

The Maritime Labour Convention

A NEW INTERNATIONAL LAW IS BEING INTRODUCED TO HELP ENSURE DECENT WORKING CONDITIONS FOR CREW. BUT HOW WILL IT IMPACT THE SUPERYACHT INDUSTRY?

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When it is implemented in 2011 the MLC will set out the law for crew conditions

Developed by the International Labour Organisation, the Maritime Labour Convention (MLC) is a consolidation of 68 maritime labour related regulations. Due to come into force soon, it will in theory apply to all vessels engaged in commercial activities and their crews. It will establish comprehensive minimum labour requirements and cover various aspects of all crew working environments.

The convention will come into force once 30 MLC members (representing at least 33 per cent of the world's gross tonnage) ratify it.

Currently just five member states have signed up — Liberia, Bahamas, Marshall Islands, Panama and Norway. Together, they already represent 40 per cent of world gross tonnage and more member states are expected to sign up in the near future. Realistically the convention will come into force in 2011.

All superyachts will be included unless they are used entirely privately. It is likely that some vessels of less than 200gt may be able to avoid regulations but this will be down to the

discretion of individual flag states.

Although not yet introduced, a yacht's flag state will be able to insist on compliance and modifications ahead of implementation. Lawyers are advising owners with yachts currently in-build to seriously consider the design, construction and use-of-space implications laid out in the convention.

The MLC distinguishes between passenger ships and ships over 3,000gt so owners, designers and yards must take an early decision on whether to build to passenger ship or 3,000gt-plus regulations.

Compliance

MLC certificates will have to be carried onboard at all times and will act as sufficient evidence that a superyacht has been inspected and complies with MLC requirements.

A Declaration of Compliance will also have to be carried setting out the owner's plans for ensuring ongoing compliance with MLC. Ultimate responsibility will fall to the captain who must carry out a Declaration of Compliance and keep ongoing records of compliance.

The MLC will lay down minimum standards for crew working aboard ships. All children below 16 years of age will be prohibited from working as crew, and crew employed as night watch-keepers must be over 18. Crew must be certified as medically fit to perform their duties and hold a current medical certificate. They must be certified as competent, or be otherwise qualified to perform their duties. Furthermore, crew can no longer be charged a fee to find employment.

If the yacht carries more than 15 crew and sets sail for more than three days, she must have separate hospital accommodation, which must be exclusively used for medical purposes. This may, and therefore almost certainly will, be relaxed by the relevant Competent Authority for yachts engaged in coastal trade.

Crew accommodation

General crew accommodation requirements onboard are specified in great detail. Cabins and mess rooms must be adequately ventilated and heated with air and heating systems. All heads must have ventilation to the open air. Subject to special arrangements for passenger ships, cabins and mess rooms must be lit by natural light and provided with adequate artificial light.

When it comes to sleeping cabins, men and women must be provided with separate accommodation. There must be no direct openings into cabins from machinery spaces, galleys, storerooms, drying rooms or communal sanitary areas. Bulkheads separating such places from cabins and external bulkheads must be constructed from steel or other approved substances, and they must be water and gas tight.

Controversially for superyachts, cabins will have to be situated above the load-line amidships or aft. One loop-hole is that in exceptional cases (where size or type of the vessel renders those locations impracticable) cabins may be located in the fore part but not

forward of the collision bulkhead.

Dimensions are also laid down. Each berth must be at least 198cm x 80cm and cabin floor space per single berth must be greater than 4.5m² in a yacht of less than 3,000gt and 5.5m² for those above that and below 10,000gt. On yachts over 3,000gt (unless qualifying as passenger ships) crew must be provided with individual cabins. Those of less than 3,000gt must not be occupied by more than two crew and the area of the room must not be less than 7m².

For each cabin occupant, furniture has to include a clothes locker of ample space laid down as being no less than 475 litres. Drawer or equivalent space must not be less than 56 litres and if the drawer is incorporated in the clothes locker then the combined minimum volume of the clothes locker shall be 500 litres. Furthermore, it has to be fitted with a shelf and be lockable so as to ensure privacy.

Each cabin must have a desk or table and comfortable seating and it should be fitted with a mirror, small cabinet for necessary toiletries, bookrack and sufficient number of coat hooks. With the exception of passenger ships, each cabin must be provided with a washbasin which provides fresh hot and cold running water, unless a washbasin has been provided for in an en-suite head.

As far as practicable, cabins should be arranged so that watches are separated and that crew working the day shift should not share with night watchkeepers. The captain, chief engineer and navigator shall have, in addition to their sleeping rooms, an adjoining day room or equivalent space. Before readers get too excited at this prospect, it is worth remembering that ships of less than 3,000gt may be exempted by the Competent Authority from this requirement after consultation with owners' and crews' organisations concerned.

Crew mess facilities may be either common or separate for officers and ratings, to be determined after consultation with the owner, crew and the Competent Authority. The floor area of mess rooms should be not less than 1.5m² per person of planned seating capacity.

Conditions of Employment

There are mandatory requirements for crew's conditions of employment. Seafarer Employment Agreements will replace Crew Agreements where each crewmember must have a clearly worded legally enforceable employment agreement signed by both the crew member and the owner (or owner's representative). Crew must be given the opportunity to seek advice on the agreement. Policies governing safe manning levels and career and skill development are all covered by the convention to encourage and promote ↻

ARGUMENTS FOR IMPLEMENTING THE MLC

The IMO suggests that the advantages of the Maritime Labour Convention include the following:

- ▶ A global reference on maritime labour issues
 - ▶ A 4th pillar of quality shipping (with SOLAS, STCW, MARPOL)
 - ▶ A comprehensive set of basic maritime labour principles and rights
 - ▶ Simplification of international requirements
 - ▶ A strong enforcement regime, backed by a certification system
 - ▶ Verifiable compliance with basic minimum employment and social requirements
 - ▶ Application to all ships including those of non-ratifying members
 - ▶ Improved working and living conditions for seafarers
 - ▶ A more secure and responsible maritime workforce
 - ▶ A more socially responsible shipping industry
 - ▶ Improved social dialogue at all levels
 - ▶ Seafarers better informed of their rights and remedies
 - ▶ Improved supervision at all levels: the ship, ownership, flag state, port state and the ILO
 - ▶ Global and uniform compliance and verification
 - ▶ Improved possibilities of keeping labour conditions up to date
 - ▶ Permanent review of maritime labour situation
 - ▶ Positive impact on safety at sea
 - ▶ Positive impact on the protection of the environment
- ### For Governments
- ▶ Simplification of reporting obligations (one Convention rather than many)
 - ▶ Wider powers of enforcement on all ships
 - ▶ Improved quality of shipping services
 - ▶ Improved protection of the environment
 - ▶ Additional flexibility with firmness of rights and flexible as how to implement,

making the Convention easier to ratify and implement

- ▶ Certification system mandatory only for ships over 500gt
- ▶ Protection against unfair competition from substandard ships through "No more favourable treatment" for ships of non-ratifying countries
- ▶ Implementation of mandatory requirements through measures that are substantially equivalent, except for Part V
- ▶ Advantages given to ships of ratifying countries

For Ship Owners

- ▶ A more level playing field to help ensure fair competition and to marginalize substandard operations
- ▶ Benefit from a system of certification, including a system possible for ships of less than 500gt, if the Ship Owner so requests
- ▶ A more socially responsible shipping industry
- ▶ A better protected and more efficient workforce
- ▶ Help ensure that ships are operated safely and securely with few problems and few delays in ports
- ▶ Minimum standards that are well within the current industry practice and should easily be met by most Ship Owners

For Seafarers

- ▶ A comprehensive set of basic maritime labour principles and rights as well as ILO fundamental rights
- ▶ Basic employment rights in one place and in clear language
- ▶ Better information about rights and remedies available
- ▶ Improved enforcement of minimum working and living conditions
- ▶ Right to make complaints both on board and ashore
- ▶ Clear identification of who is the Ship Owner with overall responsibility, for the purposes of this Convention

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employment in the maritime sector.

Hours of work and rest will also be regulated. Maximum hours of work shall not exceed 14 hours in any 24-hour period or 72 hours in any seven-day period. Alternatively, minimum hours of rest shall not be less than 10 hours in any 24-hour period or 77 hours in any seven-day period. Normal working hours are based on an eight-hour day with one-day rest per week and rest granted on public holidays. Many captains believe these restrictions will be difficult to comply with.

Annual leave with pay entitlement must be calculated on the basis of a minimum 2.5 calendar days per month of employment. Justified absences will not count as leave and except in limited circumstances crew cannot forego taking minimum annual paid leave.

Wages must be paid at least monthly and in accordance with employment agreements. Crew must be given monthly accounts of the payments due to them and the amounts paid, and if applicable the relevant exchange rate used. Crew will, in certain circumstances,

“All superyachts will be included in the legislation unless they are used entirely privately. If less than 200gt they may be able to avoid the regulations at a flag state’s discretion”

have the right to be repatriated at no extra cost to themselves and with compensation paid for any injury, loss or unemployment as a result of the ship’s loss or foundering.

Health, medical care and social security all come under scrutiny in the convention. Superyachts don’t normally carry a medical doctor so they will be required to have either at least one seafarer on board in charge of medical care who can administer medicine as part of their regular duties, or at least one crewmember who is competent to provide medical first aid. Owners will be liable to cover a crew member’s costs for any illness or injury. They must offer

compensation for long-term disability or death which results from an incident onboard. Owners are also responsible for drugs, treatment, equipment and accommodation whilst ashore.

Noble aspirations

The MLC might be beneficial to crew but it has been drawn up with no consideration for superyachts. It has noble intentions but when it comes to counting the cost of its impact on the superyacht industry the overall figure may be very high. It might even include the loss of owners who decide the MLC is too onerous for maintaining their investment. ●

COMPLYING WITH MARITIME LABOUR CONVENTION

Editor’s note: Please refer to the ILO MLC for exact requirements, the information below has been abbreviated

	Less than 3,000 GT (note 1)	Over 3,000 GT i.e. Cargo ship	Passenger ship
Direct openings into cabins	No direct openings from cargo, machinery spaces, galleys, storerooms, drying rooms or communal sanitary areas	No direct openings from cargo, machinery spaces, galleys, storerooms, drying rooms or communal sanitary areas	No direct openings from cargo, machinery spaces, galleys, storerooms, drying rooms or communal sanitary areas
Bulkheads	Must be steel or other approved substances and water and gas tight	Must be steel or other approved substances and water and gas tight	Must be steel or other approved substances and water and gas tight
Location of cabins	Above the load line amidships or aft, in exceptional cases cabins may be located in the fore part of the yacht, but not forward of the collision bulkhead.	Above the load line amidships or aft, in exceptional cases cabins may be located in the fore part of the yacht, but not forward of the collision bulkhead.	With the permission of the competent authority, they may be below the load line provided there is adequate ventilation, they must not be immediately beneath working alleyways.
Size of berth	At least 198cm x 80cm	At least 198cm x 80cm	At least 198cm x 80cm
Floor space per single berth room	4.5m ²	5.5m ² for those of between 3,000–10,000 GT and 7m ² in ships of 10,000 GT or over	5.5m ² for those of between 3,000–10,000 GT and 7m ² in ships of 10,000 GT or over
Individual cabins?	No but no more than 2 per cabin (the area of the cabin must not be less than 7m ²)	Yes	No, can accommodate up to 4 crew per cabin (cabin space must be 7.5m ² for 2 people; 11.5m ² for 3 people; 14.5m ² for 4 people).
Additional sitting room	No exempt after consultation between crew representative and owner.	Yes for the master, the chief engineer and the chief navigating officer	Yes for the master, the chief engineer and the chief navigating officer
Floor space for officers where there is no additional sitting room	7.5m ²	8.5m ² for those of between 3,000–10,000 GT and 10m ² in ships of 10,000 GT or over	Junior Officers (operational level) - not less than 7.5 m ² . Senior Officers (management level) - not less than 8.5 m ² .
Separate accommodation for males and females	Yes	Yes	Yes
Furniture	A clothes locker of ample space, a drawer or equivalent space, a desk or table and comfortable seating a mirror, small cabinets for toilet requisites, a book rack and a sufficient number of coat hooks.	A clothes locker of ample space, a drawer or equivalent space, a desk or table and comfortable seating a mirror, small cabinets for toilet requisites, a book rack and a sufficient number of coat hooks.	A clothes locker of ample space, a drawer or equivalent space, a desk or table and comfortable seating a mirror, small cabinets for toilet requisites, a book rack and a sufficient number of coat hooks.
Washbasin	Yes unless in en-suite	Yes unless in en-suite	When normally engaged on voyages of not more than four hours’ duration, the competent authority may allow special arrangements for the reduction in the number of washbasins required
Mess room size	Not less than 1.5 m ² per person of the planned seating capacity.	Not less than 1.5 m ² per person of the planned seating capacity.	Not stated in the regulations

NB If a vessel carries more than 15 crew and is on passage for more than three days, it must have separate hospital accommodation. Note 1: For vessels under 200 GT there may be exemptions.