has a far reaching global impact. States are thus given a strong incentive to ratify and apply it, especially since the scope of “port state control” extends to every single provision of the Convention.⁹⁴

The Convention ensures flexibility regarding application of various standards within the Convention. For an example, under Regulation 5.1.3 Maritime Labour Certificate and Declaration of Maritime Labour Compliance apply to ships of 500 gross tonnage or over, engaged in international voyages⁹⁵ and vessels flying the flag of a member and operating from a port or between ports in another country which has a gross tonnage of 500 or more⁹⁶ and also to any other ship not covered under above mentioned two provisions and flying the flag of a member, at the request of the shipowner to the Member concerned.⁹⁷ Hence, application and

⁹²< http://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:103365> accessed on 06.05.2018.

⁹³Amendments (2016) to MLC, 2006.

⁹⁴ Patrick Bolle, ‘The ILO’s New Convention on Maritime Labour: An Innovative Instrument’ (2006) <http://heinonline.org.ejournals.um.edu.mt/HOL/Page?handle=hein.journals/intlr145&div=12&start_page=135&collection=journals&set_as_cursor=0&men_tab=srchresults> accessed on 06.05.2018.

⁹⁵ MLC, 2006, Regulation 5.1.3, paragraph 1 (a).

⁹⁶ MLC, 2006, Regulation 5.1.3, Paragraph (b).

⁹⁷ MLC, 2006, Regulation 5.1.3, paragraph 2.

enforcement of the Convention become easier for states as vessels solely operating in the state's internal waters are exempted from the scope of Convention.

Looking at implementation of the Convention, there are two main areas of flexibility; one is the possibility for a member, where necessary to give effect to the detailed requirements of the Part A of Code through substantial equivalence. Substantial equivalence is explained in Article VI of Convention which stated that a member state which is not in a position to implement the rights and principles in the manner set out in Part A of the Code may, unless expressly provided otherwise in the Convention, implement Part A through provisions in its laws and regulations or other measures which are substantially equivalent to the Provisions of Part A and for the sole purpose of that Article, any law, regulation, collective agreement or other implementing measures shall be considered to be substantially equivalent in the context of the Convention if the member satisfies that:

- a) It is conclusive to the full achievement of the general object and purpose of the provision or provisions of part A of the code concerned; and
- b) It gives the effect to the provisions of Part A of the Code concerned.⁹⁸

The second area of flexibility in implementation is provided by formulating mandatory requirements of many provisions in Part A in a more general way, thus leaving a wider scope for discretion as to the precise action to be provided for at the national level.⁹⁹ Therefore, member states who ratified the Convention can ascertain the particular action to be included in their own municipal regulations under the corresponding obligation part A.

In the words of Cleopatra Doumbia Henry, former Director of the ILO's international Labour Standards Department "The MLC 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 one of the main pillars of the international regulatory regime for quality shipping".¹⁰⁰ It brings the fragmented pieces of existing legislations into a single document and reflects the modern changes in the shipping industry. In addition to implementation through

⁹⁸ MLC, 2006, Article VI, Paragraph 4.

⁹⁹ MLC, 2006, Explanatory note to the regulations and Code of Maritime Labour Convention, Paragraph 8, 9.

¹⁰⁰ International Labour Office (n 20) 1, 54.

inspection and certification procedures through flag state and port state control, it also enables enforcement through ILO's supervisory mechanism.¹⁰¹

According to Article XIV of the Convention, the articles and regulations can only be changed by the Conference in the framework of Article 19 of the Constitution of the International Labour Organisation. However, the code can be amended through the simplified procedure set out in Article XV of the Convention so that the changes within the industry could be incorporated without undergoing strict procedure in accordance with the core principles of Convention. Amendments will have to be drafted by a special tripartite committee and submitted to the International Labour Conference and once approved, they take effect unless a state party raises an objection by virtue of tacit acceptance principles under International Law.¹⁰²

Each title contains groups of provisions relating to a particular right or principle with connected numbering¹⁰³ so that there would be ease in reference¹⁰³ by lawyers and even lay seafarers.

The Convention also provides that each member shall require that ships flying its flag have on-board and on-shore procedures for the fair, effective and expeditious handling of seafarer's complaints alleging breaches of the Convention and violation of their rights.¹⁰⁴ Therefore, the Convention does not merely ensure its enforceability through port state and flag state inspections, but also through internal dispute resolution mechanism during the voyage.

It is also remarkable that a state party which has accepted MLC could only denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration and such denunciation shall not take effect until one year after the date on which it is registered.¹⁰⁵ In cases where the member does not exercise the right of denunciation provided for in Article IX of the Convention, member shall again be bound for another period of ten years.

MLC being a descendent of ILO operates within the core principles and key features of ILO. Tripartism arose out of ILO's desire to bring working class and the business world together to

¹⁰¹ Francisco PINIELLA and others (n 27).

¹⁰² Patrick Bolle (n 94).

¹⁰³ MLC, 2006, Explanatory note to the regulations and Code of Maritime Labour Convention, Paragraph 6.

¹⁰⁴ MLC, 2006, Regulation 5.1.5, Paragraph 1.

¹⁰⁵ MLC 2006, Article IX.

examine issues that are primarily of interest to them¹⁰⁶ and it has been one of the underlying principles based on which ILO operates. MLC being an ILO Convention gives a voice to seafarers and shipowners apart from governments in deciding international standards which affect them. As per the Article XIII of the MLC, the Governing Body of the International Labour Office shall keep the working of that Convention under continuous review through a committee consisting of not only the representatives of governments but also representatives of shipowners and seafarers.¹⁰⁷ Hence, the Convention is designed in a way to encourage and value the opinions of seafarers, shipowners and governments and calls for collective bargaining system.

Last, but not the least MLC is the only ILO Convention without a Convention Number.¹⁰⁸ This merely reflects the flagrant effort to bring a unified code for seafarers believing that this piece of instrument would last longer and would be the main labour code of seafarers. Hence, MLC as a Convention is special for ILO as well.

4) IMPORTANCE OF MLC TO MALDIVES

4.1) Economic Factors

The Maldives, a chain of 20 coral atolls made up of over 1200 islands of which 200 are inhabited is located in the Indian ocean and the country's economy is mainly based on tourism and fishing industry.¹⁰⁹ The reason for that is that the country does not have many natural resources but blessed with her beauty and the riches of the sea. In fact, 99% of its territory consists of water.¹¹⁰

Due to its lack of land resources, the diversity of the flora is limited to a few tropical fruit and vegetables and there is not enough domestic supply to meet country's demand. Thus, almost every essential consumer good and essentials required for living are imported and, in this regard, the domestic market entirely depends on international carriage of goods by sea.

¹⁰⁶ Jean-Michel-Servais, *INTERNATIONAL LABOUR ORGANIZATION (ILO)* (Kluwer Law International, Netherlands, 2011) 39.

¹⁰⁷ < <http://www.ilo.org/global/standards/maritime-labour-convention/special-tripartite-committee/lang--en/index.htm>> accessed on 06.05.2018..

¹⁰⁸ < <http://www.ilo.org/dyn/normlex/en/f?p=1000:12000:::NO:::>> accessed on 06.05.2018.

¹⁰⁹ < <https://www.globalsecurity.org/military/world/indian-ocean/mv-economy.htm>> accessed on 06.05.2018.

¹¹⁰ < <http://www.maldiveisle.com/economy.htm>> accessed on 06.05.2018.

The strong dependency of the Country's domestic market to importers from other countries calls for stronger manning levels in ships engaging in carriage of goods since without the adequate human element, import of goods to the country would not have been possible.

4.2) Relationship with ILO

Maldives joined the ILO in 2009 and it is its 183rd member.¹¹¹ Although Maldives is a young member of ILO, it has accepted 8 fundamental conventions and two technical conventions including MLC and Seafarer's Identity Documents Convention (Revised), 2003 No:185.¹¹² Though it has acceded to MLC, 2006 on 07th Oct 2014, it has not yet declared the acceptance of 2014 amendments to MLC.¹¹³ However, formal disagreement period for 2014 amendments has expired on 18th July, 2016¹¹⁴ and by virtue of simplified procedure prescribed to amend the code, 2014 amendments are now in force and binding upon all members states unless formally disagreed.¹¹⁵ Thus, in this regard, 2014 amendments are binding on Maldives as well by virtue of tacit acceptance since there is no formal disagreement raised by the Country.

4.3) Institutional Structure

Taking a glance on the government's organizational structure, the responsible Minister for labour affairs is Minister of Economic Development.¹¹⁶ As per the organizational structure published by the Government, Transport Authority and Labour Relations Authority of Maldives are under Ministry of Economic Development.¹¹⁷

Although Transport Authority is under Ministry of Economic Development, the Authority is run by a governing board, and according to its official website, Authority's mandates include promotion of government's policies in relation to maritime transport, setting safety standards for seafarers on board, promotion of seafarer's employment, prescribing rules regarding seafarer's

¹¹¹ International Labour Organisation 'ILO in Maldives' < http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-colombo/documents/publication/wcms_366559.pdf > accessed on 06.05.2018.

¹¹² < http://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:103365 > accessed on 06.05.2018.

¹¹³ < http://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:103365 > accessed on 06.05.2018.

¹¹⁴ < http://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:P11300_INSTRUMENT_ID:312331 > accessed on 06.05.2018.

¹¹⁵ MLC, 2006, Article XV (8).

¹¹⁶ < <http://www.trade.gov.mv/page/about-us> > accessed on 6th May 2018.

¹¹⁷ < http://presidencymaldives.gov.mv/Documents/4599_f6ac93be-0_.pdf > accessed on 6th May 2018.

placement and recruitment agencies, inspection of vessels and overseeing port state control.¹¹⁸ Therefore, it is clear that, formulation of policies in relation to seafarer's employment vests with the Minister of Economic Development while the Authority's role is purely regulatory in nature and in this regard, Authority could solely promote the policies laid down by Minister of Economic Development.

In addition to Transport Authority, another important government body responsible for enforcement of labour laws is Labour Relations Authority of Maldives. The Authority is established under Section 76 of Law No:2/2008 (Employment Act of Maldives)¹¹⁹. While the chapter 9 of the said Employment Act lays down Labour Relations Authority's mandates and powers, its role is mainly to ensure compliance of labour standards. The Authority has powers to inspect and implement the administrative steps required for the adherence of Employment Act, to investigate disputes and claims regarding employment and labour, to create awareness for the purpose of ensuring the proper observation of the Act and its regulations and also to provide technical information and advice required by employers and employees.¹²⁰

Maldives also has an Employment Tribunal which was established under Section 84 (a) of the above referred Employment Act. The Employment Tribunal is the first instance adjudicative body for hearing employment cases. According to Section 3 of Regulation No: 2015/R-20 (Employment Tribunal Regulation, 2015)¹²¹, jurisdiction of the tribunal extends to hearing employment cases as prescribed by Employment Act of Maldives or any other laws or regulations. Further, as per that section, the tribunal's jurisdiction extends to hearing complaints related to breach of employment agreement, unfair dismissal, and complaints against recruitment and placement agencies. Thus, unless excluded by an Act, disputes as to Seamen's Employment Agreement would be decided by Employment Tribunal. However, it is important to note that matters adjudicated by Employment Tribunal could be further appealed to High Court and

¹¹⁸ <<http://transport.gov.mv/%DE%93%DE%B0%DE%83%DE%A7%DE%82%DE%B0%DE%90%DE%B0%DE%95%DE%AF%DE%93%DE%B0-%DE%87%DE%AE%DE%8C%DE%AF%DE%83%DE%A8%DE%93%DE%A9%DE%8E%DE%AC-%DE%89%DE%A6%DE%90%DE%A6%DE%87%DE%B0%DE%86%DE%A6%DE%8C%DE%B0%DE%8C/>> accessed on 06.05.2018.

¹¹⁹ <<http://www.mvlaw.gov.mv/pdf/ganoon/chapterI/2-2008.pdf>> accessed on 06.05.2018.

¹²⁰ <<http://www.lra.gov.mv/en/organization>> accessed on 06.05.2018.

¹²¹ <http://www.employmenttribunal.gov.mv/VTRreports/laws/Employment_Tribunal_Regulation_2015.pdf> accessed on 06.05.2018.

Supreme Court of Maldives as this right to appeal is guaranteed under Section 85 (b) of the Employment Act of Maldives.

4.4) Problems with the Current Labour Laws of Maldives

Looking at the current labour regime of Maldives, the basic legal instrument governing labour affairs is Law No:2/2008 (Employment Act of Maldives). From the contents of the said Act, it is evident that the provisions of that Act are exclusively designed for people working on land rather than seafarers who spend miles away on a floating island, in a very distinct environment.

The Act makes no mention of seafarers except in Section 34, where it excludes seafarers from Chapter 4, which includes hours of work, dismissal, wages and financial benefits, and entitlement to leave.

Though MLC has set 16 years as minimum age for seafarers to work on board, the minimum age for a ship's cook remain 18. However, under Section 6 of employment Act of Maldives, there is an umbrella provision which says that the minimum age of employment is 16 years and it is entirely silent on the age of ship's cooks.

Also, though Section 13 (b) of Maldives Employment Act provides a non-exhaustive list of minimum terms that all employment agreements shall consist of, that again is not in compliance with Standard A2.1, Paragraph 4 of MLC. Fundamental signature terms to Seafarer's employment Agreement such as entitlement to repatriation and shore leave are not included in that list.

Furthermore, standards relating to seafarer's accommodation and welfare facilities, medical aid, indemnity against unemployment, protection against abandonment, exercise of port state control and flag state control, maritime labour certificates and labour compliance declarations, financial security certificates are all not included in the Employment Act of Maldives. Therefore, the Employment Act of Maldives is redundant when it comes to protection of seafarers in Maldives and for that reason, the Country needs a reformed maritime labour regime.

Following Law No: 35/2015 (First Amendment to Maldives Maritime Navigation Act No: 69/78)¹²², the Minister for Economic Development was given the power to make various regulations related to Seamen's Employment Agreement. Under Section 5 (5) of that Act, power

¹²² < <http://www.mvlaw.gov.mv/pdf/ganoon/chapterVI/35-2015.pdf> > accessed on 06.05.2018.

to make regulation on seafarer's safety, health and welfare protections was delegated to the Minister. Also, under Section 5 (18) of that Act, power was delegated to make regulation on seafarer's employment conditions and by virtue of S 5 (23), power was delegated to make regulation on port state and flag state control inspections. Most importantly, under S5 (26) of that Act, power was granted to make regulation on compensation for death or personal injury arising from seafarer's work-related environment.

The time limit to make the above-mentioned regulations is mentioned in Section 5 (d) of the First Amendment to Maldives Maritime Navigation Act No: 69/78. As per that section, within 3 months from the effective date of that Act, such regulations shall be made by Minister. Though the Act has been effective since 19th November 2015, until today no regulation related to seafarer's employment has been made. Thus, the above referred provisions are nothing more than mere promises.

However, it is remarkable that despite the lack of an adequate national legal instrument ensuring protection for seafarers, this in no way mean or imply that the Country is not facing any such issues. As could be seen from the summary report of Civil Court Case Number: 107/Cv-C/2017 Thilafushi Corporation Limited (Ex Parte) [2017]¹²³, Vietnamese flagged vessel named *MV Seahome Sapphire*¹²⁴ arrived Maldives on 30th July 2012 and was lying abandoned in Maldives until 2017. The owner of that vessel abandoned his crew subsequent to which through diplomatic communications between Maldives Foreign Ministry and Vietnamese Authorities the crew were safely sent to their countries.

The above referred metallic vessel was stranded at the ports of Maldives, thus causing environment damage as well as obstructing the peaceful navigation of other vessels at port. Thus, after a prolonged period of five years, on 20th July 2017, Maldives Civil Court declared the judgement granting the right to the government to treat the vessel in accordance with the rules regarding procedures for goods not claimed or owned by anyone.

The above case illustrates the problem that Government faces due to lack of enforcement powers under legislation throughout the exercise of its port state control in relation to seafarer

¹²³ <http://www.civilcourt.gov.mv/hulaasa_reports_2017/107_Cv-C_2017.pdf> accessed on 06.05.2018.

¹²⁴<http://www.marinetraffic.com/en/ais/details/ships/shipid:737342/mmsi:574830000/imo:9554690/vessel:SEAHO ME_SAPPHIRE> accessed on 06.05.2018.

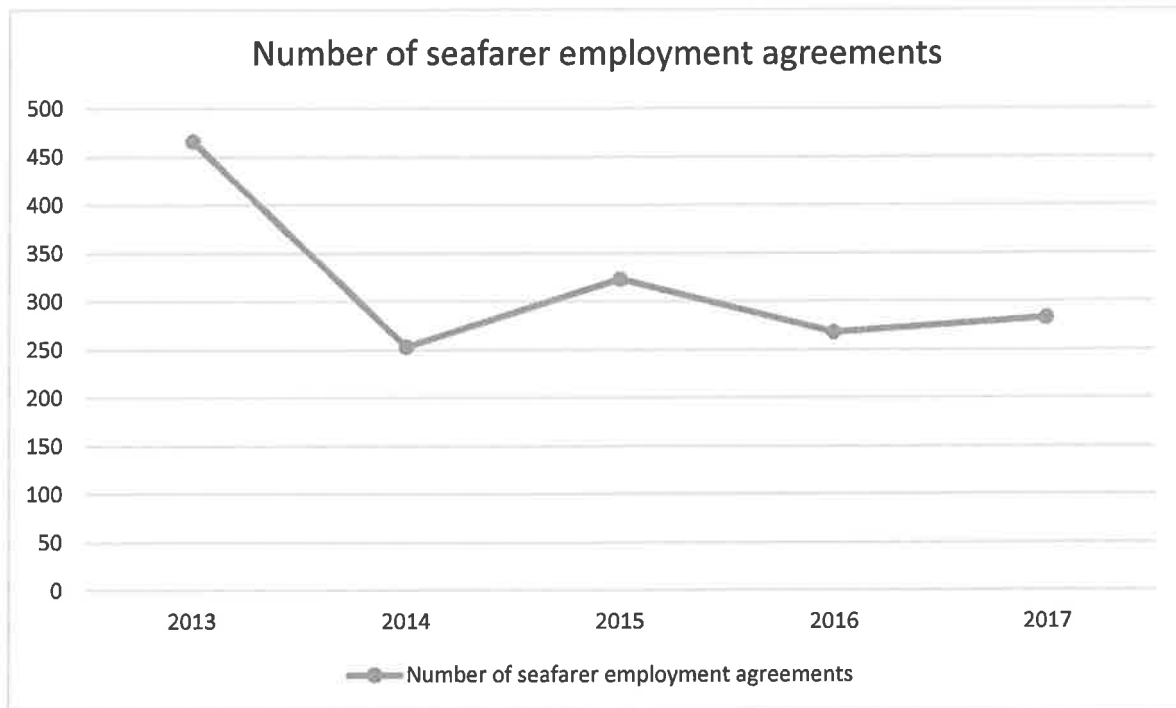
employment issues. It is an undeniable fact that civil litigation takes lot of time to get a final and conclusive judgement and considering this, it is not in the best interest of the government to resolve every maritime labour issue via Maldivian courts. *MV Seahome Sapphire* was lying at a Maldivian port from 30th July 2012 until 2017 up to the date of the verdict. In other words, for prolonged five years an abandoned, unmanned and unauthorized foreign vessel was lying due to lack of proper enforcement tools.

Therefore, lack of a national maritime labour instrument has put the government in difficult position when it comes to implementation of maritime labour standards at an international level. Although government conducts labour inspection and looks for labour certificates by way of abiding to long standing customs and practices, there would not be any sound legal measures such as prevention of ship from sailing in waters that could be taken against a rebellious ship that is in violation and in this way, it could have an adverse impact on other countries as well.

Due to the lack of maritime labour laws, the Transport Authority currently relies on internal guidelines for implementing maritime labour standards. However, as per Article 61 (a) of Maldives Constitution, all statutes, regulations, government orders requiring compliance by citizens and government policies shall be published and made available to the public and thus, it is evident that the core principles of Maldives constitution call for publication of rules wherever it requires compliance by citizen and wherever those rules affect them. Thus, it is of paramount importance to incorporate MLC provisions into rules and regulations, thereby giving a notice to public as well as equipping the law enforcers with adequate legal tools for effective enforcement of the Convention.

Looking at the statistics from 2013 to 2017, there has been a decline in number of seamen employment agreements registered in Maldives for foreign going ships¹²⁵ and there is a possibility that this declining tendency has a link with existence of obsolete legal tools when it comes to seafarer's protection though there is no evidence of a research carried on this specific subject in Maldives. The Information available from Maldives Transport Authority shows that, in 2012, there was a total number of 466 seafarer agreements registered in Maldives while this number reduced almost to a half as in 2017, only 283 agreements were registered. The graph bellow illustrates the details.

¹²⁵ See Annex-1 of this explanatory note.



Finally, from an economic perspective, the labour market is a market like any other, driven by supply and demand and what happens in labour market is of crucial importance for the lives of most people as a person's work is closely linked to his/her social status.¹²⁶ Thus, the effects of a poor labour regime in maritime sector could cause far reaching damage which extends to a lots of families and in this case, the State should intervene to establish ideal conditions in market¹²⁷ for the welfare of the whole society.

4.5) Importance of Seafarer's Employment Conditions to Maldives

It is an undeniable truth that maritime working environment is a high-risk working environment where majority of seafarers are constantly exposed to multitude of accidents resulting from fatigue.¹²⁸ Thus, it is for safety reasons that good employment conditions be applied on board. In

¹²⁶ Kaufmann, *Globalisation and labour rights* (n 3) 14.

¹²⁷ *Ibid.*

¹²⁸ Dimitrova and Blanpain (n 3) 60.

the words of author Roger Blanpain, “good employment conditions on board the ship matching or exceeding the conditions in land employment are an essential feature”.¹²⁹

Good employment conditions on board simply means entitlement of seafarer to a better legally binding contract and from that contract itself, other cardinal rights (such as entitlement to hours of rest, shore leave, repatriation, and adequate manning levels on board) automatically would flow from. Thus, equipping seafarers with good employment conditions is the starting point to ensure that seafarers rights are protected in Maldives. In other words, it is the most fundamental step towards filling the gaps in the current Employment Act of Maldives.

Significantly, the High Court of the Republic of Maldives in its Case Number 2010/HC-A/62 (which was decided on 24th October 2012) has greatly emphasized on the need for a specific legislation for seafarers.¹³⁰ As per the mentioned judgement, if normal employment laws are applied on seafarers, the law would fail to protect their rights as seafarers have specific employment conditions arising from their unique working environment. Therefore, as the mentioned judgement suggests, a specific approach to seafarer’s employment conditions shall be adopted via a legal instrument in order to protect seafarer’s rights in Maldives.

5) METHODOLOGY TO INCORPORATE MLC INTO MALDIVIAN LAWS

According to Organizational Structure of Maldives Government, the Minister for Economic Development is responsible for the functioning of labour relations Authority and also for Transport Authority of Maldives.¹³¹ Thus, for incorporation of MLC, the initiative and political commitment by Minister for Economic Development is the starting point to bring the change.

Since the current employment Act of Maldives is silent on maritime employment issues, it is important to bring a separate Maritime Labour Act rather than bringing amendments to the existing Employment Act, which is the general labour Act. One reason for doing this is that it would be easy for shipowners and seafarers to have a document exclusively tailored for them and hence, that would improve accessibility of the document to its target audience. Another reason is that, from a drafting point of view, bringing amendments and compiling two different labour regimes within one simplified document would lead to a chaos and that would take more time

¹²⁹ Dimitrova and Blanpain (n 3) 48.

¹³⁰ <<http://www.highcourt.gov.mv/dhi/mediamanager/2010-hc-a-62.pdf>> accessed on 06.05.2018.

¹³¹ <http://presidencymaldives.gov.mv/Documents/4599_f6ac93be-0_.pdf> accessed on 06.05.2018.

even in drafting and parliamentary process. Thus, in order to expedite the process and ensure ease in reference, a primary Maritime Labour Act shall come into force in a near future.

Under Section 5(5), Section 5(18), Section 5(23) and Section 5(26) of Law No: 35/2015 (First Amendment to Maldives Maritime Navigation Act No: 69/78)¹³², power is delegated to the Minister for Economic Development to make regulations related to seafarer's safety, health and welfare protections, seafarers recruitment and placement agencies, port state and flag state control inspections and also regarding compensation for death or personal injury arising from seafarer's work related environment. Thus, until the Maritime Labour Act of Maldives comes into existence, seafarer's labour standards could be implemented via those regulations as well. Notably, this method is ideal only as an interim solution.

Emphasis shall be made on the point that effective tools for implementation of maritime labour standards could merely be granted via a parent Act (Maritime Labour Act) rather than several fragmented pieces of regulations. The main reason is that, as per Section 20 (b) (1) of Law No: 4/2011 (Act on Rules of Interpretation)¹³³, unless otherwise provided in the primary act, the power to issue regulations include the power to levy a fine not exceeding Rf 2,000 (Rufiyaa two thousand) for contravention of the regulation. Thus, the effect of the mentioned provisions on regulations made under Section 5(5), Section 5(18), Section 5(23) and Section 5(26) of Law No: 35/2015 (First Amendment to Maldives Maritime Navigation Act No: 69/78) would be that irrespective of the grave nature of alleged violation, the fine imposed could not exceed more than 2000 Maldivian Currency Units. This amount is relatively low and thus, unreasonable and inappropriate since the real issue here deals with the fining of shipowners and seafarer recruitment agencies which generally make profits in millions. However, since neither Maldives Maritime Navigation Act, nor its first amendment authorizes regulatory bodies to impose fines exceeding 2000 currency units, exceeding the capped fine would create serious legal issues.

Though the Attorney-General is mandated with advising the government on all legal matters¹³⁴, by practice, the initial drafts of bills are done by the relevant Ministry and then sent to the Attorney-General's Office for its opinion. At this stage, the Attorney-General would review and scrutinize the whole legislation and suggest the amendments to first draft and once the draft has

¹³² < <http://www.mvlaw.gov.mv/pdf/ganoon/chapterVI/35-2015.pdf> > accessed on 06.05.2018.

¹³³ < <http://agoffice.gov.mv/pdf/sublawe/Interpretation.pdf> > accessed on 06.05.2018.

¹³⁴ Constitution of the Maldives, Article 133 (b).

been finalized, the Attorney General's Office would forward that bill to the President's Office and from there on, it would be forwarded to the Parliament of Maldives.

The Parliament of Maldives also known as "People's Majilis" is the legislative body possessing powers to enact legislation with regard to any matter, or the amendment or repeal of any law, which is not inconsistent with any tenet of Islam.¹³⁵ A bill could either be submitted as a government bill which is lobbied by government or as a private member bill which is lobbied by Private member. Once it is submitted to Parliament, rules of Parliamentary procedure apply and is subject to parliamentary readings and debates.

Once parliament endorses the bill, it would be sent for President's ratification¹³⁶ and as per Article 92 of Constitution, every bill ratified by the president shall be published in the Government Gazette on the day of ratification and such law shall come into force when it is published in the Government Gazette or on such later date following publication of the Statute. Thus, the proposed Maritime Labour Act would also be subjected to the abovementioned procedure.

It is important to note that though Maldives has become a party to MLC, the legal system of Maldives does not allow automatic incorporation of international standards into domestic law like in monist countries. Article 93 (a) of the Constitution clearly states that treaties entered into by the Executive in the name of the State with foreign states and international organisations shall be approved by the parliament and shall come into force only in accordance with the decision of the parliament.

Furthermore, Article 93 (b) of the Constitution states that despite the provisions of article (a), citizens shall only be required to act in compliance with treaties ratified by the state as provided for in a law enacted by the Parliament.

Hence, considering the above-mentioned Articles, treaties neither automatically bind domestic courts nor citizens. A statute made by parliament is needed for domestication of the Convention since Maldives is a dualist Country. Hence, in this situation, Parliament shall enact the Maritime Labour Act of Maldives in order for the country to comply with MLC.

¹³⁵ Constitution of the Maldives, Article 70 (b) (2).

¹³⁶ Constitution of the Maldives, Article 92.

Speaking of regulations, the initial draft would be prepared by the relevant ministry and sent to Attorney General's Office for comments. Attorney General's office would then scrutinise the piece of regulation at various levels. Once the Attorney General approves the regulation, it would then be sent to President's Office and from there on, the legal section of President's Office would review the regulation and if the President's Office approves the regulation, it would then be gazetted as Article 61 (a) of Maldives Constitution requires all regulations (which require compliance by citizens) to be published and made available to public. Since the proposed maritime labour regulation requires obedience by seafarers, it shall undergo the publication procedure mentioned above.

6) EXPLANATION OF THE DRAFT REGULATION

6.1) Overall Purpose of the Draft Regulation

Like any other archipelago, Maldives mainly consists of seas while its landmass is merely 1%. Therefore, as a country with zero industrial activity and possessing a vast coastline, every household item and other domestic goods are imported to the country via international sea trade routes. Without a considerable driving force of human element involved in the carriage of goods from other countries, the country would starve, and its economy would freeze as import of goods would have been impossible.

Hence, it is imperative to sustain and stabilise this human element of the shipping industry. To do this, seafarers shall be given an equal footing with the people working on land in terms of protection of their labour rights. This could be achieved by tailoring laws and regulations exclusively dedicated to them as they have specific and unique working conditions.

The proposed draft regulation is designed to incorporate Title 2 of MLC,2006 (Conditions of employment) into Maldivian laws thereby, providing the respective authorities power to implement those standards.

Notably, this is the first piece of legislation exclusively tailored for seafarers. Thus, when this Regulation comes into force, it will create a remarkable historical moment in the legal history.

6.2) Significant Features of the Draft Regulation

The draft regulation consists of 49 provisions. Since it incorporates only one specific Title of MLC, it is left undivided into chapters or parts.

The format used to draft this regulation is the same format followed by the Government of Maldives in all its gazetted laws and Regulations.

In addition to giving an introduction and short title to the laws or regulations, the practice followed by Maldivian government is to include a provision explaining the intended specific purposes that the law or the regulation is ought to bring. This provides parameters for the courts to further develop the jurisprudence of law by interpreting provisions without deviating from the scope of the regulation, if there is any need to do so. Hence, it is vital to explain the purpose of this Draft Regulation and is included in Section 3.

Although Employment Act of Maldives which is tailored for people working on land refers to various types of leaves (such medical, annual, paternity, maternity, family responsibility, leave following circumcision of son), these leaves are generally not applicable to seafarers. The main reason is that their working environment is unique in the sense that they are confined to an overseas ship and so, cannot return to home as quickly as they wish to. Therefore, the types of leaves are not detailed as in Employment Act of Maldives. Rather, Section 4 (b) (8) of the Draft Regulation obligates shipowner and seafarer to come into an agreement on the types of leaves and the way they shall be calculated while Section 23 safeguards the previously mentioned Section, saying that leaves could be entitled subject to Seamen Employment Agreement. Therefore, under the Regulation, leaves are left to be regulated on the terms of Seamen Employment Agreement.

Maldives is a 100% Muslim country. Indeed, Article 10 of the Constitution expressly says that “Islam shall be one of the basis of all the laws of Maldives”. Significantly, the Constitution of Maldives in its Article 9 (d) mentions that a non-muslim may not become a citizen of Maldives and therefore, becoming a muslim is interpreted as a pre-condition to granting the Maldivian nationality.

Hence, Islamic shariah principles lie at the core of Maldivian laws and regulations and every law at its draft stage undergoes an “islamification” process. While Employment Act of Maldives

ensures the prayer breaks to employees, the same standing is maintained in the draft regulation in its Section 22. However, a safeguard in favour of the seafarer as well as the shipowner is given within the provision as those breaks shall not obstruct the safety while at the same time ensuring that they are given before the lapse of each prayer time. Thus, the provision aims to strike a balance.

Ramadan month is a holy big month for Maldivians. Maldivian families tend to gather and prepare big feasts for breakfast throughout the Ramadan days which makes Ramadan an expensive month for average Maldivian families. Every year, inflation rate exponentially increases prior to Ramadan. Therefore, the Employment Act of Maldives ensures that every Maldivian worker gets a Ramadan allowance while granting Ramadan allowance for all non-Maldivian workers under the mentioned Act lies at the discretion of the employer. The same position is adopted in Section 14 of the Draft Regulation as in this regard, granting Ramadan allowance for non-Maldivian seafarers is left as a matter of employer policy.

Therefore, the Draft Regulation compliments the existing labour law regime of Maldives and it aims to harmonise two labour regimes wherever possible.

While Section 12 deals with wages of seafarers, it ensures the timely payment of wages by imposing a fine for late payment subject to the safeguards mentioned in the Section. Also, under Section 15, minimum wage for seafarers are left to be regulated through the issuance of Merchant Shipping Notices. The main reason is that, wages are subjected to change depending on inflation and other economic factors, and so, there shall be a flexible and a convenient method to impose changes in the minimum wages accordingly, without having to change this Draft Regulation.

Throughout the Draft Regulation, a responsible Ministry has not been named. However, the term “Ministry” is given a definition under Section 48 (13) of the Draft Regulation. The major aim for this is to accommodate for any future changes of the government’s organisational structure. Following the attainment of democracy, Maldives suffers from political instability and governments change prior to the elected term while major shuffles and reshuffles of cabinet members and their mandates happen frequently. This Regulation is drafted taking into those socio-political factors into consideration and the same practice is followed by Attorney General’s Office in its craft work.

Under Section 49 of the Draft Regulation, a one-year commencement period is provided. The aim is to provide an adequate period for enforcement authorities to prepare for enforcement and run awareness campaigns.

Finally, the Draft Regulation reflects the amendments to MLC as relevant provisions in those amendments have been adopted in the Regulation. Significantly, strict counter measures against abandonment of seafarers are incorporated.

Annex-1



**SEAFARER AGREEMENTS REGISTERED IN MALDIVES TRANSPORT
AUTHORITY (FOR FOREIGN GOING SHIPS)**

Year	Total number of Seaman Agreement Registered
2013	466
2014	253
2015	323
2016	268
2017	283



B) DRAFT REGULATION

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ



Maritime Labour (Conditions of seafarer's Employment) Regulation, 2018

- Introduction and title.**
1. (a) This Regulation is made pursuant to Section 5 (18) of Law Number: 35/2015 (First Amendment to Law Number: 69/78, Maldives Maritime Navigation Act), in order to regulate the conditions under which seafarers shall be employed in Maldives.
 - (b) This Regulation may be cited as “Regulation on Conditions of Seafarer’s Employment”.
- Purpose.**
2. (a) The purpose of this Regulation is to:
 - 1) Give effect to the Title 2 (Conditions of Employment) of Maritime Labour Convention, 2006 as amended;
 - 2) Set minimum requirements in relation to seafarer’s employment conditions on Maldivian flagged vessels;
 - 3) Ensure that seafarers working on board are given protection against their vulnerable contractual position.

Scope of application.

3. (a) This Regulation shall apply to all Maldivian flagged seagoing vessels irrespective of the waters such ships are on and to all other foreign flagged seagoing vessels while in the waters of Maldives and to all seafarers serving on board such Maldivian and foreign flagged vessels.
- (b) This Regulation shall not apply to:
 - 1) Fishing Vessels;
 - 2) Vessels of traditionally built;
 - 3) Vessels which navigate exclusively in the archipelagic waters of Maldives or waters within, or closely adjacent to, sheltered waters of Maldives or areas where port regulations of Maldives shall apply;
 - 4) Yachts not engaged in commercial activity;
 - 5) Warships or naval auxiliaries.

Seafarer employment agreement.

4. (a) No seafarer shall in any capacity be employed or engaged in any work on board a Maldivian flagged vessel unless a legally enforceable Seafarer Employment Agreement is signed between the seafarer and the shipowner.
- (b) The Seafarer Employment Agreement referred to in paragraph a) shall contain the following particulars:
 - 1) The name and IMO number of the ship on board which the seafarer undertakes to serve;
 - 2) Shipowner's name and address;
 - 3) Seafarer's name, address and date of birth;
 - 4) The place and the date on which the Seafarer's Employment Agreement commences;
 - 5) The place and the date where the Seafarer's Employment Agreement is signed;

- 6) The capacity in which the seafarer is to serve;
- 7) The amount of wages the seafarer is to receive and where applicable, the formula used for calculating it;
- 8) The amount of paid leave or where applicable, the formula used for calculating it and any public holiday specifications;
- 9) The conditions under which Seafarer Employment Agreement could be terminated and any applicable notice periods;
- 10) Where applicable, the conditions under which the Seafarers Employment Agreement could be terminated without a notice and any special rules as to the cost of repatriation and any other consequences following such an event;
- 11) The health and social security benefits available to the seafarer;
- 12) The seafarer's entitlement to repatriation;
- 13) Reference to Collective Bargaining Agreement where applicable;
- 14) Either the nature, and as far as is practicable, the duration of the intended voyage or engagement, or the maximum period of the voyage or engagement and the places or ports of the world, if any, to which the voyage or engagement is to extend.

(c) For the purpose of paragraph (b), it is the Shipowner's responsibility to ensure that a written agreement is signed before the commencement of seafarer's employment.

Opportunity to seek advice.

5. (a) The shipowner shall ensure that the seafarer is given:
 - 1) an opportunity to examine and seek advice on the

seafarer's employment agreement before he or she signs it; and

- 2) access to any other facilities such as access to a translator wherever the seafarer is unable to understand English language effectively in order to ensure that he or she has entered into the agreement with a sufficient understanding of his or her rights and responsibilities;

- (b) In addition to paragraph (a), the shipowner shall ensure that no adverse action is taken against the seafarer for obtaining information or advice about the contents of the agreement

**Notice period
for early
termination.**

6. (a) The shipowner as well as the seafarer shall ensure that in the event of early termination of Seafarer Employment Agreement referred to in Section 4 of this regulation, a minimum number of 7 days' notice is given.

- (b) Notwithstanding paragraph (a), the seafarer may give a notice which is less than 7 days period following the existence of:
 - (1) compassionate reasons; or
 - (2) other urgent circumstances recognised in the Agreement.

- (c) The notice period referred in paragraphs (a) and (b) shall refer to the Gregorian calendar days, inclusive of any public holidays or off days, whatsoever.

**Termination
without a notice.**

7. (a) A shipowner may terminate a seafarer's employment agreement without any prior notice through an agreed

disciplinary process triggered by serious misconduct of the seafarer.

- (b) For the purpose of this section, “serious misconduct” shall include the following matters:
- 1) smuggling;
 - 2) possession of narcotics, explosives, weapons or similar items;
 - 3) use of alcohol which hinders the performance of his duties;
 - 4) refusal to do a drug test;
 - 5) theft, or willful damage to the ship or its equipment;
 - 6) smoking in an area where smoking is prohibited;
 - 7) failure to comply with a public health requirement.
- (c) Where agreement is terminated in accordance with paragraph (a), the seafarer shall not be entitled to any cost of repatriation in accordance with Section 25 of this Regulation.
- (d) The shipowner shall ensure that a fair and impartial internal investigation is carried out before a seafarer is dismissed without any notice. The internal investigation shall be carried out in accordance with the following standards:
- 1) The seafarer shall be given the right to be heard and to appoint any other seafarer on board to talk on his behalf;
 - 2) Any statements of seafarers who have been interrogated in relation to the matter shall be recorded and hence reduced to a written statement and duly signed;
 - 3) The findings of the internal investigation shall be

clearly stipulated and recorded on a writing;

- 4) The findings of the investigation shall be provided to the seafarer in writing, within a reasonable period after termination of employment.

Record of service.

8. (a) The shipowner shall ensure that each seafarer is given a record of their employment on that vessel as soon as the existing Seafarer's Employment Agreement gets terminated due to any reasons. Such a record of employment shall contain:

- 1) personal details of seafarer;
- 2) designation under which seafarer served on board;
- 3) duration of service;
- 4) details as to the responsibilities of the seafarer.

- (b) shipowner shall ensure that Seafarer's record of service shall not contain any statement of;

- 1) the quality of the seafarer's work; or
- 2) the seafarer's wages

Availability of Information

9. The shipowner shall ensure that each of the following persons has access to a copy of all Seafarer Employment Agreements, including incorporated documents such as collective bargaining agreement, kept on board:

- 1) the seafarer to whom it applies;
- 2) any representative of the seafarer;
- 3) the master of the vessel;
- 4) Ministry officials;
- 5) Inspectors

Prohibition of adverse treatment and discrimination onboard.

10. (a) The Shipowner and master of a vessel shall ensure that a person on board the vessel does not take adverse action against a seafarer because the seafarer:
- 1) is or is not, or was or was not, an officer or member of an industrial association; or
 - 2) Belonged to a particular race, religion, political group or ethnicity.

Special provisions as to seafarer's employment agreement.

11. The following provisions shall have effect with respect to a Seafarer's Employment Agreement referred to in Section 4 of this Regulation:
- 1) The agreement shall be signed by the shipowner and the seafarer in duplicate and one part shall be retained by the shipowner and the other by the seafarer;
 - 2) As this regulation sets the minimum requirements of conditions of employment on board, nothing in this regulation shall be deemed to prevent the seafarer and shipowner agreeing in a way that provides more benefits to seafarers;
 - 3) The language for Seafarer's Employment Agreement shall be English;
 - 4) The shipowner shall ensure that seafarer is entering into the agreement freely and any unilateral alterations to Seafarer Employment Agreement shall not be imposed upon seafarers unless the seafarer provides consent freely, by virtue of a writing;
 - 5) The shipowner shall ensure that any disputes as to the agreement are first tried to resolve amicably;
 - 6) Any terminations of agreement shall be due to justifiable causes and every seafarer has the right not to

be unfairly or illegally dismissed from employment.

Wages.

12. (a) The shipowner shall pay each seafarer:
 - 1) at intervals of no more than 1 month; and
 - 2) in accordance with the Seafarer Employment Agreement.
- (b) Subject to paragraph (a), if any amount in respect of wages or any other remuneration including overtime, which is payable to a seafarer under a seafarer employment agreement is not paid on the due date, interest shall be paid on the unpaid amount at the rate of 5% from the date on which the payment was due until the date of payment.
- (c) Paragraph (b) does not apply to the extent that the failure to make such payment on the required date was due to:
 - 1) a mistake;
 - 2) a reasonable dispute as to liability;
 - 3) the act or default of the seafarer; orany other cause not being the wrongful act or default of the persons liable to make the payment or of their servants or agents.

Account of wages.

13. (a) The shipowner shall ensure that an account of the seafarer's wages or other remuneration under a seafarer employment agreement is prepared and delivered to the seafarer monthly, during the term of the seafarer employment and within one month of the agreement terminating.
- (b) Subject to paragraph (a), where the seafarer is an employee, such account must include:
 - 1) The name of the seafarer;

- 2) The date of birth of seafarer;
- 3) The capacity under which seafarer worked on board the ship;
- 4) The period covered by the account;
- 5) Details of the exchange rate and any commission paid;
- 6) The amounts payable for the period covered by the account; and
- 7) The type and amount of any deductions made during the period covered by the account.

(c) Subject to paragraph (a), where the seafarer is not an employee, such an account shall contain the following:

- 1) Payments due;
- 2) Payments made;
- 3) Any rates of exchange and any commissions paid which are relevant to those payment.

Ramadan allowance.

14. (a) The shipowner shall ensure that all Maldivian seafarers receive a Ramadan allowance which is additional to regular wages, in accordance with the Law Number: 14/2015 (Fourth Amendment to the Law Number: 2/2008, Employment Act of Maldives). This allowance shall be paid prior to the commencement of Ramadan up to an amount not less than as specified in the Employment Act.

(b) Subject to Section 1 of Law Number: 14/2015 (Fourth Amendment to the Law Number: 2/2008, Employment Act of Maldives), it lies at the discretion of the shipowner to pay Ramadan allowance to all non-Maldivian seafarers. Where such an arrangement to pay Ramadan allowance is agreed, this shall be reflected in the Seamen Employment Agreement.

- Minimum wage.** 15. (a) The Ministry shall through the issuance of Merchant Shipping Notices, determine the minimum wage for each occupational category of seafarers.
- (b) In determining the minimum wage pursuant to paragraph (a), Ministry shall consult with all registered seafarer organizations and shipowner organizations of Maldives.
- (c) Merchant Shipping Notice referred to in paragraph (a) shall be published on government gazette and Ministry's official website.

- Hours of work.** 16. (a) Normal working hours of seafarers at sea and port shall not exceed 8 hours per day and 48 hours per week.
- (b) Every seafarer is entitled to 1 off day per week.

- Hours of rest** 17. (a) The minimum hours of rest for a seafarer shall be:
- 1) 10 hours in any 24 hours; and
 - 2) 77 hours in any 7 days.
- (b) The minimum hours of rest may be divided into 2 periods, of which 1 period shall be at least 6 hours if agreed by the shipowner and seafarer. The interval between consecutive periods of rest shall not exceed 14 hours.
- (c) Where seafarer's minimum hours of rest are disturbed by call outs to work while the seafarer is on call (example when a machinery space is unattended), the shipowner shall ensure that the seafarer is given a compensatory rest period.

Overtime. 18. (a) Any additional hours worked by seafarers on off days or public holidays mentioned in Section 16 (b) of this Regulation and any additional hours worked by seafarers in excess of the normal working hours mentioned in Section 16 (a) of this Regulation shall be remunerated as overtime.

(b) The overtime mentioned in paragraph (a) shall be paid along with the wages mentioned in Section 12 of this Regulation.

Ship board working arrangements. 19. (a) The shipowner shall ensure that current work schedules are displayed in areas of the vessel easily accessible by all seafarers on board.

(b) The work schedules shall be in a standardized form in Dhivehi and English and shall contain the following information:

- 1) Every seafarer's work schedule at sea and service in port;
- 2) the minimum hours of rest in with Section 17 of this Regulation.

Emergency or drill or other overriding operational conditions. 20. (a) This section shall apply in any of the following circumstances:

- 1) an emergency, including a situation affecting the immediate safety of the vessel, persons on board or cargo; or giving assistance to other vessels or persons in distress at sea;
- 2) If a drill is being conducted;
- 3) Essential shipboard work that cannot be delayed for safety or environmental reasons and could not reasonably have been anticipated when the voyage started.

- (b) The shipowner may:
 - 1) Suspend the watch schedule; and
 - 2) require another seafarer to perform any hours of work necessary while the circumstances exist.
- (c) As soon as practicable after the circumstances end, the shipowner shall ensure that any other seafarer who performed work in a scheduled rest period while the circumstances existed is given a compensatory rest period.
- (d) Musters, fire-fighting and lifeboat drills, and drills required by any national legislations or international instruments, must be conducted in a way that minimises the disturbance of rest periods and does not induce fatigue of seafarers.

Records of hours of rest.

- 21. (a) The shipowner shall ensure that records of daily hours of rest of each seafarer on the vessel are maintained which shall be endorsed by the master and the concerned seafarer
- (b) Shipowner shall ensure that each seafarer receives a copy of the record referred to in paragraph (a)
- (c) Records of hours of rest shall be available for inspection by inspectors

Prayer breaks.

- 22. All muslim seafarers on board Maldivian flagged vessels shall be entitled to a 15-minute prayer break in accordance with Section 36 (a) of Law Number: 2/2008 (Employment Act). This prayer break shall be given in a way that does not obstruct the safe operation of ship and shall be granted before the lapse of each prayer time.

- Entitlement to leave.** 23. (a) Seafarer is entitled to the leaves mentioned in Section 30 to Section 49 of Law Number: 2/2008 (Employment Act).
- (b) The leaves mentioned in paragraph (a) shall be given in accordance with the seafarer employment agreement and any applicable collective bargaining agreements.
- (c) Leave due to a seafarer may be taken in instalments but shall not be replaced by a payment in lieu except where the seafarer's employment agreement is terminated.
- (d) On any occasion that a seafarer is absent from work to attend a maritime training course agreed by the shipowner or is absent from work for reasons of illness, maternity or injury, the time accrued shall not be deducted from the paid leave due to the seafarer.

- Shore leave.** 24. (a) In addition to the leaves mentioned in Section 23 of this Regulation, subject to the operational requirements of a seafarer's work on board a vessel, the shipowner shall ensure that when the vessel is in port, each seafarer on board the vessel is, if requested by the seafarer, is granted leave to go to shore.
- (b) The Ministry shall in collaboration with other governmental institutions facilitate the entitlement of shore leaves to seafarers onboard foreign flagged vessels arriving Maldives.

- Repatriation.** 25. (a) The shipowner shall ensure that a seafarer is entitled to repatriation, at no cost to the seafarer, in any of the following

circumstances:

- 1) the seafarer has worked continuously on the vessel for at least 11 months;
- 2) the seafarer's employment agreement expires;
- 3) the seafarer's employment agreement is terminated:
 - (i) by the owner of a vessel; or
 - (ii) by the seafarer for justified reasons; or
 - (iii) because the seafarer is no longer able to carry out his or her duties under the agreement; or
 - (iv) because the seafarer cannot be expected to carry out his or her duties in the specific circumstances; or
 - (v) because of illness, injury or other medical condition for which the seafarer must be repatriated and is medically fit to travel; or
 - (vi) because of wreck or foundering;
- 4) the shipowner becomes unable to fulfil his or her legal or contractual obligations to the seafarer as an employer because of:
 - (i) insolvency; or
 - (ii) sale of the vessel; or
 - (iii) change of the vessel's registration; or
 - (iv) unforeseen circumstances beyond control;
- 5) the vessel is on its way to a war zone to which the seafarer does not consent to go;
- 6) termination or interruption of employment by a court order or tribunal award.

(b) Shipowner shall ensure that seafarers are repatriated by

appropriate and expeditious means to the place specified in the agreement or seafarer's country of residence or such other place as may be mutually agreed at the time of engagement. The normal mode of transport shall be by air.

- (c) Shipowners shall ensure that the seafarers are provided with transportation of 30 kilo gram of seafarer's personal luggage to the repatriation destination, wherever practical.

Scope of duty to repatriate.

- 26. (a) Where there is a duty on a shipowner to provide for repatriation pursuant to Section 25 of this Regulation, the duty ends when:
 - 1) The seafarer is repatriated in accordance with Section 25;
 - 2) The shipowner makes reasonable arrangements for repatriation which are unsuccessful because of the seafarer's unreasonable conduct;
 - 3) The shipowner has used reasonable endeavors to contact the seafarer for a period of three months or more, but has been unable to make such contact;
 - 4) The seafarer confirms in writing to the shipowner that repatriation is not required; or
 - 5) The seafarer is dead.
- (b) The shipowner who has a duty to repatriate shall ensure that any provisions necessary the seafarer's relief and maintenance are fulfilled. In fulfilling such relief and maintenance, the shipowner shall give regard to the seafarer's personal circumstances and requirements including:
 - 1) Food;
 - 2) Clothing;

- 3) Accommodation;
- 4) Toiletries and other personal necessities;
- 5) Surgical, medical, dental or optical treatment (including the repair and replacement of any appliance) for any condition requiring immediate care; and
- 6) In cases where legal aid is unavailable or insufficient, reasonable costs for the defense of the seafarer in any criminal proceedings in respect of any act or omission within the scope of the seafarer's employment, being proceedings where neither the shipowner nor an agent of the shipowner is the complainant.

Prohibition on recovering costs from seafarer.

27. (a) A shipowner shall not enter into an agreement with a seafarer under which the seafarer must make payment in respect of either repatriation costs or relief and maintenance costs. Such an agreement is void to the extent it provides that a seafarer must make a payment to the shipowner in respect of either repatriation costs or relief and maintenance costs.
- (b) A seafarer employment agreement may provide that the seafarer shall reimburse repatriation costs where the agreement is terminated because of seafarer's serious misconduct mentioned in Section 7 (b) of this Regulation.
- (c) Where a seafarer employment agreement contains provision described in paragraph (b), a deduction equivalent to those costs may be made from the wages due to the under that agreement.

Availability of information.

28. (a) Shipowner shall ensure that adequate number of copies of this Regulation is held on board the ship and are accessible to all

seafarers on board.

- (b) Unless the shipowner reasonably considers that all the seafarers on board the ship understand English sufficiently to understand this Regulation, the duty of the shipowner under paragraph (a) includes the duty to hold on board the ship and make available to seafarers translated versions of this Regulation as are sufficient to ensure that all seafarers on board the ship can understand at least one version of this Regulation.

**Financial
security to meet
protection
against
abandonment.**

29. (a) A shipowner shall not take the vessel to sea if the vessel does not have on board documentary evidence of financial security to meet liability arising from abandonment of any seafarer of the vessel.
- (b) The documentary evidence of financial security must include the following information:
- 1) the name of the vessel;
 - 2) the home port of the vessel;
 - 3) the call sign of the vessel;
 - 4) the IMO number of the vessel;
 - 5) the name and address of the provider or providers of the financial security;
 - 6) the contact details of the person responsible for receiving requests and arranging seafarer assistance;
 - 7) the name of the owner of the vessel;
 - 8) the period of validity of the financial security;
 - 9) an attestation by the provider or providers of the financial security that the security meets the requirements of Maritime Labour Convention as

amended, standard A2.5.2.

- (c) The documentary evidence of financial security mentioned in paragraph (b) shall be in English language.

- Abandonment.** 30. (a) Seafarer abandonment is deemed to have occurred if the shipowner has not;
- 1) Covered the seafarer's cost under repatriation;
 - 2) Provided the necessary relief and maintenance for seafarer in accordance with Section 26 (b) of this Regulation;
 - 3) Paid wages or other payments due to the seafarer for 2 months.

- Availability of financial security document.** 31. The shipowner shall ensure that documentary evidence of financial security is placed on board the vessel in a location accessible to all seafarers.

- Repatriation by Ministry** 32. (a) The Ministry shall repatriate a seafarer of a Maldivian flagged vessel who is entitled to repatriation, if the owner of the vessel has not made arrangements to do so or has not paid the costs of repatriation of the seafarer.

- (b) The Ministry may repatriate a seafarer of a foreign flagged vessel which is entitled to repatriation if:
 - 1) arrangements to repatriate the seafarer have not been made by the shipowner or the country in which the vessel is registered; and
 - 2) either:

- i) the seafarer is a Maldivian national; or
- ii) the seafarer is in Maldives.

- (c) The Ministry shall recover its costs of repatriating a seafarer under paragraph (a) from the owner of the vessel. Until the cost of repatriation is paid, the Ministry has the power to detain the ship, where the ship is on the waters of Maldives.
- (d) The Ministry shall recover its costs of repatriating a seafarer under paragraph (b) from the vessel's competent authority. Until the cost of repatriation is paid, the Ministry has the power to detain the ship, where the ship is on the waters of Maldives.

**Compensation
against ship's
loss or
foundering.**

- 33. (a) Shipowner shall ensure each seafarer receives an adequate compensation in the event where the ship is lost or foundered.
- (b) The purpose of the compensation mentioned in paragraph (a) shall be to indemnify the seafarer from any resulting unemployment and the compensation shall not in any case be less than two months wages of the seafarer.
- (c) Upon the occurrence of the event mentioned in paragraph (a), the seafarer has a duty to mitigate any further damages.

Manning levels.

- 34. (a) Every shipowner shall ensure that the vessel is manned by sufficient crew in terms of size and qualifications to meet the safety and security requirements of ship. Manning levels shall be in consistent with the manning level document approved by

the Ministry.

Record of seafarer's employment data.

35. (a) The Ministry shall keep records of the following data:
- 1) The number of seafarers (including all occupational categories)
 - 2) The number of inspections (including Maldivian flagged and foreign flagged vessels) and the findings of such inspection
 - 3) The number of complaints received and its findings (including the implementation measures taken by Ministry)
- (b) The data mentioned in paragraph (a) shall be updated at no less than two intervals a year and shall be published at Ministry's official website.

Promotion of seafarer's employment.

36. (a) The Ministry shall make national policies to promote employment in the maritime sector and to encourage career and skill development and greater employment opportunities for seafarers domiciled in Maldives.
- (c) In revising the national policies, Ministry shall consult all registered seafarer's organisations and shipowner's organisations and shall ensure that their recommendations and ideas are considered while formulating the national policy.
- (d) The national policy concerning seafarer's employment shall be revised by Ministry at no less than three-year intervals.

- Promotion of awareness.** 37. The Ministry shall carry out awareness programs and information sessions for seafarers and shipowners on a regular basis.
- Complaints.** 38. (a) All vessels shall have on-board complaint procedures for the fair, effective and expeditious handling of seafarer complaints alleging the breach of this Regulation. Such procedures shall seek to resolve complaints at the lowest level possible and the seafarers have a right to complain directly to the master and, where they consider it necessary, to appropriate external authorities.
- (b) The on-board complaint procedures shall include the right of the seafarer to be accompanied or represented during the complaint procedure, as well as safeguards against the possibility of victimisation of seafarers for filing complaints which are neither manifestly vexatious nor maliciously made.
- Access to procedure.** 39. In addition to a copy of seafarer's employment agreement, all seafarers shall be provided with a copy of the on-board complaint procedures applicable on the ship. This shall include contact information about the Ministry and the name of the person or persons onboard the vessel who can, on a confidential basis, provide seafarers with impartial advice on their complaint and otherwise assist them in following the complaint procedures available to them on board the vessel.
- Right to seek redress.** 40. The provisions in Sections 38 and 39, both inclusive, are without prejudice to a seafarer's right to seek redress through

whatever legal means the seafarer considers appropriate.

**Complaint to
External
Authorities.**

41. (a) If a seafarer whilst on board states to the master of the vessel his desire to make a complaint to the Minister or to an inspector, or to a Maldivian consular officer regarding his or her employment conditions or manning levels, the shipowner shall, as soon as the service of the ship will permit, allow the complaint to go ashore or send him shore in proper custody so that he may be enabled to make his complaint.
- (b) The shipowner shall not coerce the seafarer, into divulging the identity of persons against whom the complaint is being lodged or the nature of the complaint.

**Prevention of
victimization.**

42. The shipowner shall under no circumstance discriminate the seafarer based on any complaint he or she lodged. In this regard, shipowner shall ensure that the seafarer is not subject to victimisation.

**Dispute
resolution by
Ministry.**

43. (a) Where manning levels and other employment conditions on board are not in consistent with this Regulation, every seafarer has a right to complain directly to the Ministry. This complaint may be made orally or through a written submission.
- (b) Where the complaint is made in writing, it shall clearly identify the complainant and include sufficient evidence to justify the complaint and list out the steps that have already been taken through the onboard complaints procedure to deal with it including the responses to each step (if such onboard compliant procedure has been exhausted).

- (c) Upon receiving a complaint, Ministry shall take the steps necessary to investigate the matter and ensure that action is taken to remedy any deficiencies found in accordance with this Regulation. The investigation shall be carried out by an ad-hoc committee selected by the Minister, consisting of three members, one from the ministry, the remaining two from seafarer's organisation and shipowner's organisation.
- (d) The Minister shall maintain impartiality when selecting the committee mentioned in paragraph (c) and ensure the elimination of conflict of interest throughout the dispute resolution process.
- (e) The information as to the identity of the complainant shall be kept confidential and Ministry shall maintain the anonymity of all seafarers who give statements in relation to the complaint.

Powers and responsibilities of committee.

- 44. (a) The committee has the power to seek information from any ministry or branch of government or any person related or employed on the vessel.
- (b) The proceedings of the committee shall be fair, impartial and transparent and shall ensure the right to be heard to all the parties involved.
- (c) At the end of the dispute resolution, the committee shall provide its decision in writing to the seafarer and shipowner concerned. The decision shall specify the reasons for decision

and measures to be taken in future.

- (d) The decision of the committee shall be binding upon the seafarer and shipowner unless overturned by a court or tribunal award.
- (e) The committee shall not reveal the identity of the person who lodged the complaint to anyone including the master or the shipowner of the vessel. The decision of the committee referred in paragraph (c) shall not contain any information as to the personal details of the complainant.
- (f) Once the committee finishes its investigation, the committee shall be deemed to have dissolved.

Remuneration. 45. The Ministry shall remunerate committee members at the rate of 300 Maldivian Rufiyaa per seating.

Inspection and enforcement. 46. The Ministry shall ensure compliance and enforcement of this Regulation in accordance with the Regulation Number: R-01 (Regulation on compliance and enforcement of Maritime Labour Standards).

Offences. 47. (a) Any contravention of this Regulation by the shipowner or the master of the vessel shall be construed as an offence punishable by the following fines:

- 1) 1000 Maldivian Rufiyaa on the first contravention;

2) 2000 Maldivian Rufiyaa on repeating the contravention.

(b) Subject to Section 20 (b) (1) of Law No: 4/2011 (Act governing rules of interpretation), the fine referred in paragraph (a) shall not exceed 2000 Maldivian Rufiyaa.

(c) In addition to fine mentioned in paragraph (a), the Ministry shall exercise its power to take any other enforcement measures such as backlisting which are available under the Regulation Number: R-01 (Regulation on compliance and enforcement of Maritime Labour Standards in Maldives) where the offences are repeated.

Interpretation.

48.

For the purpose of this Regulation, the following words shall have the meanings defined below:

1) “commercial activity” refers to any activity or employment of the vessel for which a contract or charter party is in force and includes the carriage of any cargo or persons for reward;

2) “collective bargaining agreement” refers to an agreement in writing between the company and a recognised trade union which is independent, and which is recognised in its country of domicile and which has validity for not more than 5 years;

3) “court order” refers to a verdict declared by any

Maldivian court;

- 4) “foreign flagged vessel” refers to a vessel registered in any country other than Maldives in accordance with the laws and regulations of that country;
- 5) “hours of rest” refers to time outside hours of work and does not include short breaks;
- 6) “hours of work” refers to time during which a seafarer is required to do work on account of the ship;
- 7) “IMO” refers to International Maritime Organisation;
- 8) “inspector” refers to a person authorised by the Ministry or the maritime administration of another state to inspect the working and living conditions of seafarers in accordance with Maritime Labour Convention;
- 9) “Maldivian flagged vessel” refers to a vessel registered in Maldives in accordance with Maldivian laws and regulations;
- 10) “Maldivian waters” refers to the waters on which sovereignty could be exercised by Maldivian authorities in accordance with Section 8 of Law Number: 6/96 (Maritime Zones Act) of Maldives;

- 11) “Master” refers to shipmaster;
- 12) “Merchant shipping Notice” refers to a notice described as such and issued by the Ministry, and any reference to a particular Merchant shipping notice includes a reference to a Merchant Shipping Notice amending or replacing that Notice which is considered by the Ministry to be relevant from time to time;
- 13) “Ministry” refers to the Ministry which has the mandate to govern seafarer’s labour law at the time;
- 14) “overtime” refers to time worked in excess of the normal hours of work;
- 15) “safe manning document” refers to a document prescribing the minimum safe manning considered necessary for the sufficient and efficient manning of the ship from the point of view of safety of life at sea and pollution prevention, issued in the case of Maldivian flagged vessel by the Ministry, and in the case of any other ship, by or on behalf of the Government of the state whose flag the ship is entitled to fly;
- 16) “shipowner” refers to the owner of the ship, or if

different any other organisation or person such as the manager, or the bareboat charterer, that has assumed the responsibility for the operation of the ship from the owner;

17) “seafarer” refers to any person, including a master, who is employed or engaged or works on any capacity on board a ship, on the business of the ship and where there is doubt as to whether a person working or engaged on a ship is a seafarer, the Minister shall make a determination and in doing so, the Minister shall consider any resolutions or guidelines adopted by International Labour Organisation on this issue;

18) “seafarer employment agreement” or “agreement” refers to the agreement signed between a shipowner and a seafarer in relation to his or her employment onboard including any collective bargaining agreements or other annexes attached to it;

19) “Tribunal award” refers to an award granted by the Employment Tribunal of the Maldives;

20) “vessel’s competent authority” refers to the State Maritime Administration of the country where the vessel is registered in accordance with the country’s laws and regulations.

21) “voyage” refers to the time beginning when a seafarer starts to work on board a ship and the time when his

seafarer employment agreement, for work on board a ship is terminated or the time beginning when a seafarer starts work on board a ship and the time when a seafarer goes on leave.

22) “wages” refers to the pay, however composed, for normal hours of work but not including overtime worked, bonuses, allowances, paid leave or any other additional remuneration;

23) “war zone” refers a zone agreed, by the owner of the vessel and the seafarer, to be a war zone.

- Commencement.** 49. (a) This Regulation shall enter into force one year after being published on Government gazette.
- (b) Upon the enactment of this Regulation, seafarer’s employment conditions shall be governed under the specific rules mentioned in this Regulation.