
No.40 Procedural Requirements for MLC, 2006 Certification

(Dec 2018)

INTRODUCTION

The IACS “Procedural Requirements for MLC, 2006 Certification” reflect the Maritime Labour Convention, 2006 “Guidelines for Flag State Inspections”.

This document and its Annexes provide the Classification Societies with procedures and criteria for the conduct of inspections to verify compliance with the requirements of the Maritime Labour Convention, 2006 (“Convention” or “MLC, 2006”) and for the issuance of the corresponding Maritime Labour Certificate (MLC) and Declaration of Maritime Labour Compliance (DMLC), including interim MLCs and MLCs of shortened validity. Also provided are procedures governing the actions to be taken by Classification Societies when deficiencies associated with the MLC, 2006, are identified by Port State Control Officers (PSCOs). In this document, the terms Flag State, Flag and Administration are regarded as interchangeable.

Any certificates issued must comply with the format required by the Administration.

Note:

1. This Procedural Requirement applies from 1 January 2019.

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1. GENERAL**1.1 Definitions**

1.1.1 "Inspection" means a process of systematic and independent verification, through the collection of objective evidence, to determine whether the conditions, procedures and processes on board comply with the flag State requirements for the implementation of the MLC, 2006, (DMLC Part I) and whether the processes are effective in achieving the objectives of the MLC, 2006, through measures as defined in DMLC Part II.

1.1.2 "Inspector" means a person who is qualified and authorized to carry out MLC inspections in accordance with the requirements of IACS Procedural Requirement 10B (PR10B).

1.1.3 "DMLC" means Declaration of Maritime Labour Compliance referred to in Regulation 5.1.3 of MLC, 2006. The DMLC consists of two parts:

- (i) Part I: Drawn up by the Competent Authority referencing national requirements subject to inspection and certification;
- (ii) Part II: Drawn up by the Shipowner describing the measures for initial and on-going compliance to meet the requirements of the DMLC Part I and for continuous improvement.

1.1.4 "Deficiency" means a breach of the requirements of the Convention as implemented through the national laws and regulations of the Administration.

1.1.5 "Serious deficiency" means deficiency that constitute a serious or repeated breach of the requirements of the Convention (including seafarer's rights) or that represent a significant danger to seafarer's health, safety or security.

1.1.6 "Observation" means a statement of fact made during an inspection and substantiated by objective evidence. It may also be a statement made by the inspector referring to a weakness in MLC procedures that if not addressed may lead to a deficiency in the future.

1.1.7 "Shipowner" means Shipowner as defined in Article II of the MLC, 2006.

1.1.8 "Cold lay-up" means that a ship is taken out of service, moored in a secure location and all systems are shut down with minimum ongoing maintenance to prevent deterioration of the hull structure and machinery. Watch men or a specialist lay-up crew may be employed to ensure the safety and security of the ship.

1.2 Scope and application

1.2.1 This document establishes basic procedures for:

- (i) the review and certification of DMLC Part II;
- (ii) the conduct of interim, initial, intermediate, renewal and additional shipboard inspections against the MLC, 2006, as implemented in national legislation referenced in the DMLC Part I
- (iii) the issuance of MLC to ships and their subsequent endorsement.

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1.2.2 This document is intended for use by Classification Societies when they are acting as Recognised Organisations on behalf of Administrations under the provision of MLC, 2006, Reg. 5.1.2 and when conducting inspections for voluntary certification of vessels.

1.2.3 This document also establishes basic procedures for Classification Societies to follow when potential failures of the MLC system are identified by Port State Control Officers.

2 VERIFYING COMPLIANCE WITH MLC, 2006**2.1 Responsibilities of the Classification Society**

2.1.1 During verification of compliance with the requirements of the MLC, 2006, provisions of the "Guidelines for Flag State Inspections" shall be taken into consideration.

2.1.2 A Classification Society performing verification of compliance with MLC, 2006, shall have, within its organisation, competencies in relation to:

- (i) MLC, 2006, applicable rules, regulations and relevant international instruments;
- (ii) plan approval, inspection and certification relevant to MLC, 2006;
- (iii) knowledge of ship operations;
- (iv) understanding of the constitution of ILO.

2.1.3 MLC, 2006, certification services shall be provided by qualified inspectors.

2.1.4 A Classification Society performing MLC, 2006, certification shall have implemented a documented system for the qualification and continuous updating of the competence of personnel who perform verification of compliance with the MLC, 2006.

This system shall provide for:

- (i) theoretical training covering competence requirements as specified in PR10B;
- (ii) supervised practical training as specified in PR10B;
- (iii) maintenance of records of the theoretical and practical training undertaken by each trainee.

2.2 Responsibilities of the inspector(s)

2.2.1 The inspector is responsible for:

- (i) planning for an efficient inspection;
- (ii) ensuring a DMLC review has been conducted;
- (iii) complying with applicable requirements;
- (iv) clearly communicating deficiencies and observations;
- (v) reporting inspection results;

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- (vi) reviewing rectification plans and verifying effectiveness of corrective actions taken by the Master or Shipowner.

3 THE CERTIFICATION PROCESS**3.1 Plan Approval/Examination for newbuildings and substantial alterations to accommodation**

3.1.1 Requirements related to accommodation and recreational facilities, as stipulated in MLC, 2006, Regulation 3.1, must be verified during the plan approval/examination and survey process by the Classification Society responsible for the newbuilding or substantial alterations project. Following the ship construction, the Classification Society shall issue a Statement or other documentary evidence confirming that the ship was built or substantial alterations were made to the accommodation of an existing ship in accordance with the requirements of the MLC, 2006, Regulation 3.1 and the relevant flag State requirements.

3.1.2 Exemptions are only to be considered where Regulation 3.1 clearly specifies that the Competent Authority (after consultation with the shipowners' and seafarers' organisations) may grant exemptions. When in doubt regarding requirements from Regulation 3.1 a Classification Society should seek clarification from the Administration as appropriate.

3.2 Certification activities

3.2.1 A Maritime Labour Certificate (MLC) shall be issued to a ship following an initial or renewal inspection.

3.2.2 The issuance of a MLC is conditional upon:

- (i) a DMLC review and approval have been completed by the Classification Society that inspects the ship for MLC, 2006, unless already approved by the Administration;
- (ii) deficiencies have been rectified or a plan for rectification has been accepted.

3.2.3 On completion of the initial or renewal inspection, a Maritime Labour Certificate not exceeding five (5) years may be issued. A certificate of shorter validity may be issued in accordance with Classification Society procedures and flag State requirements.

3.2.4 When the renewal inspection has been completed within three (3) months before the expiry of the existing MLC, the new MLC shall be valid from the date of completion of the renewal inspection for a period not exceeding five (5) years from the date of expiry of the existing certificate.

3.2.5 When the renewal inspection is completed more than three (3) months before the expiry date of the existing MLC, the new MLC shall be valid for a period not exceeding five (5) years from the date of completion of the renewal inspection.

3.2.6 When the renewal inspection has been completed after the expiry of the existing MLC, the new MLC shall be valid from the date of completion of the renewal inspection for a period not exceeding five (5) years from the date of expiry of the existing certificate.

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3.3 Interim inspection

3.3.1 Interim MLC may be issued under the following conditions:

- (i) to a new ship on delivery;
- (ii) when a ship changes flag;
- (iii) when a Shipowner assumes the responsibility for the operation of a ship which is new to that Shipowner.

3.3.2 In these circumstances, it may not be possible to verify full and effective implementation of procedures, but in order to issue an interim MLC the following must be confirmed during the inspection:

- (i) the ship has been inspected, as far as reasonable and practicable, for the matters listed in Appendix A5-I of MLC, 2006, taking into account verification of items stated below;
- (ii) the Shipowner has demonstrated to the competent authority or Classification Society that the ship has adequate procedures to comply with this Convention;
- (iii) the master is familiar with the requirements of the Convention and the responsibilities for implementation; and
- (iv) relevant information has been submitted to the competent authority to produce a DMLC.

3.3.3 An interim MLC may be issued for a maximum period of six (6) months. No subsequent interim MLC may be issued, nor may the existing interim MLC be extended.

3.4 DMLC Part II review process

3.4.1 Before a ship is initially inspected for compliance with MLC, 2006, a DMLC Part II review shall be completed by the Classification Society that will inspect the ship unless carried out by the Administration. The scope of the review is to verify that the DMLC Part II, provided by the Shipowner, addresses the requirements in the DMLC Part I, issued by the Administration, including measures for initial and ongoing compliance.

3.4.2 The Shipowner's date of issue of the DMLC Part II shall be on or after the DMLC Part I issue date by the Administration. This does not apply to cases where the Administration re-issues DMLC Part I, which does not require any amendments to the existing DMLC Part II.

3.4.3 The Classification Society shall issue documentary evidence to reflect that a DMLC Part II review has been completed.

3.5 Initial inspection

3.5.1 An initial inspection may be carried out provided there is sufficient evidence that the Shipowner's measures specified in the DMLC Part II have been implemented for at least one (1) month.

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3.6 Intermediate inspection

3.6.1 The purpose is to verify:

- (i) ongoing compliance with MLC, 2006, as implemented through national laws and regulations;
- (ii) amendments to the DMLC Part I and Part II (if any) have been effectively implemented;
- (iii) that rectification to previous deficiencies have been completed.

3.6.2 The scope shall be the same as for initial inspection and shall be carried out between the second and the third anniversary date of the certificate.

3.7 Renewal inspection

3.7.1 The scope shall be the same as for initial inspection.

3.8 Preparation for the inspection

3.8.1 The inspector shall prepare an inspection plan taking into account hours of work/rest schedule for the seafarers. When the activities are planned to be carried out during hours of darkness the inspector's ability to gather information is not to be impaired (e.g. adequate and safe lighting to be provided as necessary).

3.8.2 The inspection plan shall be designed to be flexible in order to permit changes based on information gathered during the inspection and to permit the effective use of resources. The plan shall be agreed with the vessel's master and communicated to all those involved in the inspection.

3.8.3 Initial, intermediate and renewal inspections shall be performed only under normal operating conditions, e.g. when the ship is not in dry dock or in cold lay-up.

3.8.4 Interim inspections may be conducted in circumstances other than normal operating conditions, provided the ship is fully manned.

3.9 Executing the inspection

3.9.1 MLC, 2006, inspection may be conducted during the same visit as ISM and ISPS audit, by harmonizing the overlapping requirements of these Codes/Convention, provided the ship is available for sufficient time. The scope of the audit(s) and inspection shall be the same as when they are carried out independently.

3.9.2 All scheduled inspections (initial, intermediate and renewal) shall be fully scoped inspections covering all of the aspects of MLC, 2006.

3.9.3 The inspection shall begin with an opening meeting.

3.9.4 Working documents used to facilitate the inspection and to document results may include:

- (i) checklists;
- (ii) forms for reporting deficiencies and objective evidence.

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3.9.5 The verification shall include review of documentation and records, visual observations, general discussion and private interviews with seafarers to confirm that the Shipowner's measures for seafarers working and living conditions as described in the DMLC Part II comply with the national requirements implementing the Convention. An inspection is based upon sampling within all areas and the inspector must use professional judgment to determine the depth of inspection for each requirement.

3.10 Inspection report

3.10.1 The inspection report shall be accurate and complete, reflect the content of the inspection and should include the following:

- (i) ship name and IMO number;
- (ii) date of completion of the inspection;
- (iii) the scope and objectives of the inspection;
- (iv) serious deficiencies, deficiencies and observations issued during the inspection;
- (v) names of inspectors and their roles;
- (vi) MLC Shipowner name.

3.10.2 Any deficiencies identified shall be included in the inspection report, or in a separate deficiency report attached to the inspection report. The report is to be made available to the ship.

3.11 Rectification of deficiencies

3.11.1 The deficiency as described should state clearly the act or situation identified as non-compliant and provide appropriate references to requirements in the DMLC Part I, Part II, flag State requirements, and/or the Convention, as appropriate.

3.11.2 The content of the deficiency shall be complete and concise and written in such a manner as to be easily understood. Clarity should not be sacrificed for the sake of brevity.

3.11.3 Deficiencies should be rectified at the time of inspection, whenever possible.

3.11.4 Before a MLC may be issued, endorsed or renewed the inspector would need to have confirmation either that all deficiencies noted during the inspection have been rectified or that a rectification action plan has been provided by the Shipowner and agreed by the inspector.

3.11.5 When considering which action or actions to take, the inspector should use professional judgement and take into account inter alia the following:

- (i) whether or not the deficiencies can be rapidly remedied in the port of inspection;
- (ii) whether the deficiencies constitute a significant danger to seafarers' safety, health or security;
- (iii) the seriousness of the breach of the requirements of the MLC, 2006;
- (iv) length and nature of the intended voyage or service;

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- (v) prior history of similar deficiencies;
- (vi) prior history with respect to rectifications.

3.11.6 Where deficiencies cannot be rectified, a rectification action plan shall be agreed at the time of inspection. The proposed plan shall be reviewed by the inspector to ensure the deficiency is properly addressed. The rectification action plan shall be implemented within a period not exceeding three (3) months from the completion of the inspection.

The effectiveness of the corrective actions shall be verified not later than the next scheduled inspection (intermediate or renewal) or at any additional inspection that may be required whichever comes earlier.

3.11.7 Failure to implement the agreed corrective actions may be treated as grounds for invalidation of the MLC.

3.12 Follow-up of serious deficiencies

3.12.1 A serious deficiency raised on a ship must be rectified or downgraded before a certificate is issued and the ship can sail. Downgrading can only take place after verifiable action has been taken to remove any significant danger to seafarers' safety, health or security (including seafarers' rights). A plan for implementation of corrective actions and rectification of outstanding deficiencies must be approved by the inspector where rectification is not possible at the time of inspection. The approved plan must be implemented within a time period not exceeding three (3) months from the date of inspection.

3.12.2 When a serious deficiency has been downgraded, at least one additional inspection should be carried out within an agreed time frame, in order to verify implementation of the corrective actions. A short term certificate valid up to three (3) months may be issued to allow for verification of necessary corrective actions during the additional inspection.

3.12.3 All serious deficiencies, including those that are downgraded during the inspection, shall be reported to the Administration.

3.13 Withdrawal of Certification

3.13.1 A MLC may be withdrawn if:

- (i) rectification of deficiencies is not completed within the agreed time period, or
- (ii) where a periodical inspection has not been requested within the time window, or
- (iii) when the Shipowner does not make a request for inspection when substantial changes have been made to the structure (covered by Title 3 of MLC, 2006) of the ship, or
- (iv) a serious deficiency cannot be rectified or downgraded or an acceptable rectification plan cannot be provided for deficiencies raised.

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Annex 1**SHIP TYPES ON MLC**

- 1 The ship type stated on the MLC shall be consistent with the ship type stated in the Safety Management Certificate (SMC).
- 2 The ship type stated shall be one of the following:
 - Passenger ship;
 - Passenger high-speed craft;
 - Cargo high-speed craft;
 - Bulk carrier;
 - Oil tanker;
 - Chemical tanker;
 - Gas carrier;
 - Mobile offshore drilling unit;
 - Other cargo ship.

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Annex 2**PORT STATE CONTROL**

- 1 When attending a ship as a result of a Port State Control action, the Classification Society that issued the MLC shall consider the objective evidence presented by the PSCO.
- 2 Where the inspector considers that the evidence indicates the presence of a serious deficiency, the serious deficiency shall be documented and the Shipowner shall be notified immediately. The inspector shall proceed as indicated in "Follow-up of serious deficiencies".
- 3 In the absence of any specific instructions to the contrary, the scope of any additional inspection carried out following the detention of a ship that holds an interim MLC certificate shall include, as a minimum, the deficiencies identified by PSCO. Implementation will be verified to the extent that the available evidence permits.
- 4 In cases where the PSCO alleges that there is evidence of a serious deficiency, and the inspector of the MLC-issuing Classification Society considers that there is not, the PSCO, under the authority vested in the officer by the authorities of the port, will decide what further action is to be taken.
- 5 If the inspector of the MLC-issuing Classification Society disagrees with the actions taken by the PSCO, the inspector is to provide the PSCO with a written explanation of the disagreement and inform the flag State.

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Annex 3

CERTIFICATION SCENARIOS

| | Scenario | Condition | Action required | DMLC Part II | Scope of Inspection and Certification |
|---|--|--|---|---|--|
| 1 | Change of ship's name | Conducted by a surveyor, an auditor or an inspector | Verification on board ¹ | Amend DMLC Part II with the ship's new name, if applicable. | <ol style="list-style-type: none"> 1. Verify correct ship's name on all Certificates and Documents. 2. Amend/reissue Maritime Labour Certificate (MLC) with the ship's new name, if applicable. <p><i>Note:</i> MLC must be amended by issuing Classification Society or by special arrangement. Replacement MLC shall have the same expiry date as the current MLC.</p> |
| 2 | Change of flag | Conducted by an inspector | Interim inspection on board | --- | <ol style="list-style-type: none"> 1. Check that the DMLC Part I or evidence for application to issue DMLC Part I to the Administration is on board. 2. Interim inspection as required by MLC, 2006, A5.1.3.7. 3. Issue Interim MLC. |
| | | <ol style="list-style-type: none"> 1. DMLC Part II has already been reviewed for the new flag. 2. Conducted by an inspector. | Additional inspection on board | --- | <ol style="list-style-type: none"> 1. Verify compliance with the requirements of the DMLC Part II and MLC, 2006. 2. Re-approve new DMLC Part II and issue a replacement MLC with same expiry date as the current MLC. |
| 3 | Change in IMO ship type | <ol style="list-style-type: none"> 1. Conducted by an inspector. 2. Substantial changes have been made to accommodation or DMLC Part II. | Interim inspection on board | Verify amendments to DMLC Part II, if any, have been submitted for approval | <ol style="list-style-type: none"> 1. Interim verification as required by MLC, 2006, A5.1.3.7. 2. Issue interim MLC with new ship type. |
| 4 | Takeover from an organization not holding a QSCS certificate | Conducted by an inspector | Initial inspection on board | Review and approve DMLC Part II | <ol style="list-style-type: none"> 1. Inspection to address all elements of MLC, 2006. 2. Issue MLC. |
| 5 | Ship out of service between 3 and 6 months ² | Conducted by an Inspector | Additional inspection if required by the flag State | --- | Endorse MLC, as appropriate. |
| 6 | Ship more than 6 months out of service ² | Conducted by an inspector | Additional, inspection on board | --- | <ol style="list-style-type: none"> 1. Confirm continued compliance with the DMLC Part I and Part II. 2. Endorse/re-issue MLC, as appropriate. |
| 7 | Intermediate inspections requested after the end of the inspection time window | Conducted by an inspector | Intermediate inspection on board | --- | <ol style="list-style-type: none"> 1. If reinstated, MLC to be endorsed with a statement (e.g. Validity reinstated with scope as initial). If re-issued, MLC to have same expiry date as previous certificate. 2. Issue MLC deficiency if ISM audit is not held at the same time. 3. Issue PR17 report if ISM audit is not held at the same time. |

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| | Scenario | Condition | Action required | DMLC Part II | Scope of Inspection and Certification |
|---|---|-----------|----------------------------------|--|--|
| 8 | Change of shipowner's name, address or other changes not requiring attendance | --- | Attendance on board not required | <ol style="list-style-type: none"> 1. Company to submit the amended DMLC Part II. 2. Verify changes in amended DMLC Part II. | Issue replacement MLC with same expiry date as the original MLC. |

Note: Above scenarios may be subject to flag State requirements and should only be applied in the absence of any instructions from the Administration.

¹ The verification on board may be carried out by a surveyor and the certificate reissued based on documentary evidence.

² These instructions do not apply to ships for which seasonal lay-ups are a normal part of their operational routine.

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