



Döhle Yachts
Managing Perfection



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Maritime Labour Convention

How Does it Affect Superyachts?

Introduction By Robert Tobin

Two years ago we wrote our first guide to the Maritime Labour Convention (MLC). This guide was intended to be a comprehensive summary of the MLC (a 110 page document) and how it would affect superyachts once it was ratified. I believe we achieved our objective as it proved to be extremely popular within the industry and we distributed several thousand copies. It was also very well received by the press, a leading industry publication called it: "...the first digestible guide to the MLC which will help the initiated and uninitiated alike through the major impacts...".

In August 2012 the International Labour Organisation received the 30th ratification of the MLC fulfilling the last condition for the first global standard that spans continents and oceans and so, on 20th August 2013 the MLC came into force.

In this second issue of our guide we have incorporated new guidance on interpretation and implementation of the Convention.

The MLC establishes minimum requirements for almost all aspects of working conditions for seafarers including conditions of employment, hours of work and rest, accommodation, recreational facilities, food and catering, health protection, medical care, welfare and social security protection.

It has a profound effect on all commercial shipping, including commercial superyachts. It is possible that some vessels of less than 200 gross tons may not have to comply with all the MLC requirements, but this will be down to the discretion of individual Flag States.

Each state is tasked not only with ensuring that ships flying its flag meet the 'decent work' requirements set out in the Convention, but also with certifying that those ships comply with the requirements relating to labour conditions. This certification will also facilitate inspections of ships.

The Convention places great reliance on the system allowing for inspections to be carried out by other countries, known as Port State Control. There is also a mechanism which records seafarers' complaints, as well as a reporting mechanism which spots failures no matter where a ship travels.

The maritime labour inspection and certification system is a big step forward by the ILO in taking concrete and specific action to address the very serious problems that arise because of international ownership of ships and the inability of some countries to ensure that their ships meet international standards for quality shipping. In this guide we outline the sections of the MLC which will have the most affect on the owning and operating of superyachts. As well as detailing how the MLC will affect superyachts it also contains a concise summary of the MLC.

At the end of the booklet we have included three of our checklists which our clients and crew have found invaluable as quick reference guides:

- Compliance Requirements for Yachts
- MLC Inspection Requirements for Commercial Yachts
- Garbage Management for Yachts

Döhle Yachts welcomes the ratification and introduction of the MLC as a means of insuring standardisation, and where required, the improvement of working conditions for those employed at sea.

I am sure that you will find this revised guide useful and that it will help you with the challenges that the MLC will present.

Robert Tobin

Director, Döhle Private Clients Limited

Full details of the MLC and the latest news are available on the Döhle Yachts website:

www.dohle-yachts.com

MLC and Superyachts

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The Maritime Labour Convention and Superyachts

Overview

The International Labour Organisation's (ILO) Maritime Labour Convention 2006 consolidates and updates over 65 international labour standards related to seafarers adopted over the last eighty years, in order to secure the right of all seafarers to decent employment. It has been designed to become a global instrument known as the "fourth pillar" of the international regulatory regime for quality shipping, along with three other key maritime Conventions of the International Maritime Organization (IMO) namely safety at sea (SOLAS), training, certification and watchkeeping standards (STCW) and on environmental protection (MARPOL).

It has two primary purposes:

- To bring the system of protection contained in existing labour standards closer to the workers concerned, in a form consistent with the rapidly developing globalised sector
- To improve the applicability of the system, so that shipowners (including superyacht owners) and governments interested in providing decent conditions of work do not have to bear an unequal burden in ensuring protection

The Convention is intended to achieve increased compliance by operators and owners of ships and to strengthen enforcement of standards through mechanisms which operate at all levels.

For example, it contains provisions for:

- Crew accommodation
- Complaint procedures available to seafarers
- Shipowners' and shipmasters' supervision of conditions on their ships
- Flag States' jurisdiction and control over their ships
- Port State inspections of foreign ships
- By requiring ratifying Members not only to implement the Convention in the national laws but also to document their implementation, the Convention should also enhance the effectiveness of the supervision carried out at the international level, especially by the competent bodies of the ILO

How Does The MLC Affect Owners, Operators and Crew of Commercial Superyachts?

The Large Yacht Code (LY3)

The third version of the Large Commercial Yacht Code (LY3) was introduced in September 2012 and replaced LY2 in August 2013 when the MLC came into effect.

LY3 is applicable to yachts which are 24 metres and over in load line length, are in commercial use for sport or pleasure, do not carry cargo and do not carry more than 12 passengers.

LY3 was developed by the Maritime and Coastguard Agency (MCA) together with an industry working group in order to keep up with developments in the industry and amendments which have subsequently taken place with the international conventions for which the codes provide an alternative means of achieving compliance, more suited to these particular types of vessels.

LY3 has also been brought up to date to include the latest technology in radio communication equipment and requirements for masts and rigging for sailing yachts. Compliance with the standards of the Code will entitle a superyacht to be issued with certification upon satisfactory completion of surveys and inspections. An administration may consider a specific alternative standard however to any of that required by the Code. The Code includes alternative requirements for crew accommodation which provide substantial equivalence to the MLC, but are more in keeping with the practicalities and purpose of these yachts.

The main changes from LY2 are:

- The upper limit of 3000gt for coding has been removed
- Fully revised chapter 16 – radio requirements
- Fully revised chapter 21 – crew accommodation compliance with MLC*
- New guidance on carriage of submersibles
- New guidance on polar operations
- New guidance concerning racing operations
- New guidance on passenger lift installations
- New guidance on acceptable rescue boat locations
- New guidance on acceptable underwater light fittings
- Revised requirements for galley fire protection
- Clarification on sailing rig survey requirements
- Compliance with MGN 422 – Trackways for working overside
- Inclusion of SOLAS updates
 - BNWAS
 - LRIT
 - Lifejacket sizes
 - Emergency towing procedures
- Inclusion of MARPOL updates

*In July 2013 the MCA announced that it will be allowing twin cabins to be built for non-officer-level seafarers on commercial yachts between 3000gt and 5000gt, based upon a proposed set of substantial equivalents by the Superyacht Builders Association (SYBAss).

Version three of the Large Commercial Yacht Code (LY3) includes the substantial equivalent accommodation regulations for the Maritime Labour Convention 2006 (MLC). Though the substantial equivalents outlined are lengthy, for yachts of 3000gt or more, the LY3 directs its readers back to the MLC and indicates that after the Convention comes into force, vessels should comply with the full requirements of standard A3.1 of the Convention. Standard A3.1 9(a) states: "In ships other than passenger ships, an individual sleeping room shall be provided for each seafarer".

Accommodation and Recreational Facilities

Commercial yachts built prior to the implementation of the MLC will not be subject to the MLCs regulations in respect of crew accommodation and recreational facilities. However those built after the 20th August 2013 implementation of the MLC will be subject to these regulations.

These changes have a significant impact on the design and construction of new superyachts and are too complex to detail in this booklet. For example, one such change increases the size of accommodation available to crew, which will either increase the size, and cost, of the yacht, or reducing the size of accommodation available to the owner and guests. However, Flag States have already begun issuing interpretations.

We recommend that you contact the Compliance and Technical Support department for more information and advice which may assist builders.

Seafarer Employment Agreement (SEA)

The MLC introduces the Seafarers Employment Agreements (SEA). Every seafarer¹ working on a commercial yacht will need to have a Flag State approved SEA between themselves and the yacht owner, or the representative of the ship owner/ yacht owner². This is a major change replacing any existing employment contracts, and it will also mean there is no longer a requirement for crew agreements and signing-on articles, as a SEA will replace both of these.

¹ Definition of a seafarer: "A seafarer means any person, including the master, who is employed or engaged or works in any capacity on board a seagoing ship to which MLC 2006 applies". ("Temporary Occasional Crew" may not necessarily fall under this category.)

² Definition of a Shipowner by MLC: "Shipowner means the owner of the ship or another organisation or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on shipowners in accordance with the Convention, regardless of whether any other organisations or persons fulfil certain of the duties or responsibilities on behalf of the shipowner".

Who Needs a SEA and What Are the Requirements?

- The shipowner and the seafarer shall each have a signed original of the SEA
- The shipowner has given the seafarer enough time to review and take advice on the content and conditions of the agreement before the seafarer signs the SEA
- That the shipowner has informed the seafarer of their rights and duties under their employment agreement prior to or in the process of engagement
- The seafarer enters the agreement freely having a sufficient understanding of their rights and responsibilities.

Crew contracts or agreements must be very specific on items such as pay, health insurance, leave and working hours. (All our Crew Contracts are MLC compliant and Flag State approved).

Employment Agencies

The MLC requires that seafarers have access to efficient and well-regulated seafarer recruitment and placement system and that seafarer recruitment and placement services operating in a Member's territory shall conform to the standards set out in the Code.

What is required and what does a recruitment and placement agency need to demonstrate under the MLC?

- No blacklists to prevent seafarers from gaining employment
- Do not charge the seafarer for providing them with employment or to register for employment
- Ensure that seafarers recruited or placed by them are qualified for the job concerned
- Maintain an up-to-date register of all seafarers recruited or placed through them
- That the seafarers' employment agreements are in accordance with flag state laws and regulations, as is any Collective Bargaining Agreement (CBA) that forms part of the employment agreement
- Inform seafarers of their rights and duties under their employment agreements prior to engagement
- Examine and respond to any complaint concerning their activities and advise the competent authority of any unresolved complaint
- Make sure, as far as practicable, that the shipowner has the means to protect seafarers from being stranded in a foreign port
- Have by way of insurance or a similar measure, a scheme to compensate seafarers for monetary loss from the failure of the recruitment and placement service, or the relevant shipowner under the SEA, to meet its obligations to them
- Protect the confidentiality of seafarers' personal data
- Maintain up-to-date lists of the ships for which they provide seafarers and ensuring that there is a means by which the services can be contacted in an emergency at all hours

Döhle Yacht Crew complies with the relevant requirements and fully support the changes.

Seafarers Wages

Payment shall be at not less than monthly intervals and there shall also be a monthly account of the payment the seafarer is due.

Allotment notes are one area where changes may be required as MLC requires that shipowners take measures to provide seafarers with a means to transmit all or part of their earnings to their families or dependants or legal beneficiaries. This is standard practice in commercial shipping and is in place with our crew payment system.

Hours of Work and Rest

Each Member state shall ensure that the hours of work or hours of rest for seafarers are regulated.

Each Member state shall establish maximum hours of work or minimum hours of rest over given periods that are consistent with the provisions in the Code. In our experience this is proving to be the most challenging aspect of the MLC implementation.

Entitlement to Leave

Each Member state shall require that seafarers employed on ships that fly its flag are given paid annual leave under appropriate conditions, in accordance with the provisions in the Code.

Repatriation

Seafarers have a right to be repatriated at no cost to themselves in the circumstances and under the conditions specified in the Code.

Seafarers will be entitled to repatriation in the following circumstances:

- If the seafarers' employment agreement expires while they are abroad
- When the seafarers' employment agreement is terminated:
 - by the shipowner; or
 - by the seafarer for justified reasons; and also
- When the seafarers are no longer able to carry out their duties under their employment agreement or cannot be expected to carry them out in the specific circumstances

Health Protection, Medical Care, Welfare and Social Security Protection

Each Member state shall ensure that all seafarers on ships that fly its flag are covered by adequate measures for the protection of their health and that they have access to prompt and adequate medical care whilst working on board.

The protection and care under the Regulation shall, in principle, be provided at no cost to the seafarers.

Each Member state shall ensure that seafarers on board ships in its territory who are in need of immediate medical care are given access to the Member's medical facilities on shore.

Each Member state shall ensure that shore-based welfare facilities, where they exist, are easily accessible. The Member shall also promote the development of welfare facilities, such as those listed in the Code, in designated ports to provide seafarers on ships that are in its ports with access to adequate welfare facilities and services.

Each Member state shall ensure that all seafarers and, to the extent provided for in its national law, their dependants have access to social security protection in accordance with the Code without prejudice however to any more favourable conditions.

Certification and Compliance

Certification comes as two documents, a Maritime Labour Certificate and the Declaration of Maritime Labour Compliance Certificate.

Ships of 500gt and over engaged in international voyages must have a Maritime Labour Certificate and a Maritime Labour Compliance Certificate and ships under 500gt may be issued with one on request of the shipowner. This doesn't mean that ships or commercial yachts under 500gt escape as all ships of 200gt or over will be inspected for compliance but do not require a certificate.

The certification period has the same requirement as the ISM and ISPS Code with a five year validity and an intermediate inspection between the 2nd and 3rd anniversary date.

Shipowners Liability

The MLC's regulations seeks to deal with the shipowners responsibilities and liability for the economic consequences of sickness, injury or death suffered by seafarers during their engagement.

Under the regulations shipowner's liability should,

- Provide coverage for the costs of seafarers sickness or injury occurring during their engagement until the date when they are duly repatriated
- Provide compensation in the event of death in service or long term disability caused by an occupational injury, illness or hazard occurring during their engagement
- Defray expenses of medical care and board and lodging until the seafarer has recovered or the sickness/incapacity declared permanent. Such liability will be limited to not less than 16 weeks
- Pay the costs of burial expenses for death occurring on board or ashore during the period of engagement
- Pay wages in whole or in part where the sickness or injury results in seafarers incapacity to work. Again, such liability will be limited to not less than 16 weeks
- Pay to each seafarer on board an indemnity against unemployment arising from the ships loss or foundering. The total indemnity payable to any one seafarer will be limited to 2 months wages
- Provide financial security to ensure that seafarers are repatriated

Inspections

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

Complaints Procedures

• Onshore seafarer complaint handling procedures

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

• On-board complaint procedures

Each Member state shall require that ships that fly its flag have on-board procedures for the fair, effective and expeditious handling of seafarer complaints alleging breaches of the requirements of this Convention (including seafarers' rights).

Each Member state shall prohibit and penalize any kind of victimization of a seafarer for filing a complaint.

ISM and ISPS

ISM is affected by the Introduction of the MLC. We recommend that you contact our Compliance and Technical Support Department for more information and advice.

There is no impact on ISPS other than with work and rest hours.

Non Commercial Yachts and Voluntary Compliance with MLC and LY3

Article II.4 of the MLC states that: "Except as expressly provided otherwise, this Convention applies to all ships, whether publicly or privately owned, ordinarily engaged in commercial activities, other than ships engaged in fishing or in similar pursuits and ships of traditional build such as dhows and junks". Therefore this means that any pleasure yacht that is not engaged in trade is not required to comply with the MLC.

Notwithstanding the above, the Large Commercial Yacht Code (LY3) requires compliance with the MLC. This means that to maintain full compliance with LY3 a pleasure yacht not engaged in trade must be fully MLC compliant as appropriate, from 20 August 2013. However, pleasure yachts not engaged in trade are not obliged to be MLC compliant and those with an existing Certificate of Compliance with LY3 and not wishing to become MLC compliant can choose to replace the COCLYC with a Statement of Compliance (SOCLYC).

Döhle Yachts, and most Flag States, recommend that pleasure yachts not engaged in trade comply fully with the Large Yacht Code. The reason for this recommendation is essentially to provide greater safety, by virtue of the construction, equipment, operation and manning requirements of the Large Yacht Code, and this now includes MLC compliance and the many benefits that this will bring for crew welfare and working conditions.

(LY3 only applies to Red Ensign Group vessels, but other international registries may refer to it and use it).

Summary of The MLC Regulations

Please note that this is summary of the full 110 pages and not all MLC Regulations apply to Superyachts, for example; Manning Levels.

Full details of the MLC and the latest news may be obtained from the Döhle Yachts website: www.dohle-yachts.com.

Minimum Requirement for Seafarers to Work on a Ship

Purpose: To ensure that no under-age persons work on a ship

- No person below the minimum age shall be employed or engaged or work on a ship
- The minimum age at the time of the initial entry into force of this Convention is 16 years
- A higher minimum age shall be required in the circumstances set out in the Code

Medical Certificate

Purpose: To ensure that all seafarers are medically fit to perform their duties at sea

- Seafarers shall not work on a ship unless they are certified as medically fit to perform their duties
- Exceptions can only be permitted as prescribed in the Code

Training and Qualifications

Purpose: To ensure that seafarers are trained or qualified to carry out their duties on board ship

- Seafarers shall not work on a ship unless they are trained or certified as competent or otherwise qualified to perform their duties
- Seafarers shall not be permitted to work on a ship unless they have successfully completed training for personal safety on board ship
- Training and certification in accordance with the mandatory instruments adopted by the International Maritime Organization shall be considered as meeting the requirements of paragraphs 1 and 2 of this Regulation
- Any Member which, at the time of its ratification of this Convention, was bound by the Certification of Able Seamen Convention, 1946 (No. 74), shall continue to carry out the obligations under that Convention unless and until mandatory provisions covering its subject matter have been adopted by the International Maritime Organization and entered into force, or until five years have elapsed since the entry into force of this Convention in accordance with paragraph 3 of Article VIII, whichever date is earlier

Recruitment and Placement

Purpose: To ensure that seafarers have access to an efficient and well-regulated seafarer recruitment and placement system

- All seafarers shall have access to an efficient, adequate and accountable system for finding employment on board ship without charge to the seafarer
- Seafarer recruitment and placement services operating in a Member's territory shall conform to the standards set out in the Code
- Each Member shall require, in respect of seafarers who work on ships that fly its flag, that shipowners who use seafarer recruitment and placement services that are based in countries or territories in which this Convention does not apply, ensure that those services conform to the requirements set out in the Code

Conditions of Employment

Seafarers Employment Agreements (SEAs)

Purpose: To ensure that seafarers have a fair employment agreement

- The terms and conditions for employment of a seafarer shall be set out or referred to in a clearly written and legally enforceable agreement and shall be consistent with the standards set out in the Code
- Seafarers' Employment Agreements shall be agreed to by the seafarer under conditions which ensure that the seafarer has an opportunity to review and seek advice on the terms and conditions in the agreement and freely accepts them before signing
- To the extent compatible with the Member's national law and practice, seafarers' employment agreements shall be understood to incorporate any applicable collective bargaining agreements

Wages

Purpose: To ensure that seafarers are paid for their services

- All seafarers shall be paid for their work regularly and in full in accordance with their employment agreements
- Each Member shall require that payments due to seafarers working on ships that fly its flag are made at no greater than monthly intervals and in accordance with any applicable collective agreement
- Seafarers shall be given a monthly account of the payments due and the amounts paid, including wages, additional payments and the rate of exchange used where payment has been made in a currency or at a rate different from the one agreed to
- Each Member shall require that shipowners take measures, such as those set out in paragraph 4 of this Standard, to provide seafarers with a means to transmit all or part of their earnings to their families or dependants or legal beneficiaries

Hours of Work and Hours of Rest

Purpose: To ensure that seafarers have regulated hours of work or hours of rest

- Each Member shall ensure that the hours of work or hours of rest for seafarers are regulated
- Each Member shall establish maximum hours of work or minimum hours of rest over given periods that are consistent with the provisions in the Code

Entitlement to Leave

Purpose: To ensure that seafarers have adequate leave

- Each Member shall require that seafarers employed on ships that fly its flag are given paid annual leave under appropriate conditions, in accordance with the provisions in the Code
- Seafarers shall be granted shore leave to benefit their health and well-being and with the operational requirements of their positions
- Each Member shall adopt laws and regulations determining the minimum standards for annual leave for seafarers serving on ships that fly its flag, taking proper account of the special needs of seafarers with respect to such leave

Repatriation

Purpose: To ensure that seafarers are able to return home

- Seafarers have a right to be repatriated at no cost to themselves in the circumstances and under the conditions specified in the Code
- Each Member shall require ships that fly its flag to provide financial security to ensure that seafarers are duly repatriated in accordance with the Code
- Each Member shall ensure that seafarers on ships that fly its flag are entitled to repatriation in the following circumstances:
 - if the Seafarers' Employment Agreement expires while they are abroad;
 - when the Seafarers' Employment Agreement is terminated:
 - by the shipowner; or
 - by the seafarer for justified reasons; and also
 - when the seafarers are no longer able to carry out their duties under their employment agreement or cannot be expected to carry them out in the specific circumstances

Seafarer compensation for the ship's loss or foundering

Purpose: To ensure that seafarers are compensated when a ship is lost or has foundered

- Seafarers are entitled to adequate compensation in the case of injury, loss or unemployment arising from the ship's loss or foundering

Manning levels

Purpose: To ensure that seafarers work on board ships with sufficient personnel for the safe, efficient and secure operation of the ship

- 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 conditions, taking into account concerns about seafarer fatigue and the particular nature and conditions of the voyage

Career and skill development and opportunities for seafarers' employment

Purpose: To promote career and skill development and employment opportunities for seafarers

- Each Member shall have national policies to promote employment in the maritime sector and to encourage career and skill development and greater employment opportunities for seafarers domiciled in its territory

Accommodation, Recreational Facilities, Food and Catering

Accommodation and Recreational Facilities

Purpose: To ensure that seafarers have decent accommodation and recreational facilities on board

- Each Member shall ensure that ships that fly its flag provide and maintain decent accommodation and recreational facilities for seafarers working or living on board, or both, consistent with promoting the seafarers' health and well-being
- The requirements in the Code implementing this Regulation which relate to ship construction and equipment apply only to ships constructed on or after the date when this Convention comes into force for the Member concerned. For ships constructed before that date, the requirements relating to ship construction and equipment that are set out in the Accommodation of Crews Convention (Revised), 1949 (No. 92), and the Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No. 133), shall continue to apply to the extent that they were applicable, prior to that date, under the law or practice of the Member concerned. A ship shall be deemed to have been constructed on the date when its keel is laid or when it is at a similar stage of construction
- Unless expressly provided otherwise, any requirement under an amendment to the Code relating to the provision of seafarer accommodation and recreational facilities shall apply only to ships constructed on or after the amendment takes effect for the Member concerned

Food and Catering

Purpose: To ensure that seafarers have access to good quality food and drinking water provided under regulated hygienic conditions

- Each Member shall ensure that ships that fly its flag carry on board and serve food and drinking water of appropriate quality, nutritional value and quantity that adequately covers the requirements of the ship and takes into account the differing cultural and religious backgrounds
- Seafarers on board a ship shall be provided with food free of charge during the period of engagement
- Seafarers employed as ships' cooks with responsibility for food preparation must be trained and qualified for their position on board ship

Health Protection, Medical Care, Welfare and Social Security Protection

Medical Care on Board Ship and Ashore

Purpose: To protect the health of seafarers and ensure their prompt access to medical care on board ship and ashore

- Each Member shall ensure that all seafarers on ships that fly its flag are covered by adequate measures for the protection of their health and that they have access to prompt and adequate medical care whilst working on board
- The protection and care under this Regulation shall, in principle, be provided at no cost to the seafarers
- Each Member shall ensure that seafarers on board ships in its territory who are in need of immediate medical care are given access to the Member's medical facilities on shore
- The requirements for on-board health protection and medical care set out in the Code include standards for measures aimed at providing seafarers with health protection and medical care as comparable as possible to that which is generally available to workers ashore

Shipowners Liability

Purpose: To ensure that seafarers are protected from the financial consequences of sickness, injury or death occurring in connection with their employment

- Each Member shall ensure that measures, in accordance with the Code, are in place on ships that fly its flag to provide seafarers employed on the ships with a right to material assistance and support from the shipowner with respect to the financial consequences of sickness, injury or death occurring while they are serving under a seafarers' employment agreement or arising from their employment under such agreement
- This Regulation does not affect any other legal remedies that a seafarer may seek

Health and Safety Protection and Accident Prevention

Purpose: To ensure that seafarers' work environment on board ships promotes occupational safety and health

- Each Member shall ensure that seafarers on ships that fly its flag are provided with occupational health protection and live, work and train on board ship in a safe and hygienic environment
- Each Member shall develop and promulgate national guidelines for the management of occupational safety and health on board ships that fly its flag, after consultation with representative shipowners' and seafarers' organizations and taking into account applicable codes, guidelines and standards recommended by international organizations, national administrations and maritime industry organizations
- Each Member shall adopt laws and regulations and other measures addressing the matters specified in the Code, taking into account relevant international instruments, and set standards for occupational safety and health protection and accident prevention on ships that fly its flag

Access to Shore Based Welfare Facilities

Purpose: To ensure that seafarers working on board a ship have access to shore-based facilities and services to secure their health and well-being

- Each Member shall ensure that shore-based welfare facilities, where they exist, are easily accessible. The Member shall also promote the development of welfare facilities, such as those listed in the Code, in designated ports to provide seafarers on ships that are in its ports with access to adequate welfare facilities and services
- The responsibilities of each Member with respect to shore-based facilities, such as welfare, cultural, recreational and information facilities and services, are set out in the Code

Social Security

Purpose: To ensure that measures are taken with a view to providing seafarers with access to social security protection

- Each Member shall ensure that all seafarers and, to the extent provided for in its national law, their dependants have access to social security protection in accordance with the Code
- Each Member undertakes to take steps, according to its national circumstances, individually and through international cooperation, to achieve progressively comprehensive social security protection for seafarers
- Each Member shall ensure that seafarers who are subject to its social security legislation, and, to the extent provided for in its national law, their dependants, are entitled to benefit from social security protection no less favourable than that enjoyed by shoreworkers

Compliance and Enforcement

Flag State Responsibilities - General Principles

Purpose: To ensure that each Member implements its responsibilities under this Convention with respect to ships that fly its flag

- Each Member shall establish an effective system for the inspection and certification of maritime labour conditions, in accordance with Regulations 5.1.3 and 5.1.4 ensuring that the working and living conditions for seafarers on ships that fly its flag meet, and continue to meet, the standards in this Convention
- In establishing an effective system for the inspection and certification of maritime labour conditions, 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 carry out inspections or to issue certificates or to do both. In all cases, the Member shall remain fully responsible for the inspection and certification of the working and living conditions of the seafarers concerned on ships that fly its flag
- A Maritime Labour Certificate, complemented by a declaration of Maritime Labour Compliance, shall constitute prima facie evidence that the ship has been duly inspected by the Member whose flag it flies and that the requirements of this Convention relating to working and living conditions of the seafarers have been met to the extent so certified

Other Flag State Responsibilities

Maritime Labour Certificate and Declaration of Maritime Labour Compliance

This Regulation applies to ships of:

- 500 gross tonnage or over, engaged in international voyages; and
- 500 gross tonnage or over, flying the flag of a Member and operating from a port, or between ports, in another country

For the purpose of this Regulation, “international voyage” means a voyage from a country to a port outside such a country.

This Regulation also applies to any ship that flies the flag of a Member and is not covered by paragraph 1 of this Regulation, at the request of the shipowner to the Member concerned.

Each Member shall require ships that fly its flag to carry and maintain a Maritime Labour Certificate certifying that the working and living conditions of seafarers on the ship, including measures for on-going compliance to be included in the declaration of maritime labour compliance referred to in paragraph 4 of this Regulation, have been inspected and meet the requirements of national laws or regulations or other measures implementing this Convention.

Each Member shall require ships that fly its flag to carry and maintain a declaration of Maritime Labour Compliance stating the national requirements implementing this Convention for the working and living conditions for seafarers and setting out the measures adopted by the shipowner to ensure compliance with the requirements on the ship or ships concerned.

The Maritime Labour Certificate and the Declaration of Maritime Labour Compliance shall conform to the model prescribed by the Code.

Where the competent authority of the Member or a recognized organization duly authorized for this purpose has ascertained through inspection that a ship that flies the Member's flag meets or continues to meet the standards of this Convention, it shall issue or renew a Maritime Labour Certificate to that effect and maintain a publicly available record of that certificate.

- **Inspection and enforcement**

Each Member shall verify, through an effective and coordinated system of regular inspections, monitoring and other control measures that ships that fly its flag comply with the requirements of this Convention as implemented in national laws and regulations.

Detailed requirements regarding the inspection and enforcement system referred to in paragraph 1 of this Regulation are set out in Part A of the Code.

- **On-board complaint procedures**

Each Member state shall require that ships that fly its flag have on-board procedures for the fair, effective and expeditious handling of seafarer complaints alleging breaches of the requirements of this Convention (including seafarers' rights).

Each Member state shall prohibit and penalize any kind of victimization of a seafarer for filing a complaint.

The provisions in the Regulation and related sections of the Code are without prejudice to a seafarer's right to seek redress through whatever legal means the seafarer considers appropriate.

- **Marine casualties**

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

Members shall cooperate with each other to facilitate the investigation of serious marine casualties referred to in paragraph 1 of this Regulation.

Port State Responsibilities

Purpose: To enable each Member to implement its responsibilities under this Convention regarding international cooperation in the implementation and enforcement of the Convention standards on foreign ships

- **Inspections in port**

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 for the purpose of reviewing compliance with the requirements of this Convention (including seafarers' rights) relating to the working and living conditions of seafarers on the ship.

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

Inspections in a port shall be carried out by authorized officers in accordance with the provisions of the Code and other applicable international arrangements governing Port State Control inspections in the Member. Any such inspection shall be limited to verifying that the matter inspected is in conformity with the relevant requirements set out in the Articles and Regulations of this Convention and in Part A of the Code.

Inspections that may be carried out in accordance with this Regulation shall be based on an effective Port State inspection and monitoring system to help ensure that the working and living conditions for seafarers on ships entering a port of the Member concerned meet the requirements of this Convention (including seafarers' rights).

Information about the system referred to in paragraph 4 of this Regulation, including the method used for assessing its effectiveness, shall be included in the Member's reports pursuant to article 22 of the Constitution.

Port State Control – Guidance Issued by International Shipping Federation

At the 2006 Conference which adopted the MLC, the ILO also adopted a Resolution which recommended that Port State Control (PSC) on the Labour Convention should not commence until 12 months after entry into force, i.e. August 2014. However, some Port States, if they have ratified the MLC, may still decide to subject ships to PSC inspections to check compliance with the MLC from 20 August 2013.

A key aspect of the MLC's enforcement will be the inspection of the Maritime Labour Certificate and Declaration of Maritime Labour Compliance (DMLC) Parts 1 and 2, which should be issued to the ship by the Flag State.

However in an attempt to reduce the overall impact of the implementation of the MLC, the ILO Conference has issued a further Resolution which recommends that the PSC enforcement of the MLC should be approached in a pragmatic manner.

Regardless of the above, and especially if the Flag State ratified the MLC before 20 August 2012, the ILO recommends that vessels take the necessary precautions from August 2013, in order to avoid any Port State Control inspections problems. If in doubt the Flag State should be contacted for guidance.

- **Onshore seafarer complaint handling procedures**

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

Labour Supplying Responsibilities

Purpose: To ensure that each Member implements its responsibilities under this Convention as pertaining to seafarer recruitment and placement and the social protection of its seafarers

- Without prejudice to the principle of each Member's responsibility for the working and living conditions of seafarers on ships that fly its flag, the Member also has a responsibility to ensure the implementation of the requirements of this Convention regarding the recruitment and placement of seafarers as well as the social security protection of seafarers that are its nationals or are resident or are otherwise domiciled in its territory, to the extent that such responsibility is provided for in this Convention
- Detailed requirements for the implementation of paragraph 1 of this Regulation are found in the Code
- Each Member shall establish an effective inspection and monitoring system for enforcing its labour-supplying responsibilities under this Convention
- Information about the system referred to in paragraph 3 of this Regulation, including the method used for assessing its effectiveness, shall be included in the Member's reports pursuant to article 22 of the Constitution.

Our Expertise

Döhle Yachts and Döhle Yacht Crew have considerable experience regarding the implementation, compliance and crew issues of the MLC.

Our yacht compliance staff work exclusively for Döhle, and have a wealth of experience in both large sailing and motor yachts and are adept at translating legislation into plans that actually work on board large yachts. All our ISM auditors undergo continuous training and have excellent working relationships with the major Classification Societies and Flag State administrations.

We hold Documents of Compliance (DOC) for the Isle of Man, Cayman Islands, Bermuda and The Netherlands and, with our proven track record, can very quickly obtain a DOC from any Flag State when required.

For our clients we will conduct pre MLC inspections as part of our regular ISM and ISPS audits.

ISPS Services

Our experience is invaluable in ensuring that the ISPS Code is interpreted correctly and applied to the yacht's Ship Security Plan (SSP) in a realistic manner that actually works on board.

ISM Services

Our ISM service consists of two distinct stages, the development of the systems including on board set up, and the subsequent ongoing supervisory and support functions, once the systems are in place.

MINI ISM Services

We provide Mini ISM services for superyachts as required by the UK's MCA Large Yacht Code, for commercial yachts over 24m and under 500GT and applicable Flag State legislation. We call this system "499 SMS".

MARPOL Plan Services

All our response and management plans are provided efficiently, reliably and promptly. We are able to ensure compliance, continuous maintenance and full support. We will also provide full annual maintenance of your response plans and provide timely updates when required due to on-going changes to legislation.

SEEMP

There is a mandatory requirement for all vessels of 400gt and above to complete and maintain a Ship Energy Efficiency Management Plan (SEEMP).

Our SEEMP has been developed following guidelines issued by the International Maritime Organisation and Classification Societies.

Emergency and Media Response

We have a purpose built, dedicated 24/7 Emergency Response Room which is furnished with all the necessary communications equipment and resources. It forms the focal point of any incident we have to manage, whether it is pollution, safety, security or media related.

An incident at sea soon becomes everyone's business. It is therefore essential that the media and other stakeholders be kept apprised proactively and our Emergency Response Team is trained accordingly.

Döhle Yachts Checklists

On the following pages are three of our checklists which clients and crew have found invaluable as quick reference guides to ensure that they are compliant with current regulations:

- Compliance Requirements for Yachts Checklist
- MLC Inspection Requirements for Commercial Yachts Checklist
- Garbage Management Checklist for Yachts

If you have any concerns about your compliance status then we recommend that you contact our Compliance and Technical Support Department for more information and advice.

Compliance Requirements For Yachts Checklist

| | Under 24m | | Over 24m and Under 500GT | | Over 500 GT - Under 3,000GT | | Over 3,000GT | |
|---|--|---------|--------------------------|---------|-----------------------------|---------|------------------|---------|
| | Commercial | Private | Commercial | Private | Commercial | Private | Commercial | Private |
| STCW | Yes | No | Yes | No | Yes | No | Yes | No |
| MARPOL | | | | | | | | |
| Oil Pollution (Annex I) | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| Sewage (Annex IV) Over 400GRT | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| Garbage (Annex V) All Ships | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| Air Pollution (Annex VI) | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| COLREGS | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| SOLAS | | | | | | | | |
| General | No | No | No | No | Yes | No | Yes | No |
| Construction | No | No | No | No | Yes | No | Yes | No |
| ISM Code | No | No | Yes ¹ | No | Yes | No | Yes | No |
| ISPS Code | No | No | No | No | Yes | No | Yes | No |
| Life Saving Appliances | No | No | No | No | Yes | No | Yes | No |
| Radio | No | No | Yes >300grt | No | Yes | No | Yes | No |
| Navigation | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| Maritime Safety | No | No | Yes | No | Yes | No | Yes | No |
| International Convention on Load Lines | No | No | No | No | Yes | No | Yes | No |
| Small Yacht Codes | Yes | No | No | No | No | No | No | No |
| Large Yacht Codes (LY3)² | No | No | Yes | No | Yes | No | Yes | No |
| Maritime Labour Convention | Yes | No | Yes | No | Yes | No | Yes ³ | No |
| US Regs NTVRP | Vessels operating in USA waters over 400GT will require an approved Federal Non Tank Vessel Response Plan for pollution prevention, plus State Response Plans as required. | | | | | | | |
| US Regs COFR | Vessels operating in USA waters require the proper Certificate of Financial Responsibility (COFR) as a pre-voyage requirement. Presently, COFRs are required under OPA 90, California and Alaska for both tankers and non tankers. | | | | | | | |

NOTES

Commercial means a yacht which is commercially registered and/or is actively chartering
 Length is Load Line or Registered Length
 1 Mini ISM as required by Flag States (e.g. UK/Red Ensign Group)
 2 LY3 came into force in August 2013 and applies to commercial yachts over 3,000Grt
 3 If vessel intends to keep a valid COCLYC
 NTVRP: Non Tank Vessel Response Plans - "Nontank vessel" means a self-propelled vessel of 400 gross tons as measured under section 14302 of title 46, United States Code, or greater, other than a tank vessel, that carries oil of any kind as fuel for main propulsion and that is a vessel of the USA; or operates on the navigable waters of the USA.

MLC Inspection Requirements For Commercial Yachts Checklist

| | >500gt Commercial Yacht | <500gt Commercial Yacht |
|--|-------------------------|-------------------------|
| Minimum age | Yes | Yes |
| Medical certificate | Yes | Yes |
| Qualifications of seafarers | Yes | Yes |
| Recruitment & placement | Yes | Yes |
| SEA's | Yes | Yes |
| Leave (will be part of SEA inspection) | Yes | Yes |
| Repatriation (will be part of SEA inspection) | Yes | Yes |
| Wages | Yes | Yes |
| Hours of work and rest | Yes | Yes |
| Manning levels | Yes | Yes |
| Accommodation and recreational facilities | * | * |
| Food and catering | Yes | Yes |
| On-board medical care | Yes | Yes |
| Shipowners' liability (will be part of SEA inspection) | Yes | Yes |
| Health and safety protection and accident prevention | Yes | Yes |
| On board complaint procedures | Yes | Yes |
| Use of licensed private recruitment and placement agencies | Yes | Yes |

Notes:

- This checklist is based on the full MLC inspection requirements for all vessels
- Yes: inspection required
- NA: not applicable
- *: Does not apply to yachts built prior to implementation of MLC, though they may be subject to ILO 178 inspection. For yachts built after the implementation of the MLC this will be dependent on the requirements of the MLC

