The Bahamas Maritime Authority

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INFORMATION BULLETIN No. 141

Maritime Labour Convention 2006 (MLC 2006) Onboard Complaints Procedure

Guidance and Instructions for Bahamas Recognised Organisations, Bahamas Approved Nautical Inspectors, Ship Owners, Managers and Masters and Seafarers

1. Purpose

1.1. This Bulletin describes the procedure by which any seafarer onboard a Bahamian vessel may present a complaint or labour grievance and have that complaint investigated, provided that it is specific in nature and is alleged to constitute a breach of seafarer's rights under the Maritime Labour Convention 2006 (MLC 2006) or Bahamas legislation.

1.2 This Bulletin should be read in conjunction with BMA Information Bulletins 127, 139, 140, 142, 144, 145, 146, 147 and 148.

2. Application

2.1. This Bulletin applies to any person who is employed or engaged or works in any capacity onboard ships to which MLC 2006 applies, except as otherwise provided in BMA Information Bulletin No. 127.

3. Definitions

3.1. The following definitions apply for the purposes of this Bulletin.

i. "*Company*" is the entity, designated under SOLAS 1974, as amended, Chapter IX/1.2 which assumes the duties and responsibilities imposed by International Safety Management (ISM) Code or, where ISM is not applicable, the entity who has accepted responsibility for the assignment of seafarers for service onboard Bahamian registered ships in accordance with the provisions of STCW Regulation I/14.

ii. "*External authority*" includes a party other than the shipowner representative, master or other person who are representing the shipowner onboard the ship. This party may include the flag state of a party to the MLC 2006, a Port State Control official, local seafarer labour organisation representative; or other seafarer welfare assistance service.

iii. "*Seafarers Employment Agreement*" includes both a contract of employment and the articles of agreement.

iv. "*Victimisation*" covers any adverse action taken or threatened by any person with respect to a seafarer for lodging a genuine labour grievance.

4. Requirements

4.1. All seafarers shall be provided with a copy of the onboard complaint procedures applicable on the ship. This shall include the following information:

i. the seafarer's right to representation;
ii. safeguards against victimization of the seafarer;
iii. Contact information for the Director of Labour in Bahamas and where different, the contact information of the competent labour authority in the seafarers' country of residence, and
iv. name of a person or persons on board the ship who can, on a confidential basis, provide seafarers with impartial advice on their complaint and otherwise assist them in following the complaint procedures available to them on board the ship.

4.2. In all cases seafarers should have a right to file their complaints directly with the master, the shipowner or external competent authorities

4.3. If the seafarer is in any doubt about presenting a complaint and considers that he/she will be victimised due to presenting a complaint, he/she shall have the right to contact the Director of Labour for guidance or he/she may submit the complaint directly to the Director of Labour.

4.4. The seafarer may be represented in a labour grievance by a labour organisation which is party to a labour contract entered into pursuant to the laws of the Bahamas and which covers the seafarers. Seafarers should at all times have the right to be accompanied and to be represented by another seafarer of their choice on board the ship concerned.

4.5. The shipowner and the Master are responsible to ensure that victimisation of a seafarer for filing a labour grievance under the MLC 2006 does not occur. Any claims of victimisation should be investigated by the master or shipowner and where instances of victimisation are found to occur, these must be dealt with under the Company's disciplinary procedures in the shortest possible time.

5. Complaint Handling Procedure

5.1. The complaint should be addressed to the head of the department of the seafarer lodging the complaint or to the seafarer's supervising officer.

5.2. The head of department or superior officer should then attempt to resolve the matter within the prescribed time limits appropriate to the seriousness of the issues involved. The Company should have time limits outlined in the shipboard management system and this should take into consideration the time frame noted in paragraph 5.5 below.

5.3. If the head of department or supervising officer cannot resolve the complaint to the satisfaction of the seafarer, the seafarer may refer it to the master, who should handle the matter personally.

5.4. If a complaint cannot be resolved on board, the matter should be referred ashore to the shipowner, who should be given an appropriate time limit for resolving the matter, where appropriate, in consultation with the seafarer concerned or any person who the seafarer may appoint as their representative.

5.5. If, after twenty (20) days, conciliated settlement cannot be reached, either party shall have a further 20 days to refer the complaint to the Director of Labour, to decide upon a satisfactory solution to the matter.

5.6. If the seafarer lodges the complaint to an external authority outside The Bahamas, that authority shall be provided with the contact information of the BMA and requested to communicate the complaint to the BMA. Any investigation or action by an external authority should take into account the extent to which the on-board complaint procedure has been utilised, and its effectiveness in dealing with the complaint.

5.7. The external authority may communicate the complaint to the shipowner or the Company who shall then be expected to resolve the matter in accordance with the terms and conditions of the seafarer employment agreement to the satisfaction of both parties. If the complaint is lodged with the Director of Labour, the Director of Labour may also, if deemed necessary, involve the appropriate competent authority within the seafarer's country of origin.

6. Record Keeping

6.1. In all cases a written report is to be completed onboard at the appropriate level and sent to the shipowner. The report shall contain details of the complaint, the actions taken and decisions agreed. A copy shall be given to the seafarer involved. Appropriate entries into the ship's official log book shall also be made.

6.2. In cases where the complaint is dealt with by an external authority, a report containing the actions taken and decisions agreed should be made by the person dealing with the complaint. The report should be sent to the shipowner, with a copy given to the seafarer involved.

7. Bahamas Competent Authority – Contact Details

7.1. The Bahamas contact is The Director of Labour, c/o The Bahamas Maritime Authority, Shirlaw Street, P.O Box N-4679, Nassau, Bahamas, email: stcw@bahamasmaritime.com.

8. Revision History

Rev.0 (31 August 2012) – First issue