

Title: UK Implementation of the Maritime Labour Convention, 2006 PIR No: DfTPIR0047 Original IA/RPC No: RPC-DfT-5145(1) Lead department or agency: MCA Other departments or agencies: DfT Contact for enquiries: Julie.Carlton@mcga.gov.uk	Post Implementation Review
	Date: 18/10/2021
	Type of regulation: EU
	Type of review: Statutory
	Date measure came into force: 01/08/2014
	Recommendation: Keep
	RPC Opinion: Green

1. What were the policy objectives of the measure?

The Maritime Labour Convention 2006 (MLC) is an International Labour Organization (ILO) Convention concerning the employment, living and working conditions of seafarers on all ships other than pleasure vessels, fishing vessels, ships of traditional build, warships or naval auxiliaries and vessels which are not ordinarily engaged in commercial activities. The UK implemented the MLC using five statutory instruments – which are listed and detailed in Annex B(i). Of the 5 implementing instruments, two focussed on Survey and Certification and Minimum Requirements for Seafarers and three amended existing regulations relating to Hours of Work, Health and Safety and made other minor amendments.

The primary purpose of the Regulations was to bring existing UK legislation in line with the requirements of the MLC in fulfilment of the UK's international obligations as a ratifying country, and in so doing to:

- Secure decent working and living conditions for seafarers on UK registered ships and globally, including requiring a fair and enforceable employment agreement for every seafarer as both UK and non-UK vessels would be required to comply with the regulations when operating in UK waters.
- Promote a level playing field for international shipping by enforcing these standards on non-UK registered vessels that call at UK ports by conducting surveys and inspections.

Non-compliance could result in vessels being detained, which could cause time and monetary losses to the shipowner. These losses drive the industry to comply. In addition, there are specific objectives for each part of the legislation covering different aspects of the MLC relating to minimum age, recruitment and placement, Seafarer Employment Agreements, wages, repatriation, crew accommodation, food and catering, medical care and shipowner's liability. Further information can be found in Annex B(i). Annex B(ii) contains a summary of the impact assessments created prior to implementation.

2. What evidence has informed the PIR?

Regarding the Merchant Shipping (Maritime Labour Convention) (Survey and Certification) Regulations 2013 (the “Survey and Certification Regulations”), a questionnaire was circulated to the United Kingdom’s MLC social partners consisting of seafarer and shipowner representatives. This questionnaire can be found in Annex C.

For the other Regulations, the MCA gathered evidence for review by holding a stakeholder workshop in January 2019. The list of invited stakeholders is provided at Annex A. The stakeholders were provided with a base document ahead of the meeting giving an outline of the regulatory requirements and the associated costs as predicted in the impact assessment carried out prior to implementation. (Annex B(i)). The workshop was a mixture of presentation and facilitated discussion. A summary of points raised is at Annex D. Survey and Inspection statistics have been reviewed (Annex E) which evidence compliance with the Regulations.

3. To what extent have the policy objectives been achieved?

Feedback from the questionnaire and workshop indicate that the involved stakeholders are predominantly content with the transposition of the MLC in the implementing Regulations. The Maritime and Coastguard Agency is part of a standing Tripartite Working Group (TWG) on the MLC. Therefore, the main stakeholders have had an ongoing forum for discussions about the effects of the legislation and where there were concerns in the past, these have already been addressed in amendments to guidance and Regulations; the main changes having been made via The Merchant Shipping (Maritime Labour Convention and Work in Fishing Convention (Amendment) Regulations 2020, SI 2020 No. 1166.

Sign-off for Post Implementation Review: Director, UK Maritime Services, Maritime and Coastguard Agency.

I have read the PIR and I am satisfied that it represents a fair and proportionate assessment of the impact of the measure.

Signed: ***Katy Ware***

Date: 20/02/2022

Further information sheet

4. What were the original assumptions?

The original assessments made several assumptions – the two key assumptions were that costs to UK registered ships represented costs to the UK and that costs of complying with the MLC were entirely attributed to these Regulations, costs for each aspect of the instruments can be found in Annex B (i). As the MLC came into force internationally, ships globally would be required to enter ports of ratifying countries – including the UK. It could not be assumed that all UK flagged vessels are UK businesses. However, other ships which are not UK flagged but are UK business would be affected (although we cannot quantify the number of ships of the costs), so UK flagged ships is used as a proxy for the costs to UK businesses for the purpose of the IAs. The assessments noted that the extent to which these were true was uncertain.

Costs for implementation of the MLC were originally estimated at £8.7m per year on average. The largest part of this was the Crew Accommodation part of Minimum Requirements for Seafarers due to the requirements for new-build ships to have more accommodation space. There were several unquantifiable costs across the Regulations, but these were expected to be small and in many cases, it was thought that many ships would already be compliant as the Regulations reflected current best practice.

5. Were there any unintended consequences?

An unintended consequence of UK implementing legislation related to sick pay was identified by stakeholders in 2017. The MLC states that, if a seafarer is incapacitated through sickness or injury, the shipowner is liable for payment of wages “in whole or in part” during their incapacity, or for 16 weeks (whichever is the shorter period). In order to provide certainty, following consultation regulation 50 of the Merchant Shipping (Maritime Labour Convention) (Minimum Requirements for Seafarers etc.) Regulations 2014 (the “Minimum Requirements Regulations”) specified that basic wages should be paid. After the Regulations came into force, some companies pointed out that they had collective bargaining agreements with their unionised workforce which allowed reduced pay for sick leave. The legislation was amended by the Merchant Shipping (Maritime Labour Convention) (Miscellaneous Amendments) Regulations 2018 to allow for this.

Another unintended consequence related to the provision of food and catering on board. The MLC states “food and drinking water supplies, having regard to the number of seafarers on board, their religious requirements and cultural practices as they pertain to food, and the duration and nature of the voyage, shall be suitable in respect of quantity, nutritional value, quality and variety;”. This raised questions regarding the UK domestic passenger vessel fleet as the duration and nature of the voyages provide working hours similar to a non-seafaring position. It was agreed that as the voyages are short and seafarers work is similar to a non-seafaring position then these vessels did not need to provide food for their crew. It was agreed that Regulation 34 of the Minimum Requirements Regulations covers this scenario in the “taking account of (i) the number of seafarers on board and the character, nature and duration of the voyage”.

6. Has the evidence identified any opportunities for reducing the burden on business?

Costs to businesses to comply with the Regulations were unable to be quantified due to lack of data. Feedback from industry before implementation was that the minor costs required to comply with MLC would be insignificant in comparison to the cost of additional inspections and delays UK ships could face when calling at ports in ratifying countries if the UK itself did not ratify the Convention. No opportunities were identified for reducing the burden on business. Most costs were transitional costs and compliance with the MLC has become “business as usual” for international shipping.

7. How does the UK approach compare with the implementation of similar measures internationally, including how EU member states implemented EU requirements that are comparable or now form part of retained EU law, or how other countries have implemented international agreements?

No evidence was presented that the UK implementation created greater costs for business than other EU member states. The UK implemented the minimum standards of the MLC and carried over any pre-existing UK law that the MLC covered. The UK did not increase the standard of requirements compared to other ILO Member States. The UK was in contact with other Member States during the implementation through international meetings and the Paris MOU on Port State Control, which agreed a common approach to MLC inspections.

EVIDENCE BASE

Introduction

The UK Government ratified the MLC on 7 August 2013. The MLC sets international minimum standards for seafarers and was heralded as a bill of Rights for seafarers.

The MLC consolidated several existing ILO instruments many of which the UK had already ratified and implemented. The Maritime and Coastguard Agency (MCA) sought to implement the MLC fully to the satisfaction of the ILO, in consultation with representatives of UK shipowners and seafarers, including the UK Chamber of Shipping, and the maritime unions Nautilus International and the National Union of Rail, Maritime and Transport Workers (referred to collectively hereafter as “industry stakeholders”). In line with Government policy of the day, the approach to implementation was generally to do the minimum required to comply with the Convention, avoiding “gold plating” (adding additional burdens on UK shipowners which were not required to implement the Convention fully).

Some aspects of the MLC were new to the UK regulatory regime, such as the requirement for seafarer employment agreements (SEAs), whereas other aspects were already covered by existing legislation. The revised regulatory regime modernised and consolidated merchant shipping legislation relating to seafarer living and working conditions.

The Regulations implemented the mandatory requirements of the MLC in respect of compliance and enforcement including the requirement for a survey, certification and inspection regime for seafarers' living and working conditions. The Regulations require the Maritime and Coastguard Agency (MCA) to provide UK ships which are compliant with the standards of the MLC with a Maritime Labour Certificate (Regulation 6 of the Survey and Certification Regulations) which facilitates inspections in ports of other countries that have ratified the MLC; and to enforce MLC standards on non-UK registered ships calling at UK ports (enforced through the application provision of each implementing regulation). Regulation 13 of the Survey and Certification Regulations sets out the seafarer complaints procedure. As the UK's competent authority for the enforcement of the MLC, the MCA both surveys UK ships and inspects non-UK ships visiting UK ports for compliance with the applicable Regulations. The Regulations contain penalties for non-compliance and the MCA has the powers to prevent ships from sailing if there is serious or repeated non-compliance with the MLC (Regulation 17 of the Survey and Certification Regulations).

Scope and depth of this PIR

This PIR is considered to be of medium impact due to the importance of the Regulations for the maritime industry and seafarers. The MLC was a significant step forward in standardising and modernising living and working conditions on ships internationally. For the UK industry, which already met many of the standards to a great extent, the changes were less significant than for ships working under some other flags, but UK industry stakeholders were clear that international adoption of the MLC would benefit them, as it raised the bar for minimum standards in the industry, and so reduced the regulatory deficit between highly regulated and less regulated flags.

Nine impact assessments, each covering a single aspect of the MLC (e.g. minimum age, seafarer employment agreements, crew accommodation, health and safety), were prepared prior to implementation. The impact assessments, completed during implementation of the legislation, showed costs were not expected to be significant or were relatively low. Many of these costs were administrative (e.g., new documentation) which in the context of operating a commercial ship were a very small proportion of overall expenditure.

The UK industry stakeholders wrote to the then Minister for Business and Enterprise in August 2012, when it became clear that the MLC was about to reach the threshold number of ratifications to bring it into force

internationally, to urge rapid ratification. Their letter states that the costs of implementation were manageable and that the impact on UK ships operating internationally of failing to ratify the MLC would be far greater than any costs of implementation. If the UK did not ratify then once the MLC reached the threshold number to bring into force internationally there would have been risks to UK vessels being subject to additional inspections in ports where the MLC had been ratified.

There was therefore no significant opposition to the proposed implementation of the legislation from the international merchant fleet. Those operating small vessels (e.g., commercial yachts) were concerned about the impact of the standards, but the MCA worked with them to establish pragmatic standards through the use of substantial equivalence. Substantial equivalence allows ratifying member states to implement the rights and principles of the Convention in a manner different from that set out in mandatory Standards if it satisfies itself that the relevant legislation or other implementing measure is conducive to the full achievement of the general objective and purpose of the provisions of those Standards and gives effect to those provisions. The ILO is the only tripartite UN agency of governments, employers and workers making it a unique forum for governments and social partners to openly discuss and develop international policy. The MLC was developed in a tripartite setting by representatives of governments, seafarers and shipowners. Representatives of UK social partners including the seafarers' unions (Nautilus International and the RMT) and the UK Chamber of Shipping took part in the meetings that led to the development of the MLC and those social partners were clear that they wanted the government to implement the MLC for the benefit of seafarers and the industry.

The ILO has established a special tripartite Committee (STC) under Article XIII of the MLC the purpose of which is to keep the MLC under continuous review. As the Government has ratified the MLC, UK government representatives take part in the committee as do industry stakeholders. The committee meets biennially, and reviews of the Convention have led to three amendments to the MLC.

At a national level, in line with ILO requirements the MCA established a TWG in 2007 including union and industry stakeholders to work with the Government to develop the proposals for legislation to implement the MLC. Since implementation, this group continues to meet twice yearly to review implementing policy and to discuss any matters arising relating to the MLC including considering the allowance of substantial equivalence where there are provisions for flexibility within the MLC. The TWG allows for regular discussion about the effects of the legislation on stakeholders, with a view to improving implementation.

As both the international convention itself and the UK's implementation of the MLC is under continuous review by the TWG, this PIR takes a high level view.

1. What were the policy objectives

The primary purpose of the legislation is to bring existing UK legislation into line with the requirements of the MLC in fulfilment of the UK's international obligations as a ratifying country, and in so doing to:

- Secure decent working and living conditions for seafarers on UK registered ships globally, including requiring a fair and enforceable employment agreement for every seafarer.
- Promote a level playing field for international shipping by enforcing these standards on non-UK registered vessels that call at UK ports.
- At the time of implementation the UK was obliged to comply with the UK's European legislative obligations in relation to the provisions in the MLC covered by Directive 2009/13/EC, thus avoiding the risk of infraction proceedings being taken against the UK.
- In addition, there were specific objectives for each part of the legislation covering different aspects of the MLC. These are set out in the paper at Annex B

2. What evidence has informed the PIR?

The MCA has gathered evidence for review by holding a stakeholder workshop to which identified key stakeholders with a known interest in the MLC were invited. The list of stakeholders is provided at Annex A. MCA policy officials hosted the workshop. The stakeholders were provided with a base document

ahead of the meeting giving an outline of the regulatory requirements and the associated costs as predicted prior to implementation (Annex C). The workshop was a mixture of presentation and facilitated discussion. A summary of points raised is at Annex D.

For the Survey and Certification Regulations, a stakeholder engagement letter and questionnaire were sent to 12 key stakeholders. The letter explained the background to the Regulations and the questionnaire asked for comment on the effectiveness of the Survey and Certification Regulations, and if the key assumptions, costs and benefits were accurately estimated in the original Impact Assessment. Stakeholders were also asked to provide evidence of any unintended impacts. Copies of the questions and key responses can be found at [Annex D.]

Statistical Evidence

In addition, MCA statistics were collated relating to MLC survey and inspection. These have been evidenced in Annex E showing;

- Figure 1 - UK Ships – surveys and inspections 2014 – 2019
- Figure 2 - Total receipts (Employment Tribunals – Annual leave disputes)
- Figure 3 - UK Ships – MLC Flag state deficiencies 2014 - 2019
- Figure 4 - UK ships – Maritime Labour Certificates issued 2014 – 2019
- Figure 5 - UK ships – Flag State deficiencies by MLC Title
- Figure 6 - UK ships - Flag State annual breakdown of deficiencies by title
- Figure 7 - UK Fleet size 2014 - 2019
- Figure 8 - UK Fleet breakdown 2014 - 2019
- Figure 9 - PS deficiencies and inspections 2014 -2019

Unfortunately, accurate data is not available for the year 2014-15 due to a change in recording methods.

3. To what extent have the policy objectives been achieved?

Feedback from the questionnaire and workshop indicate that stakeholders are broadly content with the implementation of the MLC into UK law. Because we have a substantive TWG, the main stakeholders have had an ongoing forum for discussions about the effects of the legislation and, where there were concerns, they have already been addressed.

We have also analysed the MLCs data on ship deficiencies to show the number of deficiencies per ship against the total number of MCA led surveys. Some surveys have been delegated to class societies and we do not record the number of surveys specifically for MLC inspections so cannot provide a number of surveys completed by class societies, though the class led survey deficiencies are included in these numbers. The number of deficiencies found decreased from 545 in 2014 to 144 by quarter 2 of 2019.

We also have statistical evidence to suggest that the number of nonconformities with the MLC found during ship inspections is low indicating a high level of compliance with the MLC. It also shows a high level of H&S accident prevention being amongst the most common deficiency however there was a steady reduction across the 5-year period reducing from 82 in 2014 to 68 in 2018, the last full year recorded. [Annex E – Figure 6]

Statistics suggest that UK legislation has been an effective way of ensuring compliance with the MLC evidenced by the number of Maritime Labour Certificates [Annex E – Figure 4] issued within the first year of implementation. There is evidence to show a reduction in deficiencies across a five year period is in direct relation to the implementation of the MLC. [Annex E – Figure 6].

Non-compliance against number of inspections

It can be argued that MLC implementation has not impacted the size of the UK fleet, with the flag consistently growing until 2019. If the reduction in the UK fleet size was as a direct result of the UK's ratification of the MLC, it would be expected that these changes would be seen in the years directly following ratification.

Port State Controls

Annex E Figure 9 shows that the amount of Port State Control Inspections has stayed relatively stable and deficiencies have stayed consistent with the number of inspections, there is a drop in deficiencies identified in 2018. It is not clear what caused this. There is no argument to be made around the UK ratification of the MLC impacting the amount of Port State Control Inspections at all. The amount of deficiencies identified may be seen to increase due to the level of knowledge of UK surveyors of MLC codes increasing with familiarity.

Flag State deficiencies show a variance dependant on the title of the deficiency [Annex E – Figure 5] with deficiencies under Title 4 accounting for the majority of deficiencies, a total of 45% of all deficiencies between 2014 – 2019 are under Title 4 (Health protection, medical care, welfare and social security protection)

1% of all deficiencies arise due to the failure to meet minimum requirements to work on a ship, with these figures reducing from 2014 to 2019 accounting for only a single deficiency identified in 2019. This can be seen as evidence that the UK's participation in the MLC is reducing the amount of seafarers working on ships who do not meet the minimum requirements.

Overall there was a reduction in the number of Title 2 Deficiencies, however, reporting in 2014 – 2015 [Annex E- Figure 6] showed a rise; this can be attributed to the missing data for 2014 and the increased knowledge by surveyors as they become familiar with the requirements. The reduction highlights the UK's ratification of the MLC as having a positive effect on the employment conditions of seafarers.

4. What were the original assumptions?

The original assessments made several assumptions – the two key assumptions were that costs to UK registered ships represented costs to the UK and that costs of complying with the MLC were entirely attributed to these regulations. The assessments noted that the extent to which these assumptions were true was uncertain.

Firstly, UK registered ships are not necessarily UK owned and may not call at UK ports, therefore the costs incurred by them do not necessarily represent a cost to the UK.

Secondly, as MLC was widely adopted internationally, any UK ships visiting ports in ratifying countries would have to be compliant regardless of whether it was implemented in the UK; its effects would be virtually impossible to escape for ships wishing to trade internationally. Therefore, some of the costs would have been incurred even if the UK regulations were not implemented.

5. Were there any unintended consequences?

In 2017 through the TWG stakeholders identified an unintended consequence of UK implementing legislation related to sick pay. The MLC states that, if a seafarer is incapacitated through sickness or injury, the shipowner is liable for payment of wages "in whole or in part" during their incapacity, or for 16 weeks (whichever is the shorter period).

The original UK legislation implementing the MLC required payment of full basic wages for up to 16 weeks in order to provide certainty as to the extent of the shipowner's liability (a requirement to pay wages "in part" would be open to a wide range of interpretations). However, it became apparent that several companies had collective bargaining agreements (CBAs) in place before the UK legislation was made which provided sufficient certainty by specifying the level of part wages payable during periods of incapacity.

In addition, the implementing Regulations required payment of wages for up to 16 weeks of incapacity even when the seafarer's existing contract with the company ends during this period. The ferry industry in particular, which employs a high proportion of seasonal staff on short term contracts, was concerned that this left them exposed to significant liabilities in respect of sick pay for such staff.

Both seafarers' organisations and shipowners' organisations were satisfied that the CBAs (agreed before UK legislation on the MLC was made) were MLC compliant. The implementing Regulations made such agreements unlawful. Following extensive consultation, it was agreed that provision should be made to allow such collective bargaining agreements to operate and to terminate the shipowner's liability for sick pay when the employment agreement ended. The Merchant Shipping (Maritime Labour Convention) (Miscellaneous Amendments) Regulations 2018 which implement these changes came into force on 6 April 2018.

6. Has the evidence identified any opportunities for reducing the burden on business?

As the legislation and its implementation is kept under review, opportunities for reducing burdens on business have already been identified and acted upon before this review including the amendments to the provisions on sick pay described in section 5 and facilitating MLC survey by making greater use of Recognised Organisations (ROs). An RO is an authorised organisation that can perform statutory requirements on behalf of a vessel's flag state. The UK authorises six classification societies to act as Recognised Organisations for the survey and inspection of UK ships.

No further opportunities have been identified during the PIR.

7. For EU Measures, how does the UK's implementation compare with that in EU member states in terms of costs to business?

As the UK generally did the minimum required to comply with the MLC, the UK legislation is not generally expected to impose any additional costs on industry compared to other EU Member States.

There are two specific areas where the UK has applied pre-existing UK legislation as the UK had implemented an amendment to the Working Time Regulations (The Working Time (Amendment) Regulations 2007) which ensured all workers in the UK had 8 days of additional paid leave. We adopted this for seafarers too.

Annual leave:

At the same time as implementing the MLC requirement that seafarers should have 2.5 days of paid annual leave per month of employment, the UK also required that they should have 8 days per annum (pro rata for periods of less than one year) of additional leave, in line with other workers ashore in the UK. These 8 days cover the non-mandatory guideline B.2.4.1 paragraph 4 of the MLC in that public and customary holidays recognised as such in the flag State should not be counted as part of annual leave with pay.

Seafarers' entitlement to annual leave is enforced in Great Britain by appeal to an employment tribunal (industrial tribunal in Northern Ireland). Tribunal statistics do not allow the number of tribunal claims relating to seafarers' annual leave to be identified. However, estimates were made in the impact assessment accompanying the Merchant Shipping (Maritime Labour Convention) (Hours of Work) (Amendment) Regulations 2014 based on the proportion of cases brought by the UK working population as a whole

which related to annual leave entitlements and applying that proportion to the estimated population of seafarers on UK ships. Reductions were then made to take account of the impact of policy changes being implemented at the same time designed to reduce the number employment tribunal claims. The best estimate for the number of cases on that basis was 76 cases per year. It was recognised however that this was likely to be an overestimate as there are other methods, including the seafarer complaints mechanism, to resolve disputes over entitlements under the MLC.

Although annual leave is a common topic for questions from seafarers and payment for annual leave has featured in seafarer complaints to the MCA, the MCA is only aware of one employment tribunal case brought by seafarers relating to annual leave entitlements since 2014 when the legislation was made.

Predicted costs from impact assessments prior to implementation

Initially, it was intended that each MLC Regulation be implemented by a separate statutory instrument, each accompanied by its own Impact Assessment (IA). As a result, there were nine IAs created, and this structure was maintained when the Regulations were consolidated into only four statutory instruments.

The predicted costs overall are detailed in the table below.

	Average annual costs (£m)
Consequential and Minor Amendments	0
Health and Safety	0.22
Survey and Certification	0.93
Hours of Work	0.6
Minimum Requirements for Seafarers etc.	
Part 1: Minimum Age	NQ
Part 2: Seafarer Employment Agreements	NQ
Part 3: Seafarer's wages	NQ
Part 4: Repatriation	NQ
Part 5: Recruitment & Placement	0.7
Part 6: Food and Catering	0
Part 7: Crew Accommodation	6.2
Part 8: Medical Care	NQ
Part 9: Shipowner liability	NQ

The benefits of the MLC were estimated at £0.25m per year on average. The main overarching benefit of these Regulations was implementing the MLC, and this was not quantified, but includes: promoting decent living and working conditions for seafarers globally, enabling UK registered ships to benefit from the system of MLC certification, and promoting a more level competitive playing field for shipping globally. The original assessments were unable to quantify these benefits due to uncertainty and limitations of the available evidence base.

The full details of the cost and benefit assumptions are detailed in a series of IAs all of which are available on gov.uk in post consultation form here <https://www.gov.uk/government/collections/implementing-the-maritime-labour-convention-2006>. A short overview of each IA (except the survey and certification) including the link to each IA on gov.uk was included in the document produced for the PIR workshop in January 2019 which is included in this document as Annex B(i). A summary of costs is at Annex B(ii)

Actual costs

No quantitative evidence relating to costs were received during the PIR. Stakeholders indicated that the costs had been much as anticipated at impact assessment stage

8. Assessment of risks or uncertainties in evidence base / Other issues to note

Other than the concerns about sick pay, described in section under “unintended consequences”, the TWG has not raised issues of unexpected costs since implementation of the legislation. However, the TWG meet at least bi-annually and any other concerns on the implementation would have been raised. Therefore, we are confident that industry has been engaged and involved throughout the implementation period which leads us to assume that stakeholders are generally content that implementation was achieved as stated in the impact assessments.

9. Lessons for future Impact Assessments

The impact assessments were by necessity based on estimates due to a lack of qualitative evidence. However, the lack of comments on these at consultation supports that they were thorough and appropriate. The small list of actions from the workshop summary at Annex D provides evidence for areas to be further investigated by the TWG and will be used to inform any relevant future impact assessments

10. What next steps are proposed for the regulation (e.g., remain/renewal, amendment, removal or replacement)?

The post implementation review indicates that the Regulations have achieved the desired effect of implementing the MLC and are considered efficient and effective legislation by all major stakeholders and should remain in place, maintaining UK compliance with the international legislation.

Amendments to this legislation were made in 2018 and 2019 to take account of an unforeseen consequence relating to sick pay and to update the legislation in line with the requirements of the 2014 and 2016 amendments to the MLC. Further amendments were made in 2020 to bring the legislation in line with the requirements the 2018 amendments to the MLC. The MLC itself is under constant review at international level through the ILO Special Tripartite Committee and the MCA will endeavour to ensure that domestic legislation keeps pace with the international requirements of the MLC.

ANNEX A

Maritime Labour Convention UK Legislation: PIR Workshop 29 January 2019

List of delegates

Bibby Hydromap
Cemex
Chamber of shipping (CoS)
Clyde Marine
Department for Transport (DfT)
DFDS
DNV-GL - Maritime
Gardline Geosurvey
Global Marine
IGP&I
Lloyds Register
Maritime and Coastguard Agency (MCA)
Merchant Navy Welfare Board
Mission to Seafarers
National Workboat Association (NWA)
Nautilus International
North P&I Club
Northern Marine
Outset Legal
Pinsent Masons
RMT
RYA
SERCO & BTA
Serco Northlink
Stena
Svitzer Towage

**MARITIME LABOUR CONVENTION.
UK LEGISLATION POST IMPLEMENTATION REVIEW**

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Page 6. Part 4 Seafarer Employment Agreements

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Page 16. Questions to consider.

SCOPE OF THE APPLICATION OF THE MLC - UK INTERPRETATION.

The UK implemented the MLC through:

- The Merchant Shipping (Maritime Labour Convention) (Survey and Certification) Regulations 2013 <http://www.legislation.gov.uk/uksi/2013/1785/contents>
- The Merchant Shipping (Maritime Labour Convention) (Minimum Requirements for Seafarers etc.) Regulations 2014 <http://www.legislation.gov.uk/uksi/2014/1613/contents/made>
- The Merchant Shipping (Maritime Labour Convention) (Consequential and Minor Amendments) Regulations 2014 <http://www.legislation.gov.uk/uksi/2014/1614/contents/made>
- Merchant Shipping (Maritime Labour Convention) (Hours of Work) (Amendment) Regulations 2014 <http://www.legislation.gov.uk/uksi/2014/308/contents>
- The Merchant Shipping (Maritime Labour Convention) (Health and Safety) (Amendment) Regulations 2014 <http://www.legislation.gov.uk/uksi/2014/1616/contents/made>

The legislation implementing the MLC applies to all UK ships

- a. Within the meaning of section 85(2) of the Merchant Shipping Act 1995(MSA)
- b. Government ships within the meaning of section 308(4) of the MSA which are ordinarily engaged in commercial maritime operations, or
- c. Hovercrafts registered under the Hovercraft Act of 1968

The UK legislation implementing the standards of the MLC applies to vessels operating from a UK port on domestic voyages no more than 60 miles from a safe haven in the UK. The survey and inspection provisions of the MLC are not applied to these vessels. (There were regulations protecting seafarers on such vessels covering most of the areas of the MLC already in place in UK legislation prior to the MLC).

MODUs are generally considered to be ships for the purposes of the UK legislation implementing the MLC. The MCA recognises HSE Offshore standards and the application of the UK employment law as equivalent to MLC standards. MODUs without their own means of propulsion were not subject to inspection or survey by the MCA for the first two years after implementation. More information relating to MODUs is in MGN 471.

The legislation implementing the MLC does not apply to;

- i. Pleasure vessels
- ii. Fishing vessels
- iii. Ships of traditional build
- iv. Warships or naval auxiliaries; and
- v. Vessels not ordinarily engaged in commercial activities.

Merchant Shipping (Maritime Labour Convention) (Minimum Requirements for Seafarers etc.) Regulations 2014.

Introduction

<http://www.legislation.gov.uk/uksi/2014/1613/made>

The statutory instrument implemented, the following MLC Regulations and related mandatory Standards (as well as the EU requirements):

Regulation 1.1 (Minimum age)

Regulation 1.4 (Shipowners' duty with regard to recruitment and placement)

Regulation 2.1 (Seafarers' employment agreements)

Regulation 2.2 (Wages)

Regulation 2.5 (Repatriation)

Regulation 3.1 (Accommodation and recreational facilities)

Regulation 3.2 (Food and catering)

Regulations 4.1 (Medical care on board ship and ashore)

Regulations 2.6 and 4.2 (Shipowners' liability)

It reflects the principle underlying the MLC that the shipowner has a duty to provide decent living and working conditions of all seafarers on board, whereas previous UK legislation placed certain duties on individual employers.

Many of the requirements of the MLC were already in place in existing UK legislation, but in a number of cases the application of that legislation did not correspond fully to that required by the Convention – for example certain duties only applied in respect of employed seafarers, whereas the MLC applies in respect of all seafarers regardless of their employment status. Some of the MLC requirements were more detailed than the existing requirements – for example, in relation to a seafarer's rights to repatriation.

The MCA established a national tripartite working group, in 2007. The group continues to meet twice a year to discuss matters relating to the MLC. Public consultation was carried out between March 2012 and July 2013.

An impact assessment was produced for each section of the Regulations. These are published on www.legislation.gov.uk, but key points for the purposes of the Post Implementation Review are summarized below. The workshop will consider:

- Does the legislation fulfil the stated purpose?
Has the assessment of costs been borne out by experience?
Are there costs and/or benefits which were not identified?

PART 2 MINIMUM AGE

Impact assessment (IA) No: DfT00210

http://www.legislation.gov.uk/ukia/2014/218/pdfs/ukia_20140218_en.pdf

Purpose

To bring existing UK legislation into line with the requirements of the MLC related to minimum age (Regulation 1.1 and Standard A1.1) in order to implement the requirements of the MLC for young persons that no person under the age of 16 should work at sea and that young persons under the age of 18 working at sea should be protected.

Costs

Not quantified due to lack of data. It was assumed that costs would be minimal.

Existing UK legislation. (Section 55 (1A) of the Merchant shipping Act 1995) prohibited under 16 year olds from working onboard seagoing ships. Therefore, the potential affects were limited to changes in working conditions for the protection of 16-18 year olds in the industry by preventing them from carrying out certain types of work which might jeopardize their health and safety. Evidence available suggested that 16-18 year olds would not be more than 1% of the workplace.

PART 3 RECRUITMENT AND PLACEMENT (SHIPOWNERS DUTIES ONLY.)

IA DfT 00194

http://www.legislation.gov.uk/ukia/2014/222/pdfs/ukia_20140222_en.pdf

Purpose

To bring the UK into line with the requirements of regulation 1.4.3 of the MLC.

Costs:

Not quantified due to lack of evidence.

Possible costs for shipowners were considered to be:

1. Where recruitment has been conducted using a recruitment and placement service (RPS) from a MLC ratifying country, or one which held a third party audit certificate from a qualified and reliable third party: Negligible costs such as a few extra lines in the Declaration of Maritime Labour Compliance (DMLC) Part 2 outlining their approach to ensuring they had used compliant RPSs.
2. Where recruiting from a RPS in a non-ratifying country that does not hold a third party audit certificate from a qualified and reliable third party: Costs relating to additional action to evidence that they have recruited seafarers in a compliant manner, such as conducting their own audit to establish the RPS's compliance or using a qualified and reliable third party to do so.

There was no evidence available on whether recruitment and placement services would pass on the costs associated with meeting the MLC requirements to shipowners (such as the costs to recruitment and placement services from the requirement to provide a system of protection for seafarers

PART 4 SEAFARER EMPLOYMENT AGREEMENTS

IA DFT00173

http://www.legislation.gov.uk/ukia/2014/219/pdfs/ukia_20140219_en.pdf

Purpose

- a) To bring UK legislation into line with the MLC standards for seafarer employment agreements (SEAs) and to give seafarers equivalent protection through their employment agreement as workers ashore;
- b) fully complying with MLC standards under UK international obligations as a ratifying country, and
- c) enforcing these standards on non-UK ships calling at UK ports.

Costs

Costs were not quantifiable due to lack of evidence.

There would be some transitional costs in producing SEAs where they were not in place but that the ongoing costs could be less than those associated with the administrations of crew agreements. Information from industry suggested that most seafarers already had contracts of employments broadly in line with the requirements of the MLC.

It was noted that as the MCA would no longer send out blank crew agreement documents, printing costs would transfer to shipowners.

Benefits were considered to be that

- 1) Seafarers would have SEAs setting out their terms and conditions of employment and a single point of contact for concerns.
- 2) Where appropriate, shipowners would no longer have to administer both crew agreements and contracts of employment.
- 3) The MCA would no longer have to approve "non-standard" crew agreements.
- 4) Ratification of the MLC requires the implementation of all the constituent Regulations (including these Regulations), and provides additional benefits.

PART 5 WAGES

IA DfT00174

http://www.legislation.gov.uk/ukia/2014/220/pdfs/ukia_20140220_en.pdf

Purpose

These provisions were intended to ensure

- a) that seafarers are paid regularly, at no more than monthly intervals, in accordance with their employment agreements;
- b) that provisions in place to enable seafarers to transmit an unlimited part of their earnings to their families;
- c) changes to the Merchant Shipping Act 1995 and the Merchant Shipping (Seamen's Wages and Accounts) Regulations 1972 to remove the current limit on deductions that can be made from a seafarer's wages towards costs incurred by the shipowner as a result of a seafarer's breach of his obligations under his employment agreement. The change only applies in respect of costs incurred by a shipowner in repatriating a seafarer who has been dismissed for misconduct.

Costs

Costs were not quantifiable due to lack of evidence.

PART 6 REPATRIATION

IA DfT 00071

http://www.legislation.gov.uk/ukia/2014/221/pdfs/ukia_20140221_en.pdf

Purpose

To ensure that seafarers on ships are able to return home (or to the place where they were engaged) at the end of their contract of employment or after a period at sea.

There were five areas where the existing UK regulations were not in full conformity with the standards introduced by the MLC:

- a. Specification of the exact circumstances in which seafarers are entitled to repatriation
- b. specification by the ratifying state of the locations to which a seafarer is entitled to be repatriated
- c. MLC provides that a seafarer may be requested to reimburse his repatriation costs where his employment under a Seafarer Employment Agreement is terminated because of his/her misconduct.
- d. Requirement for shipowners to provide financial security to ensure seafarers are duly repatriated
- e. Where the shipowner fails to repatriate seafarers on their ships in accordance with the MLC, duties on the flag state and port state to make arrangements for the seafarers to be repatriated, and for the costs to be recovered from the shipowner via the Flag State. there was no provision for the UK as a port state to make arrangements to repatriate seafarers from non-UK ships in the previous regulations.

Costs

Costs were not quantified due to lack of evidence.

The regulations were amended in 2018 by The Merchant Shipping (Maritime Labour Convention) (Compulsory Financial Security) (Amendment) Regulations 2018 implementing the 2014 amendments to the MLC.

<http://www.legislation.gov.uk/uksi/2018/667/made>

These regulations included a mandatory requirement to have financial security insurance to cover shipowner's liability for the costs associated with abandonment of seafarers including wages and repatriation. The regulations were considered to be a low cost measure on the understanding that insurance cover for the new requirements could be included in the existing mutual P&I insurance used by the majority of the shipping industry and as the incidence of abandonment of UK ships was low the use by shipowners of a mutual based insurance where the risk is pooled would keep the costs down.

PART 7 CREW ACCOMMODATION

IA DFT00030

http://www.legislation.gov.uk/ukia/2014/224/pdfs/ukia_20140224_en.pdf

Purpose

Full compliance with the MLC standards and enabling the UK to enforce these standards for crew accommodation on non-UK registered ships that call at UK ports.

Costs

The costs to owners and operators of new UK registered ships of complying with the MLC requirements by allowing more space for crew accommodation were estimated at around £2.2 to £12.2 million per year on average, with a best estimate of around £6.2 million per year on average. These illustrative estimates were shown in the summary sheet of the impact assessment. The extent that these costs should be attributed to the proposed Regulations was considered uncertain. The impact assessment contains details of the areas associated with costs.

The impact assessment noted that there could be additional costs associated with designing new ship layouts and sizes. For the owners and operators of new UK registered ships, there could also be additional operating costs in terms of heating, lighting, air conditioning, etc. of larger crew spaces, additional tonnage

tax resulting from increased vessel size, and familiarisation costs. There could be some costs to the owners and operators of existing UK registered ships and non-UK registered ships.

PART 8 FOOD AND CATERING

IA DFT 00027

http://www.legislation.gov.uk/ukia/2014/223/pdfs/ukia_20140223_en.pdf

Purpose

To bring existing UK legislation into line with the requirements of the MLC related to food and catering

Particular requirements to be implemented were;

- training of catering staff preparing food for the crew in basic food handling, preparation and food storage.
- Food for the crew to be varied, nutritious and with consideration to their cultural and religious needs.
- Requirement that seafarers employed as ships' cooks with responsibility for food preparation must be trained and qualified to MLC standards for their position on board ship.

Costs

Insufficient evidence to quantify with certainty but estimated that it could vary between a cost of £58,000 per year and a benefit of £58,000 per year. These costs were mostly associated with the training of new and existing ships cooks to meet the MLC standards, training of catering staff.

It was noted that there could be additional costs relating to increasing the number of vessels requiring a ship's cook although an exemption was made for vessels carrying less than 10 crew on non international voyages less than 60 miles from a safe haven.

PART 9 MEDICAL CARE

IA DFT 00029

http://www.legislation.gov.uk/ukia/2014/225/pdfs/ukia_20140225_en.pdf

Purpose:

To secure health protection and medical care for seafarers on board UK ships, which will in turn ensure that seafarers are fit to perform their duties, so furthering the safety of UK ships.

In particular:

- (a) Seafarers on UK ships were entitled to urgent medical or dental treatment at the expense of the shipowner when the ship is outside the UK. The proposals extended that right to when seafarers need immediate medical care, to treatment within the UK;
- (b) Seafarers to have a statutory right to seek medical attention ashore when needed wherever practicable;
- (c) Seafarers on UK ships would have their necessary medical expenses arising during or from their period of employment covered until such time as they recover from the illness or injury, or are repatriated or their condition is declared "of a permanent character" (i.e. when other sources of financial support are likely to become available to them, including the compensation and social security provisions where applicable

Costs

Costs were not quantified due to lack of hard evidence of how these changes would financially affect shipping companies.

At the time NHS treatment was available without charge in the UK to UK nationals and to any seafarer working on a UK-flagged ship. So no additional costs were expected to be incurred as a result of this change. No data was available on the number of instances where care is withheld from seafarers.

[Since 2017 the NHS has introduced charges for some medical treatments for overseas visitors including seafarers]

PART 10 SHIP OWNERS LIABILITY

IA DFT00028

http://www.legislation.gov.uk/ukia/2014/226/pdfs/ukia_20140226_en.pdf

Purpose

To bring UK legislation into line with the purposes of the MLC relating to shipowner liability for seafarers. This includes requiring the shipowner to compensate the seafarer for injury, loss or unemployment arising from the ship's loss or foundering of their ship, and imposing liability on the shipowner to provide financial security to assure compensation in the event of the death or long term disability of the seafarer due to an occupational injury, illness or hazard.

Costs

Insufficient evidence to quantify costs.

Potential costs considered included increased costs to shipowners including higher insurance premiums and paying wages to incapacitated seafarers (for up to 16 weeks).

The impacts of the changes to insurance coverage were thought likely to be minimal because the majority of commercial shipping uses Protection and Indemnity (P&I) insurance from the P&I clubs. Stakeholders in this sector indicated an intention to make any necessary adjustments to cover to include mandatory MLC financial security in their existing schemes, and many have already done so. Compensation for death and long term disability was included in the cover and an extension was needed to include the shipowner's insolvency.

Information received from industry indicated that most UK shipowners were already paying wages to an incapacitated seafarer for 13 weeks or more.

The regulations were amended in 2018 by

- The Merchant Shipping (Maritime Labour Convention) (Miscellaneous Amendments) Regulations 2018, reg 5, which amended the provision on liability for wages during periods of incapacity (sick pay)

<http://www.legislation.gov.uk/uksi/2018/242/contents/made>

This amendment limited the shipowner's liability for wages during periods of incapacity to the period of the current SEA. It is prohibited to terminate a SEA solely or mainly in order to avoid payment of wages during a period of incapacity.

It also provided for wages during incapacity to be set at a proportion of full basic pay in a collective bargaining agreement.

- The Merchant Shipping (Maritime Labour Convention) (Compulsory Financial Security) (Amendment) Regulations 2018 which implemented the 2014 amendments to the MLC.

<http://www.legislation.gov.uk/uksi/2018/667/made>

These regulations included a mandatory requirement to have financial security insurance to cover shipowner's liability for compensation due to sickness injury and death. The regulations were considered

to be a low cost measure on the understanding that the new requirements could be included in the existing mutual P&I insurance used by the majority of the shipping industry.

The Merchant Shipping (Maritime Labour Convention) (Health and Safety) (Amendment) Regulations 2014

IA DFT000239

Purpose

The purpose of the proposed Regulations is to bring existing UK legislation into line with the requirements of the MLC related to health and safety ensuring consistent standards of health and safety on board ships regardless of the employment status of the seafarers. In particular

- a) extend UK health and safety legislation for seafarers to the self-employed;
- (b) introduce a duty on the shipowner to report any occupational diseases contracted by a seafarer on a ship and notified by a medical practitioner;
- (c) amend the existing criteria for the requirement to establish a safety committee on a UK ship, to bring them fully into line with the MLC. The current UK regulations require a safety committee where there are more than 5 employed workers and a safety representative has been elected. The MLC requires a safety committee to be set up if there are 5 or more seafarers, whether or not a safety representative has been elected; and
- (d) introduce a requirement for the shipowner to refer to health and safety statistics when conducting a health and safety risk assessment.

The regulations were considered likely to have a very minor impact on UK ships. Consideration was given as to whether the costs might fall disproportionately on sectors of the industry with a high number of self employed seafarers such as small commercial vessels. No concerns were expressed about this at consultation stage.

Costs

Business Net Present Value -£1.9m. Net cost to business per year £0.2M

Key monetised costs to shipowners were estimated at: costs from extension of the health and safety duties to the self-employed (£11,000 to £57,000 in the first year, £11,000 to £29,000 per year in subsequent years); costs associated with reporting of occupational diseases (£3,000 in the first year, negligible in subsequent years); costs of operating safety committees on their ships (£56,000 to £203,000 per year); and costs of referring to published accident statistics (£69,000 per year).

Benefits

- Perceived benefits included:
- Consistent standards of health and safety on board ships
- Improvement of health and safety standards for UK seafarers working on non UK ships across as more countries adopted the MLC
- Reporting of occupational diseases is intended to provide data to the competent authority to identify health problems arising from work on ships. This could potentially allow MCA to target guidance and consider possible amendments to regulation to address health risks.

Amending the criteria for safety committees to close a loophole in the existing regulations which allows companies to decide not to constitute a safety committee where the crew does not elect a safety representative.

MERCHANT THE SHIPPING (MARITIME LABOUR CONVENTION) (HOURS OF WORK) (AMENDMENT) REGULATIONS 2014

IA DFT00227

<http://www.legislation.gov.uk/uksi/2014/308/contents/made>

Purpose

To amend the Merchant Shipping (Hours of Work) Regulations 2002 (SI 2002/2125) (“the 2002 Regulations”) to bring its provisions regarding seafarers’ working time and enforcement into line with those of the MLC. The legislation increased the minimum entitlement to annual leave and introduced a new entitlement to shore leave. The instrument also provided access to an employment tribunal (in Northern Ireland an industrial tribunal) to enforce paid leave entitlements.

Annual leave entitlements were for 30 days paid annual leave (accrued as 2.5 days leave per month) and 8 days additional leave in respect of public holidays.

Costs

The monetised costs as a result of providing seafarers with the right to take a case to an employment tribunal on annual or additional paid leave were estimated to be around £532,000 to £667,000 per year, with a best estimate of around £595,000 per year. This was hard to quantify because there was some evidence that sections of the industry were already compliant with the proposals for annual leave,

Questions to consider.

1. Direct costs

- a. What were the costs to your business associated with the familiarisation of the new regulations?
- b. Could these costs have been minimised by implementing the Regulations in a different way? If, yes please state how the costs could have been minimised.
- c. Have there been any increases in costs or savings passed on to other businesses as a result of these regulations?
- d. Have there been any unexpected costs as a result of these regulations? If so, please explain.

2. Has the MLC resulted in an increase in seafarer complaints and more costs to the shipowner in terms of administering the on board complaints system?

3. Have you noticed any benefits in respect of a global level playing field on living and working conditions for seafarers?

If yes, please outline any benefits noticed.

4. If you have ships flagged with other EU member states, are there any differences between the way the MLC has been implemented in the UK and implementation in other European countries?

If so, what is the impact of these differences?

5. If your business is a micro business, i.e. one with between 1 and 9 staff, have there been any particular impacts on your business?

6. Have there been any unintended effects of the Regulations? If so, what have these been?

7. Are there ways that the Regulations could be improved or that the implementation of the regulation could have been done better?

8. Can the Regulations and associated guidance notices be improved upon?

ANNEX B (ii)

Summary of impact assessments for implementation of each regulation of the MLC

Title	Monetised Costs	Non monetised costs	Benefits	Notes
MINIMUM AGE		Not quantified due to lack of data thought to be minimal.	Added protection for 16-18 year olds working at sea.	Minimum age in UK legislation for working at sea was already 16. Estimated that 16-18 year olds made up less than 1% of the workforce
RECRUITMENT AND PLACEMENT (SHIPOWNERS DUTIES ONLY.)	estimated net costs to business £0.6m per year relating to systems of protection.			No hard data was available
SEAFARER EMPLOYMENT AGREEMENTS	Not quantified due to lack of data	some start up costs to business	Significant benefits to seafarers in having comprehensive individual employment agreements stating their terms and conditions. Small reduction in administration tasks for shipowners	
WAGES	Not quantified due to lack of data		Guaranteed regular payment of wages for seafarers and a provision to enable seafarers to transmit a portion of their wages to their families	
REPATRIATION	Not quantified due to lack of data		Greater clarity surrounding the circumstances in which seafarers are entitled to repatriation and who should pay.	The implementing regulations were amended in 2018 by The Merchant Shipping (Maritime Labour Convention) (Compulsory Financial Security) (Amendment) Regulations 2018 implementing the 2014 amendments to the MLC introducing a mandatory requirement to have financial security insurance to cover shipowner's liability for the costs associated with abandonment of seafarers
CREW ACCOMMODATION	Costs of compliance to owners and operators estimated at £6.2M per year	Some additional costs associated with new ship layouts and sizes and operating costs relating to heating, lighting, air conditioning	Better standards of crew accommodation for seafarers	

		etc. of larger crew space		
FOOD AND CATERING	Estimated Cost up to £58,000 per year associated with the training of new and existing ships cooks to meet the MLC standards, training of catering staff.	Additional costs relating to increasing the number of vessels requiring a ship's cook	Estimate Benefit up to £58,000 per year. associated with the training of new and existing ships cooks to meet the MLC standards, training of catering staff.	
MEDICAL CARE				At the time NHS treatment was available without charge in the UK to UK nationals and to any seafarer working on a UK-flagged ship and no additional costs were expected to be incurred. Since 2017 the NHS has introduced charges for some medical treatments for overseas visitors including seafarers
SHIPOWNERS LIABILITY		Potential costs considered included increased costs to shipowners requiring higher insurance premiums and paying wages to incapacitated seafarers for up to 16 weeks)		The impacts of the changes to insurance coverage were thought likely to be minimal because the majority of commercial shipping uses Protection and Indemnity (P&I) insurance from the P&I clubs.
HEALTH AND SAFETY REGULATIONS	Net cost to business per year £0.2M comprising of the extension of the health and safety duties to the self-employed, costs associated with reporting of occupational diseases, costs of operating safety committees on their ships and costs of referring to published accident statistics		Consistent standards of health and safety on board ships Improvement of health and safety standards for UK seafarers working on non-UK ships across as more countries adopted the MLC Reporting of occupational diseases provides data to the competent authority to identify health problems arising from work on ships.	
SURVEY AND INSPECTION REGULATIONS	Average annual costs best estimate £0.23m		Demonstration of compliance with the MLC through ship documentation gives shipowners of UK registered ships an improved competitive position at ports of	It was assumed that where possible MLC inspections would be combined with ISM surveys to reduce costs.

			other MLC ratifying states Government can enforce the standards of the MLC in Port State inspections of non-UK ships.	
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**MARITIME LABOUR CONVENTION, 2006 SURVEY AND CERTIFICATION:
POST IMPLEMENTATION REVIEW 2018 CONSULTATION QUESTIONS AND RESPONSES**

Question	Nautilus International	RMT	UK Chamber of Shipping
	<p>Nautilus International is of the view that the MLC Survey and Certification Regulations largely meet their objectives of title 5 of the MLC. These objectives remain appropriate, as the UK must continue to implement the ILO's MLC and the equivalent provisions in EU Law. The UK must continue to meet those international obligations to which it is subject, and the 2013 Regulations and associated M Notices largely meet those objectives</p> <p>Nautilus are not in a position to answer some of the questions in the questionnaire.</p>	<p>The National Union of Rail, Maritime & Transport Workers (RMT) organise over 4,500 seafarers in the UK passenger and freight ferry and offshore supply sectors. We welcome the opportunity to respond to the Maritime and Coastguard Agency's post implementation review of the UK government's regulations transposal of the MLC's Survey and Certification regulations into UK law in 2013.</p>	<p>The UK Chamber of Shipping is a Trade Association comprising of about 150 members</p>
<p>1.Direct costs:</p> <p>In 2013 we estimated that initial surveys would take the following time:</p>			
<p>Table 7: Central assumptions for "initial MLC Inspections" not conducted with ISM surveys</p>	<p>Cruise ships Other passenger ships Large Yachts Bulk Carriers Other Cargo ships</p>	<p>MLC initial inspection in hours</p> <p>20 12 8 10 8</p>	
<p>Were these estimates representative of the time taken in practice?</p> <p>1.b What were the costs to your business with the familiarisation of the new regulations?</p> <p>1.c Could these costs have been minimised by implementing the Regulations in a different way? If, yes please state how the costs could have been minimised.</p>	<p>The following comments are made:</p> <p>1(a) Time scales stated seem to be reasonable estimates</p>	<p><i>1.a Whilst we cannot provide an estimate of the time taken in practice for the initial MLC inspection, we would suggest that the ongoing re-organisation of the Marine Office network through the MCA's Survey and Inspection Transformation Programme (SITP) will result in MCA surveyors remotely working a lot more than was previously the case.</i></p> <p><i>In addition, the MCA's decision to outsource some MLC survey and certification work to Recognised</i></p>	<p>1a. So far as the Chamber is able to tell these figures are reasonably accurate.</p> <p>1b. For the Chamber, minimal. We published information for members about the MLC provisions and then more specifically about the UK regulations.</p> <p>1c. The chamber believes that these costs would have been necessary however</p>

<p>1.d. Have there been any increases in costs or savings passed on to other businesses as a result of the MLC Survey and Certification Regulations?</p> <p>1.e Have there been any unexpected costs as a result of these regulations? If so, please explain.</p>	<p>1(b) Several hours familiarisation work</p> <p>1(c) No, the regulations set out the minimum necessary standards and it is difficult to see how the degree of regulation could be reduced</p> <p>1(d-e) Not in a position to comment</p>	<p><i>Organisations could also influence the time it takes to inspect a merchant vessel (UK and non-UK registered) for MLC compliance.</i></p> <p><i>These reforms may affect the time taken for both initial and subsequent MLC inspections.</i></p> <p><i>1.b RMT members, officials and staff have been trained in the MLC and a handbook is being produced for our members. The training and the handbook obviously cover Title 5</i></p> <p><i>RMT members, officials and staff have been trained in the MLC and a handbook is being produced for our members. The training and the handbook obviously cover Title 5</i></p> <p><i>1.c No</i></p> <p><i>1.d We are not privy to this information which will be held by employers and their trade associations, the UK Chamber of Shipping and the International Chamber of Shipping. Both of these trade associations for the shipping industry are based in London.</i></p> <p><i>Potential savings may have occurred where the MCA's survey work was outsourced to Recognised Organisations, particularly in relation to vessels flagged under Red Ensign Group registers but such savings could have been offset by increases in the charges levied by Recognised Organisations for this work which tend to be higher than the survey charges levied by the MCA.</i></p> <p><i>1.e Unexpected costs are likely to have been incurred by the taxpayer, particularly from the operation of Regulation 20 (Detention of Non-UK Ships). For example, vessels such as the Cien</i></p>	<p>the regulations were implemented.</p> <p>1d. Individual companies may hold this information.</p> <p>1e. None of which the Chamber is aware.</p>
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		<p><i>Porciento¹ (first detained over eight years ago, pre-dating the MLC's introduction), Malaviya 7, Malaviya 20 and others have been subject to long term detention in UK ports following Port State Control inspections by the MCA finding persistent MLC and ISM infringements by employers who have subsequently declared themselves bankrupt.</i></p> <p><i>Although these cases highlight weaknesses in the MLC's seafarer welfare standards which go beyond the scope of this PIR, it is nonetheless important to take the cost to the taxpayer into account as part of this review process, alongside any costs or savings to business.</i></p> <p><i>The cost implications of the MCA surveying and certifying the UK and non-UK merchant fleet working from and between UK ports needs better and more accurate analysis from the UK Ship Register and the MCA. This would include analysis of the impact of outsourcing MLC survey and certification work to Recognised Organisations. In this regard, the retention of the UKSR within the MCA is important and offers the chance to carry out this work.</i></p> <p><i>We also note that the MCA's efforts to recruit more surveyors have been successful in covering the number of surveyors retiring or leaving but has not increased the overall number:</i></p>	
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¹ <https://www.gov.uk/government/news/foreign-flagged-ships-detained-in-the-uk-during-july-2018>

		<p>Financial Year</p> <p>2015-16 105</p> <p>2016-17 108</p> <p>2017-18 105</p> <p>Source: Written Answer 28/03/18 to Question 133547</p> <p><i>We acknowledge that 22 more surveyors have started with the MCA since March, but we do not know the net effect (i.e. how many surveyors have retired or left in 2018-19 to date). The MCA has been given license to break the public sector pay cap in order to recruit more surveyors, so the effectiveness of this recruitment campaign has implications for the taxpayer and other public sector workers, as well as for the effective enforcement of the MLC Survey and Certification regulations under discussion here.</i></p> <p><i>It should also be noted that the MCA's consultation on survey fees, conducted in autumn 2016, will report its findings in the near future. This is likely to recommend increases to the fees the MCA charge shipowners for carrying out survey work, including MLC compliance.</i></p>	
<p>2. MLC and ISM</p> <p>We said in the Impact Assessment that there was an overlap between the requirements of the ISM Code and those of the MLC. We estimated that "initial MLC Inspections" and "Intermediate MLC Inspections" would take 30% less time when they are combined with the ISM survey. This has been borne out by the inspections carried out to date.</p>			
<p>2.a. In your experience, did this estimate prove accurate?</p>	<p>Q2. Although I have no statistical information it would seem likely that the alignment of the MLC and ISM inspections will save on time costs.</p>	<p>2.a <i>We do not have access to the information which would enable us to accurately assess the accuracy of the 2013 estimate, although it</i></p>	<p>2a. So far as the Chamber is able to tell, yes.</p>

<p>If not accurate, please state why</p> <p>2.b. Did the regime of aligning the MLC and ISM inspection present any unforeseen complications?</p>		<p><i>clearly makes some sense to enable MCA staff to carry out MLC and ISM inspections as part of the same visit.</i></p> <p><i>We also note that the impact assessment from 2013 could not provide a reliable estimate of costs or savings from dovetailing the MLC and ISM inspection process due to ‘the uncertainties involved.’²</i></p> <p><i>It is, therefore, virtually impossible for seafarers and their trade unions to understand the cost or safety implications of this dovetailing. Whilst this move might make sense from an administrative point of view, ISM infringements are being regularly recorded, including as part of the MCA’s port state control surveys of foreign flagged vessels in UK ports.</i></p> <p><i>2b The alignment of the two inspection regimes presented the MCA with an increased workload which they have struggled to cope with. The decision to outsource survey work to Recognised Organisations was a response to this increased workload, and we are concerned that this is undermining the standardisation of survey and certification work.</i></p> <p><i>Following an industry press investigation in May, it emerged that flag state administrations and classification societies have not submitted safety accident reports to the IMO, in line with their legal obligation to do so.³ It is important that the urge to cut costs and modernise survey and certification work in relation to the MLC and</i></p>	<p>2b. None of which the Chamber is aware.</p>
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² Para 6.3.3.1, Pg 11, Survey & Certification Impact Assessment

³ *Lloyd’s List* 31 May 2018

		<p><i>the ISM Code do not contribute to this culture of poor administration around vessel and seafarer safety.</i></p> <p><i>In the short term, we would suggest that the MLC Tri-partite Working Group, chaired by MCA should look at the ISM inspection procedure and results. This would greatly assist our members and their union achieve a better understanding of the safety implications of dovetailing MLC and ISM survey work at the MCA and at Recognised Organisations contracted to conduct surveys on behalf the MCA.</i></p>	
<p>3. Rectification of deficiencies and complaints procedures</p> <p>3.a Has there been an increase in the number of enforcement actions as a result of the MLC Survey and Certification Regulations? for example rectification plans.</p> <p>If so, how much?</p> <p>3.b. Has the MLC resulted in an increase in seafarer complaints and more costs to the shipowner in terms of administering the on-board complaints system?</p> <p>If so by how many?</p> <p>3.c. Have you noticed any benefits in respect of a global level playing field on living and working conditions for seafarers?</p> <p>If yes, please outline any benefits noticed.</p>	<p>Q3. The MLC onboard and onshore complaints procedures are vital for seafarers to bring non-compliances to the attention of various parties, anonymously and in a way that should protect them from detriment or victimisation</p>	<p><i>We would expect there to have been an increase in enforcement actions, given the different regulations which applied to the sector prior to the introduction of the MLC.</i></p> <p>If so, how much?</p> <p><i>We would also expect the MCA to hold and collect the data relating to Code 17 and rectification plans issued to UK and non-UK shipowners under the Survey and Certification regulations. This data should be regularly reported as part of the meetings of the MLC Tri-partite Working Group chaired by MCA.</i></p> <p><i>3.b Cost implications from the on-board complaints system should not be relevant to the PIR exercise. We do not believe that the on-board complaints system is promoting higher welfare standards on merchant ships. Anecdotal evidence from our members suggests that seafarers do not exercise their right to use the on-board complaints procedure, especially non-UK Ratings employed by crewing agents.</i></p>	<p>3a. The Chamber has received reports from members that there have been small increases, believed to have resulted principally from increased knowledge of the availability of complaint procedures.</p> <p>3a. Part 2 and 3b Part 1 Individual companies may hold this information.</p> <p>3c. Chamber members have not made this observation to us. However, it is still perhaps early days.</p>

		<p>If so by how many?</p> <p><i>As set out in paragraphs 2.4 to 2.7 of MSN 1849, the MCA should record all on-board complaints submitted by seafarers, the status of each complaint, how it was resolved and, if not resolved, for what reasons. We would welcome regular receipt and discussion of data relating to on-board complaints in the MLC TWG</i></p> <p><i>3.c In general, living and working conditions for UK and Irish seafarers, particularly Ratings covered by an RMT Collective Bargaining Agreement exceed the standards established by the MLC.</i></p> <p><i>In our view, the danger for UK and Irish seafarers is that employers use the minimum MLC standards to undermine living and working conditions that could be regarded as 'gold plating' the regulations. We are aware that this is not the intention of the MLC and that the Convention clearly states that it cannot be used to undermine living and working conditions of seafarers, but we seek clarification of how the MCA ensures through the survey and certification process that this is not taking place.</i></p> <p><i>As part of its inspectorates work to enforce the MLC, the International Transport Workers' Federation (ITF) have recorded numerous instances of squalid living and working conditions of seafarers on non-UK flagged vessels, including in UK ports since the MLC was introduced. Any such instances are drawn to the attention of the MCA and provide evidence of the effectiveness of extra capacity in the</i></p>	
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		<p><i>enforcement the MLC, including the Survey and Certification Regulations.</i></p> <p>If yes, please outline any benefits noticed.</p> <p><i>As stated in our response above to Question 3b, the union is concerned that seafarers are not exercising their rights to raise on-board complaints through the MLC's provisions. Once again, the MCA are in a better position than the maritime unions to state how the regulations have or have not improved living and working conditions for seafarers, including non-UK seafarers through the discharge of the UK's Port State Control responsibilities.</i></p>	
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ANNEX D

MARITIME LABOUR CONVENTION.

UK LEGISLATION POST IMPLEMENTATION REVIEW

Comments and Actions Summary

The following table summarises discussion points and actions from the MLC Post Implementation Review Workshop held in London in January.

Scope of Application of the MLC	
Summary	Actions
<p>Fishing Vessel Guardship Duty. Concerns relating to the application of the MLC to fishing vessels when undertaking guardship duties- in particular:</p> <p>a) the potential for a discrepancy in living and working conditions standards between fishing vessels and merchant ships undertaking guard duties.</p> <p>b) Now that ILO 188 is in force will FV that both fish and undertake guardship duties be required to meet the requirements of both Conventions? i.e., will crew need both a SEA and a FWA?</p> <p>Noted that at the present time the MCA expects FV undertaking guard ship duties to meet the standards of the MLC. (and that the exclusion from the MLC is for vessels engaged in fishing activities rather than vessel type. Also, that implementation of ILO 188 will help to raise the standards of living and working conditions on FV</p>	<p>MCA to consider the issues relating to the MLC/ILO 188 for fishing vessels undertaking guard ship duties with stakeholders through the established tripartite working groups. (TWG and WIFC).</p>
<p>MODUs Request from industry for MODUs to be withdrawn from the scope of the MLC as most if not all have no seafarers on board. (Noted that other states have done so). This has been raised previously in the TWG MCA noted that the MLC is for the protection of Seafarers and that self-propelled MODUs have seafarers working onboard who should be afforded the protection of the MLC.</p>	<p>MCA agreed that further discussions should take place in TWG</p>
<p>General Comment Noted that the MLC has “given seafarers a voice” but they don’t always have all the information. Seafarers can also be nervous about raising issues through the official channels.</p>	
<p>Traditional Build Vessels Definition of Traditional build vessels. Traditional build vessels are excluded from the MLC and therefore MLC standards to not apply for seafarers working on board them.</p>	<p>The TWG consider that as the number of vessels of traditional build on the UK flag is very low the TWG should continue to assess applications to be treated as such on a case by case basis.</p>

<p>The intention of the exclusion was to protect traditional boat building techniques. Safety and welfare of seafarers needs to be considered Noted in past discussions of TWG that as applications for "ship of traditional build" status were few they could be treated on a case by case basis.</p>	
<p>Part 2 Minimum Age</p>	
<p>Summary</p>	<p>Actions</p>
<p>Costs of risk assessments and safety management systems may deter the industry from employing or offering work experience to anyone under 18 years</p> <p>Noted that this was more of an issue for the inshore industry, and it does not appear to be an issue for officer as it is more usual these days to enter cadet training at 18yrs plus some sponsoring shipping companies asking for A-levels or equivalent as a minimum requirement.</p> <p>Noted that some EU flags prevent young persons from working onboard ships but the UK regulations have retained the flexibility for industry to employ of 16 to 17 year olds with the appropriate mitigations.</p> <p>Possible barrier to learning noted in sections of industry who recruit 16-17 year olds because although they train, they cannot gain officer qualifications or be promoted below the age of 18</p>	<p>Ship visits by schools- Awareness campaign possibly could be picked up by MNTB or Unions</p> <p>Consider ways of promoting best practice in the industry.</p> <p>The MCA can issue national watch rating certificates to 16 year olds. An M notice will be published for further guidance</p>
<p>Part 3 Recruitment and placement (shipowners Duties)</p>	
<p>Summary</p>	<p>Actions</p>
<p>The MLC has created a common standard worldwide for recruiters. This makes it easy to find a good recruiter as there is an approved directory and shipowners don't need to do as much auditing of the recruiters to make sure standards are good enough.</p> <p>No seafarer complaints have been made concerning upfront recruitment charges, however some evidence that it is taking place by manning agencies particularly overseas. MCA reiterated that this is illegal</p> <p>Awareness within the industry and from MCA of bogus recruitment agencies defrauding seafarers by charging upfront for non-existent jobs.</p> <p>Concern raised that Manning agencies may not be listed in DMLC where agency staff are required to fill vacancies at short notice</p>	<p>Issue guidance to seafarers? (Who is in best position to do this?)</p> <p>TWG have discussed this and will give further consideration</p> <p>MCA to take a pragmatic view in such cases.</p>

<p>Systems of protection In response to a question asking if any seafarers have made any claims and whether the systems of protection had been tested, the MCA advised that there was only one insurance available - MCA was not aware that this had been tested.</p>	<p>Consider proposing a future revision to the MLC to take account of abandonment provisions, which make the requirement for a system of protection less necessary (except where financial security for abandonment has lapsed.)</p>
<p>Part 4 Seafarer Employment Agreements</p>	
<p>Summary</p>	<p>Actions</p>
<p>Not much of a change for the industry much of which had been operating with SEAs before the regs came into force</p> <p>Noted a need for consistency of approach from surveyors when looking at SEAs. It was suggested that surveyors sometimes had different interpretations of the regulations relating and that even though a company may use the same format SEA across all seafarers, sometimes one surveyor will approve on one ship, but another inspector may raise issue on another ship.</p> <p>The acceptance by MCA of electronic signature had been a big improvement – for example, for spot work, shipowners can need to get crew at short notice and there isn't time to physically transfer a contract.</p> <p>PSC evidence of Seafarers not receiving their contracts until on board the ship and no time to dispute any points. Details of ship owner are missing or entitlements like A/L incomplete.</p>	<p>MCA to review surveyor training/guidance relating to SEAs.</p>
<p>Part 5 Wages</p>	
<p>Summary</p>	<p>Actions</p>
<p>Self employed Request for more information for stakeholders about how the system works for self-employed?</p>	<p>MCA to consider and feedback</p>
<p>Basic pay below minimum wage Complaints raised from offshore industry regarding payment of less than min-wage and who is responsible for enforcing? Noted the ongoing practice of paying a very low rate of basic pay and making up the wage as a bonus as a way of keeping sick pay low for seafarers on short term contract MCA aware of complaints but noted that in these cases seafarers are being paid in accordance with their SEAs, which they have signed. Also noted that Regulations were amended last year to resolve the issue of 16 weeks sick pay for short term contracts</p>	<p>MCA not responsible for enforcing National Minimum Wage but will refer complaints to HMRC who are aware of this situation.</p> <p>MCA/ TWG consider guidance now that the Regulations have been amended to resolve this.</p>

Request for MCA Surveyors to make considerations for the evidence of payment of wages not being available on board ships where seafarers are paid by BACS. MCA advised that evidence of wages paid must be made available to a surveyor on request but that electronic evidence is acceptable.	
Payment of 20% interest when non-payment of wages. Was noted that this is not in the MLC but carries forward from previous legislation. MCA cannot enforce this, but the seafarer can take legal action.	
Part 6 Repatriation	
Summary	Actions
Noted that the purpose of the 2014 amendments to the MLC was to try and get abandoned SF home quickly. In reality even where the system is working and a P&I club takes responsibility it can take two/three weeks for the club to get the paperwork necessary in place (suing for subrogation etc.) All agreed that rate of abandonment was low for UK registered ships	Noted that further discussions are likely at international level at the ILO and IMO.
Part 7 Crew accommodation	
Summary	Actions
Consultation on substantial equivalence for small commercial vessels – noted that MGNs 600 and 602 have replaced MGN 491. Question was raised as to whether exemptions could apply to vessels over 500GT. MCA confirmed that current exemptions cannot be applied for vessels over 500GT. Vessels over 500GT must comply with the MLC crew accommodation standards. Also if it was still the case that matters relating to crew accommodation on tugs should involve consultation with the unions? MCA confirmed that the situation was unchanged.	For new exemptions, a proposal would have to be made to the MCA with justification, for consideration by the TWG.
Part 8 Food and Catering	
Summary	Actions
Evidence from seafarers that they are not getting as balanced nutrition, raising concerns of poor quality on board. It was suggested that this may be due to SF adopting a healthier diet at home which onboard standards don't match. In response to this some companies noted that they are actively improving the quality of food on board, recognising that the new generation of seafarer has a more health conscious attitude.	MCA to consider further guidance

Concerns raised about the cost of training for UK Ships Cooks was raised. Foreign nationals tended to already come with the required certification, but British cooks didn't	
Part 9 Medical Care	
Summary	Actions
<p>Concerns expressed by industry that foreign seafarers can join a ship with pre-existing medical conditions and then claim it occurred on board. They then are entitled to equivalent private medical treatment and bill the company. This has led to companies conducting medical screening of seafarers before going on board which some seafarers decline.</p> <p>Has been a fairly high cost for shipowners – NHS doctors often won't take unregistered patients and it's hard to find ones that do so. Companies end up having to send seafarers to private doctors. This is expensive and can be for very minor medical complaints.</p> <p>Shipowners can claim costs on insurance but generally not worth it as it would be below the excess.</p> <p>Dentistry claims can be very high and there were questions about whether seafarers were taking advantage of the system.</p> <p>The seafarer's medical examinations should include a check of teeth, but a general feeling that that's not really done. MCA noted that this was a basic check.</p>	
<p>Prescription Medication</p> <p>Aware that there is a problem for seafarers acquiring enough prescription medication for long haul trips due to the clamp down on the amounts doctors can prescribe.</p>	
Part 10 Shipowners Liability	
Summary	Actions
<p>Sickness issue - abuse of system with seafarers joining the ship at start of working week with a medical condition and then signing off sick in order to claim sick pay. MCA noted that this was a management rather than a legal issue.</p>	
The Merchant Shipping (Maritime Labour Convention) (Health and Safety) (Amendment) Regulations 2014	
Summary	
<p>Noted that the H&S regs are now quite difficult to read without a consolidated version on gov.uk. Request for Regs to be consolidated as it would improve clarity.</p> <p>Noted the value of the Port Safety Committees with elected representation which cut across MCA and HSE legislation which MCA confirmed would be going forward.</p>	Consolidation of the regulations (Long term objective)

The Merchant Shipping (Maritime Labour Convention) (Hours of Work) (Amendment) Regulations.

Summary	Actions
<p>No clarity within the MGN as to how A/L to be incorporated into patterns of work by the towage sector and the duty of employees to notify employer about their days off. More guidance is required in this area.</p> <p>Leave is being incorporated within the roster time off. There is an issue as some work overtime during their time off. Specifically ferry and towage sector.</p> <p>MCA noted that leave should be agreed between employers and seafarers and that additional protections should be attached to statutory annual leave (shouldn't be recalled).</p> <p>It was noted that a collective agreement should be sufficient to work out agreements relating to annual leave and overtime. Noted also that some SF want to work overtime.</p> <p>Are additional 8 days also pro-rated?</p>	<p>MCA to check and clarify in guidance as appropriate</p>

Additional Questions

Summary	Actions
<p>Noted that seafarer welfare is a current concern and a request for more clarity regarding bullying / harassment (New guidelines from the MLC 2016 Amendments)</p> <p>Deadline to receive any further comments for the MLC PIR. For those who were unable to attend June 2019.</p> <p>Following Brexit where does MLC stand? MCA confirmed there would be no changes to the MLC.</p>	<p>MCA to discuss guidance for bullying and harassment with the TWG</p>

Annex E – Statistical analysis of MLC implementation

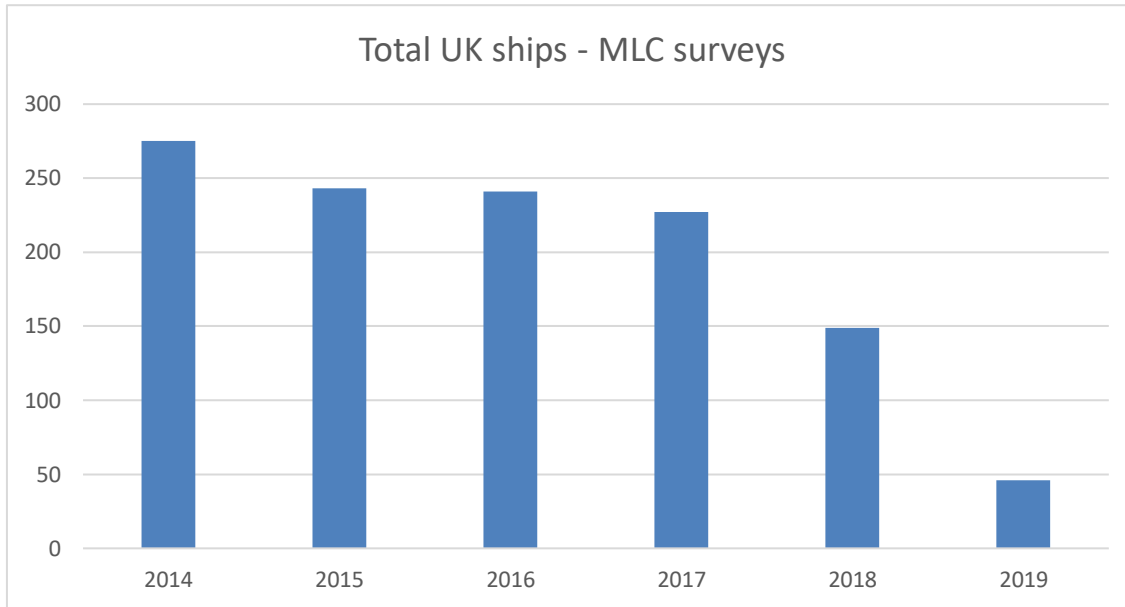


Figure 1- UKDT Survey Inspections

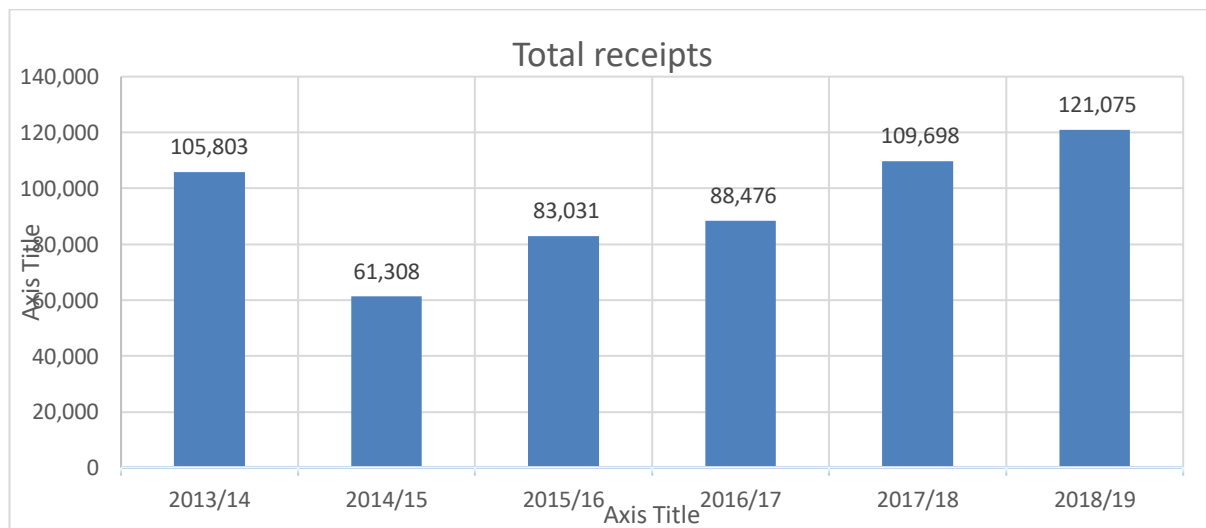


Figure 2- Total Receipts - Tribunal Claims (financial yearly reporting)

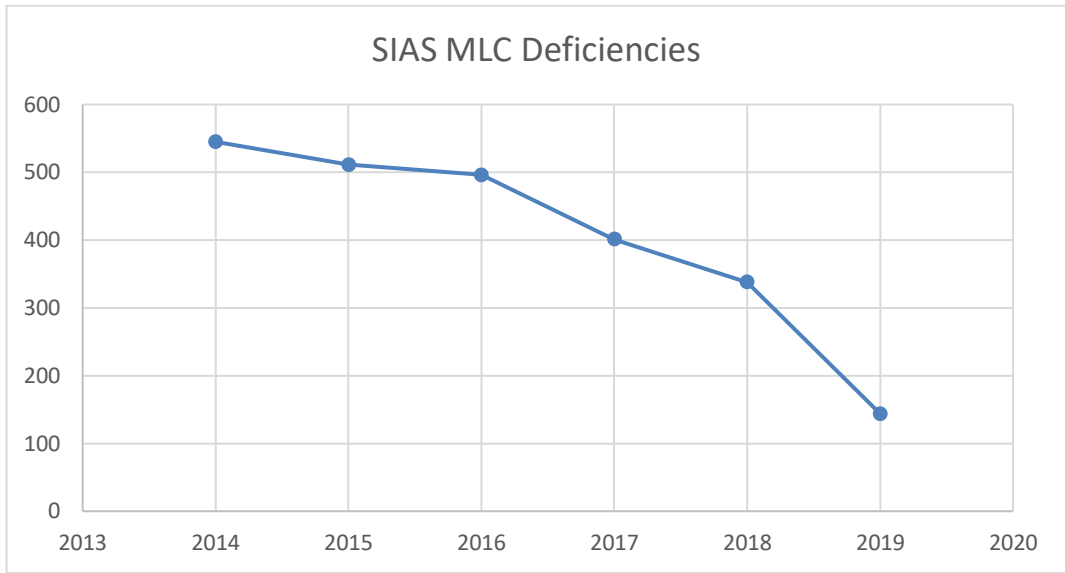


Figure 3 – UK ships - MLC Deficiencies per year (SIAS)

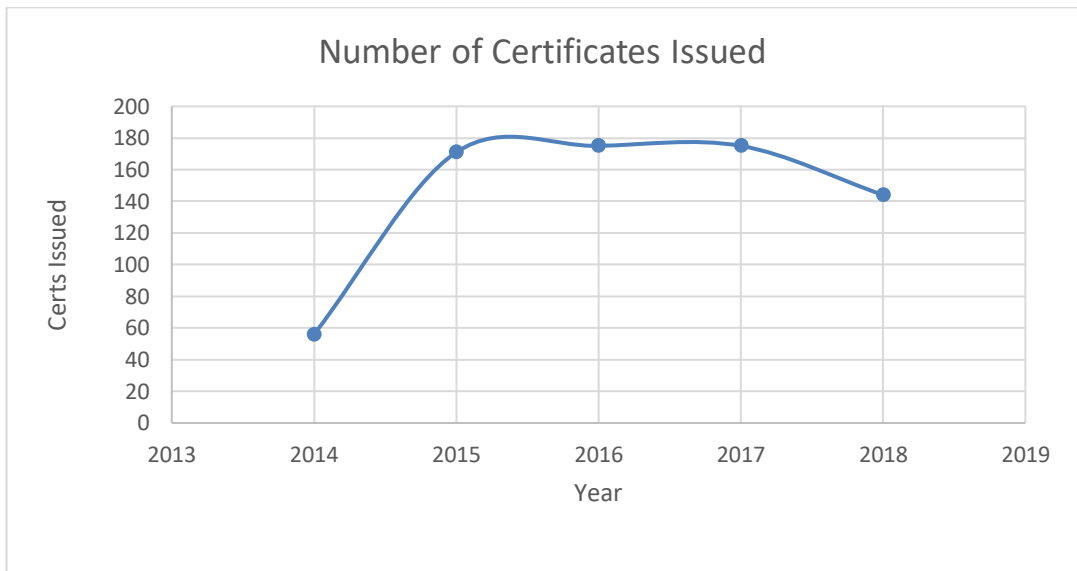


Figure 4 – UK ships: MLC Certificates Issued

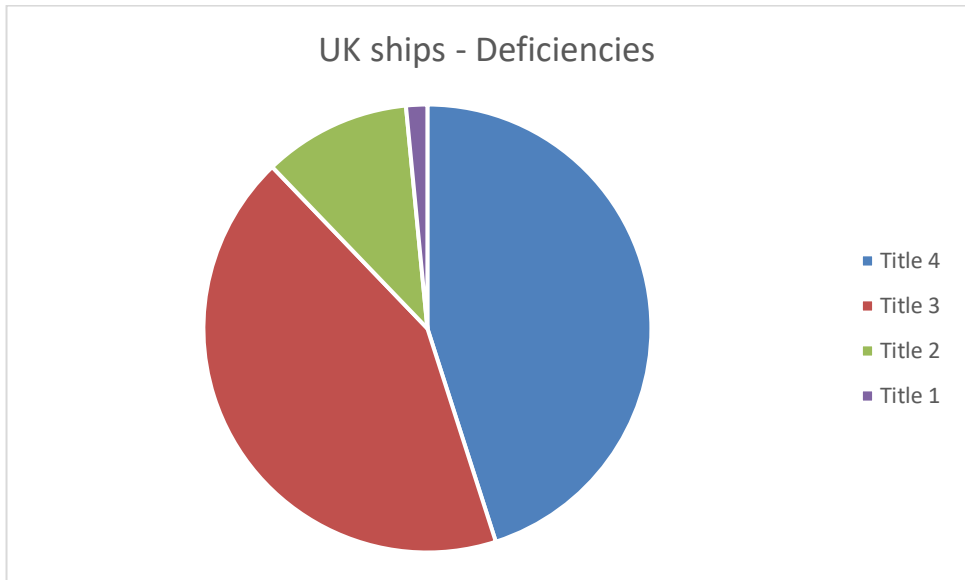
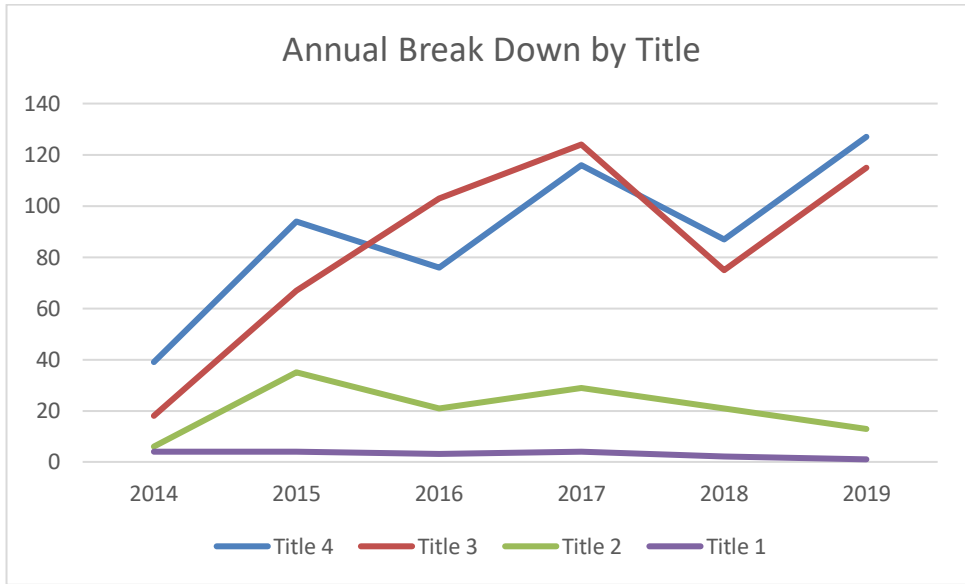


Figure 5 – UK Ships: Flag State Deficiencies by MLC Title

Title	Description
Title 1	Minimum Requirements to work on a ship
Title 2	Conditions of employment
Title 3	Accommodation, recreational facilities, food and catering
Title 4	Health protection, medical care, welfare and social security protection



Title	Description
Title 1	Minimum Requirements to work on a ship
Title 2	Conditions of employment
Title 3	Accommodation, recreational facilities, food and catering
Title 4	Health protection, medical care, welfare and social security protection

Figure 6- Flag State Annual Break Down of Deficiencies by Title

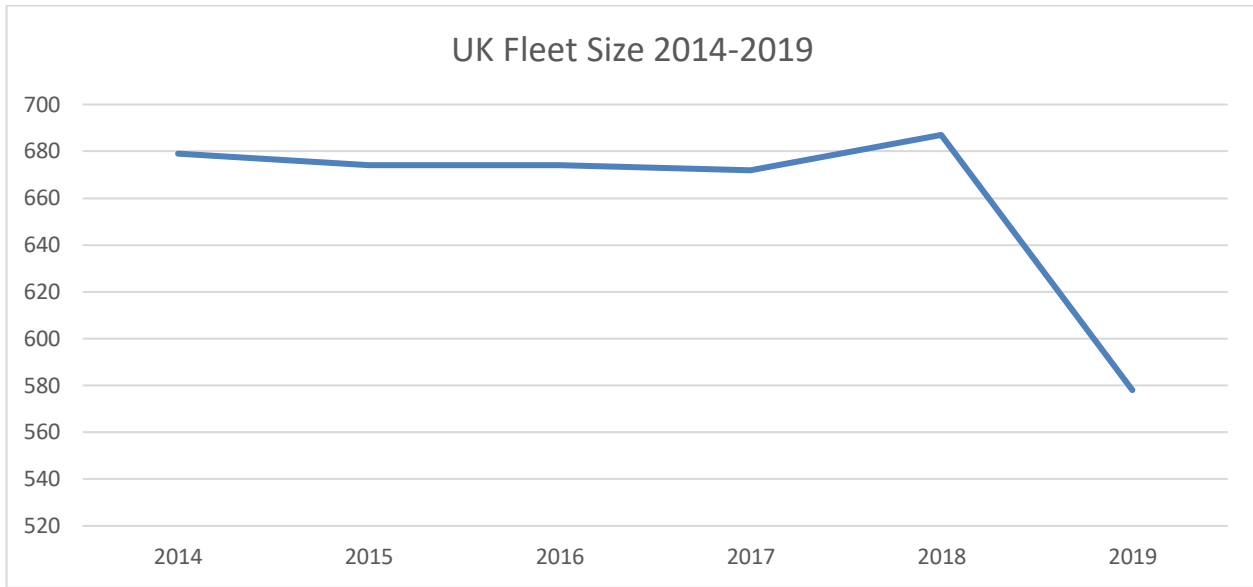


Figure 7 - UK Fleet size 2014-2019

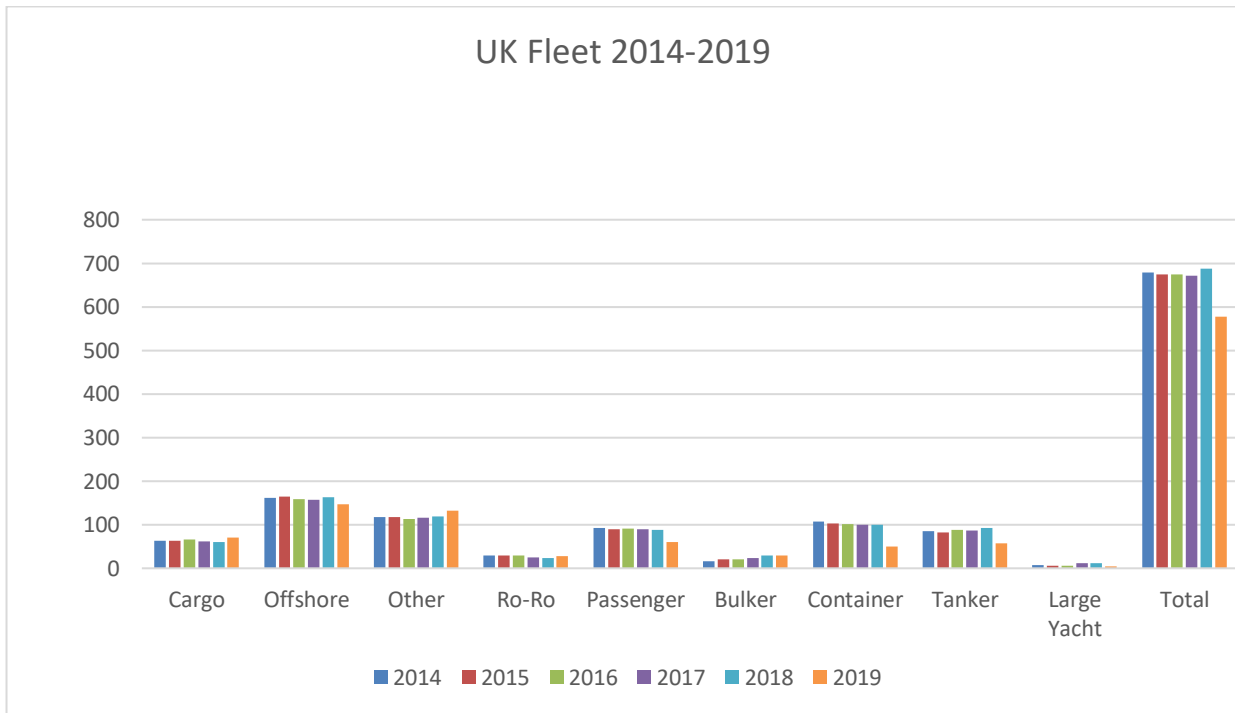


Figure 8 - 2014-2019 Fleet Breakdown

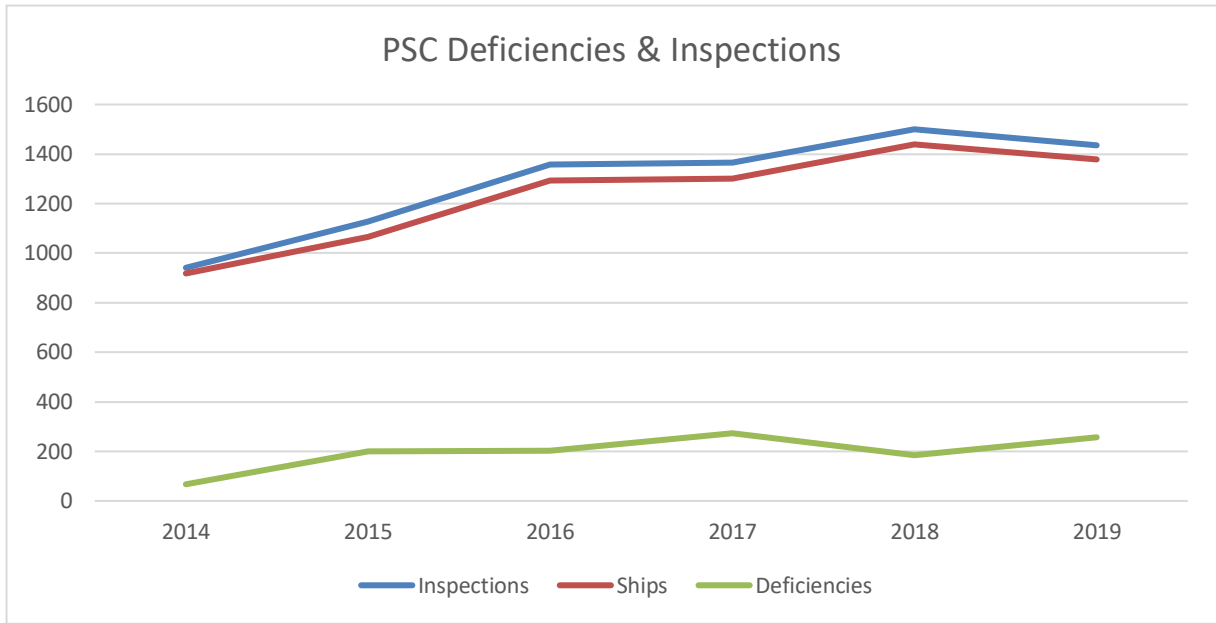


Figure 9 - Inspections & Deficiencies