

No. 118 Maritime Labour Convention, 2006: Handling of Seafarer Complaints by Recognized Organizations

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The Maritime Labour Convention, 2006, Regulation 5.1.5 requires an Onboard Complaint Procedure to be established and made available to each seafarer onboard the ship. The convention also provides seafarers with the right to complain directly to the Master, and where they consider necessary, to appropriate external authorities. These external authorities may be the shipowner and the competent authorities in the flag State, the port State, or the seafarer's country of residence. In addition, Onboard Complaint Procedure should contain the contact information of relevant external authorities as designated by the flag State for handling of seafarer complaints.

MLC, 2006 Guidelines for flag State Inspections, Para 63, clearly specifies that it is the responsibility of the flag State to receive, investigate and take appropriate enforcement action for seafarer complaints. Accordingly, a flag State is expected to have in place procedures for receiving and responding to such complaints and ensuring the necessary confidentiality. A Recognized Organization may in some circumstances be specifically authorized by the flag State to carry out an inspection following a particular seafarer complaint. However, the responsibility for resolution of a complaint remains with the flag State.

Where a vessel is inspected under the MLC, 2006 by a Recognized Organization (RO) on behalf of the flag State, a seafarer or seafarer representative may contact the RO to register a seafarer complaint.

Verbal Complaints

Where a RO receives a verbal complaint, the complainant should be referred to the Onboard Complaint Procedure and encouraged to seek resolution of the complaint at the shipboard level. If the seafarer feels unable to use the complaints procedure (perhaps for fear of victimization or lack of faith in its effectiveness) the RO should point out that the Onboard Complaint Procedure (a copy of which should be in the seafarer's possession) contains contact details of the competent authority in the flag State and, where different, in the seafarer's country of residence, and the name of a person or persons on board who can provide confidential assistance.

If the seafarer insists that he/she does not want to use Onboard Complaint Procedure and would like to register the complaint with the RO, as the flag State's representative on board, the RO should not refuse to pass on a complaint to the flag State. However, the seafarer should be advised that the RO can do so only if the complaint is made in writing and signed by the complainant. Verbal complaints may be retracted or altered later giving rise to arguments about what was said and can lead to an unacceptable outcome for all parties involved in handling the complaint.

Written Complaints

Written complaints that are received should clearly specify the source of the complaint including identifying information of the shipowner, seafarer(s) and the ship involved.

The following scenarios describe the measures a RO should take subsequent to receiving a written complaint from a seafarer on a vessel that has been inspected and/or certified under the Maritime Labour Convention.

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(cont)**1 Complaint received during a MLC Inspection**

If a seafarer written complaint is received during a MLC inspection, the inspector should not intervene to resolve the complaint but instead check to see if the seafarer is aware of the Onboard Complaint procedure and whether the seafarer has made use of the procedure. Additionally, the inspector should conduct the inspection taking into account the seafarer complaint(s) by selecting the appropriate sample size for the inspection and areas to be inspected in order to ascertain if the seafarer working and living conditions on board comply with the requirements of the Convention and the national requirements of the flag State, and whether the Onboard Complaint Procedure is effective. Any non-compliance discovered during the inspection, including deficiencies pertaining to the seafarer complaint should be documented in the inspections report keeping in mind the confidentiality requirements of the Convention.

A written complaint provided by the seafarer should nevertheless be attached to the copy of the report submitted to the flag State.

Where the working and living conditions are alleged to be defective to the extent that a clear hazard to the safety, health or security of seafarers exists, the written complaint should be forwarded to the flag State without delay.

2 Complaint received by the RO other than during a MLC inspection

A written complaint received by the RO other than during a MLC inspection should be forwarded to the competent authority in the flag State for resolution. No further action by RO is required unless instructed otherwise by the flag State.

In summary, ROs should concern themselves only with matters of regulatory compliance that can be substantiated by objective evidence. This includes verifying the existence and satisfactory operation of Onboard Complaints Procedures in accordance with the flag State's national requirements implementing the convention. ROs should not discuss or attempt to resolve allegations of harassment, victimization and other complex matters or personal disputes. These should be passed to the flag State for resolution, but only when the complainant has put them in writing.

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