Sjøfartsdirektoratet
Norwegian Maritime Authority

Our date	Our reference	Our case handler
03.07.2024	2024/26498-8	Unn Caroline Lem
Your reference	**File No.**	**Direct phone**
	33	+47 52 74 53 58

Consultative bodies according to list

Consultation – proposed amendments to various regulations following the 2022 MLC amendments

The Norwegian Maritime Authority (NMA) hereby circulates for review proposed amendments to four regulations intended to implement amendments to the Maritime Labour Convention, 2006 (MLC). The proposed regulatory amendments are attached to this consultation paper. The consultation is also available on the NMA's website, sdir.no.

Comments on the proposal may be submitted via email to post@sdir.no **by Friday 18 October 2024**. For questions regarding the consultation, please contact Senior Adviser Unn C. Lem (ucl@sdir.no) or Senior Adviser Kristine Breistrand (krb@sdir.no).

1. The background for the proposal

1.1 Introduction

Norway has adopted the 2022 amendments to the Maritime Labour Convention (MLC), which were agreed upon during the fourth meeting of the Special Tripartite Committee of the International Labour Organization (ILO).

The amendments to the Convention will enter into force on 23 December 2024.

1.2 MLC amendments

The original version of the MLC amendments is attached to this consultation letter, along with a link to the document here: Amendments of 2022. Additionally, the NMA's unofficial translation of the MLC amendments is included in a separate attachment.

Below is a brief summary of the MLC amendments, presented in the same order as in this consultation letter:

- Requirement for the repatriation of seafarers and securing the rights of new crew members **(Standard A2.5.1)**
- Requirement to provide opportunities for social connectivity **(Standard A3.1)**
- Recommendation on internet access on board ships **(Guideline B3.1.11)**
- Requirement to provide free supplies of food and drinking water, etc. **(Standard A3.2)**
- Requirement for immediate medical care ashore and facilitating repatriation of deceased seafarers **(Standard A4.1)**
- Recommendation for allowing disembarkation to replenish ships' stores and seek medical care **(Guideline B4.1.3)**

Postal address: P.O. Box 2222, N-5509 HAUGESUND
Visiting address: Smedasundet 50 A, N-5528 HAUGESUND
Tel.: +47 52 74 50 00
Fax: +47 52 74 50 01
E-mail: post@sdir.no
Website: www.sjofartsdir.no
Organisation No.: NO 974 761 262 MVA

- Recommendation for international cooperation on arranging the repatriation of deceased seafarers **(Guideline B4.1.4)**
- Requirement for appropriately sized personal protective equipment **(Standard A4.3)**
- Information requirements related to the recruitment and replacement of seafarers **(Standard A1.4)**
- Requirement for reporting deaths on board ships flying the flag of the State **(Standard A4.3)**
- Amendment allowing the shipowner to hold evidence of financial security **(Appendix A2-I)**
- Amendment allowing the shipowner to hold evidence of financial security **(Appendix A4-I)**
- Recommendation on internet access in port and associated anchorages **(Guideline B4.4.2)**
- Recommendation regarding reporting and collecting statistics **(Guideline B4.3.5)**

2. Implementation of the MLC amendments into Norwegian legislation

Since Norway has adopted the 2022 amendments to the Convention, it is necessary to ensure that the binding amendments are incorporated into Norwegian legislation by the implementation deadline of 23 December 2024. This applies to amendments to Part A of the Convention (standards), as the other binding parts of the Convention (articles and rules) remain unchanged. Additionally, appropriate consideration must be given to fulfilling the commitments outlined in Part B of the Convention (guidelines).

For most of the MLC amendments, legal harmonisation is already in place, meaning that these changes have either been incorporated into Norwegian regulations or addressed through other measures. However, certain amendments will require changes to Norwegian regulations. Moreover, certain changes are not suitable for regulatory enactment, or have already been addressed by Norway through other means.

We propose to implement the MLC amendments in the following regulations:

1. Regulations of 19 August 2013 No. 999 on the use of recruitment and placement services on ships
2. Regulations of 27 June 2008 No. 744 on the obligation to notify and report marine accidents and other incidents at sea
3. Regulations of 19 December 2017 No. 2293 on financial security related to the entitlements of abandoned employees on Norwegian ships
4. Regulations of 18 February 2005 No. 145 on guarantee for social security entitlements for employees on Norwegian ships

To provide user-friendly legislation, the MLC has been incorporated into Norwegian legislation. This approach will continue with the implementation of the 2022 amendments to the Convention.

For Norway, the MLC applies to Norwegian cargo ships and passenger ships operating in trade area 3 or greater trade area (Norwegian convention ships). As a port State, Norway also oversees foreign ships, and the Norwegian Maritime Authority inspects foreign convention ships in Norwegian ports to verify their compliance with the binding parts of the Convention (the articles, rules and standards in part A).

The Act of 16 February 2007 No. 9 relating to ship safety and security (Ship Safety and Security Act) and the Act of 21 June 2013 No. 102 relating to employment protection etc. for employees on board ships (Ship Labour Act) form the foundation of Norwegian legislation concerning the working environment at sea. The MLC has been incorporated into the Ship Safety and Security Act, which applies to both Norwegian and foreign ships, except for ships of less than 24 metres in overall length that are not used for commercial purposes. This Act also covers persons who work on board these ships. Additionally, the MLC is incorporated into the Ship Labour Act, which governs employees working on board Norwegian ships. Chapters 8 to 10 of the Act also extend to self-employed workers and others who work on board.

The MLC has been partially implemented in Norwegian regulations with a broader scope than what the Convention requires, where deemed appropriate after specific assessments. Firstly, this applies to the types of ships and trade areas covered by the legislation. Secondly, while the MLC focuses on seafarers, Norwegian regulations implementing the MLC also extend to others who work on board. For further details on the Norwegian definition of "seafarer" under the MLC, refer to the Circular 4-2024 on the scope of application

of the Ship Labour Act (in Norwegian only): "Persons who are employed by other employers than the company, and who perform work which in its nature does not form part of the ship's ordinary operation, are not considered seafarers under the MLC."

The regulations proposed for amendment have varying scopes of application. With the exception of the Regulations of 27 June 2008 No. 744 on the obligation to notify and report marine accidents and other incidents at sea, these regulations apply only to Norwegian ships.

Refer to section 2.1 for a description of MLC amendments already implemented in Norwegian legislation (legal harmonisation), section 2.2 for a description of the implementation of MLC amendments in current regulations, and section 2.3 for a description of other measures for implementing MLC amendments.

2.1 Establishing legal harmonisation

The NMA has established legal harmonisation for the MLC amendments, which are explained under sections 2.1.1 to 2.1.8 below. Each amendment is explained in detail.

2.1.1 MLC Standard A2.5.1 – Repatriation

The new paragraph 9 of Standard A2.5.1 of the Convention requires MLC member States to facilitate the prompt repatriation of seafarers. The NMA has assessed that this provision is not suitable for direct implementation in acts or regulations, as it is deemed inappropriate to regulate the State's obligations in this context. However, as flag State, Norway has established obligations for both employers and shipping companies. Refer to section 4-6 of the Ship Labour Act, which outlines the employer's right to free repatriation, and section 4-7, which concerns the company's obligation to furnish a guarantee, along with the relevant regulations. Furthermore, the NMA conducts port State controls in accordance with the MLC and ensures that foreign ships comply with the binding requirements of the Convention (see Regulations of 24 November 2014 No. 1458 on port State control). The legal basis for the Regulations stems from the Ship Safety and Security Act and the Ship Labour Act.

This amendment also requires cooperation between port States, flag States and labour-supplying States to ensure that new crew members have the rights provided under the Convention. In this context, "new crew members" refers to seafarers engaged to replace those who have been abandoned in the territory or ship of a member State. Although this MLC provision, as such, is not suitable for legislative or regulatory implementation, as mentioned above, Norway has established regulations that grant seafarers rights under the MLC, including provisions in the Ship Labour Act and the Ship Safety and Security Act, with their respective regulations. Furthermore, the Norwegian Maritime Authority ensures compliance with all binding requirements of the Convention for foreign ships during port State controls in Norway.

The NMA also continuously assesses how to improve cooperation with other member States, for instance through collaboration within the Paris MoU.

2.1.2 MLC Standard A3.1 – Accommodation and recreational facilities

The amendments to paragraph 17 of Standard A3.1 of the Convention introduce a requirement that appropriate recreational facilities, amenities and services on board must include the possibility for social connectivity.

For Norwegian ships, the NMA has determined that this amendment has been implemented in the Regulations of 21 April 2017 No. 515 on accommodation, recreational facilities, food and catering on ships section 13, which covers recreation rooms, offices, and recreational facilities. These Regulations apply to persons working on Norwegian passenger ships and cargo ships, and barges that, due to their operations, require personnel on board who perform tasks beyond mooring or preparation for towing. For more details,

refer to section 1 on the scope of application. The legal basis for these Regulations is found in the Ship Safety and Security Act.

The tenth paragraph of section 13 specifies that for ships whose keel was laid or which were at a similar stage of construction when the MLC came into force in Norway on 20 August 2013, shipping companies must conduct ongoing assessments of recreational facilities. These assessments ensure that the facilities comply with technical, operational and other changes in the shipping industry that may result in new needs for those working on board, cf. subparagraph b. Additionally, the eleventh paragraph of section 13 stipulates that for these ships, reasonable access to free telecommunications between the ship and shore should be provided for those working on board, as well as email and internet connectivity where available. Any charges for the use of these services must be reasonable, cf. subparagraph g.

2.1.3 MLC Guideline B3.1.11 – Recreational facilities, mail and ship visit arrangements

Together, the amended paragraph 4(j) and the new paragraph 8 in MLC Guideline B3.1.11 specify that shipowners should, as far as is reasonably practicable, provide seafarers on board their ships with internet access, with any charges being reasonable. This Guideline is considered fulfilled by the Regulations of 21 April 2017 No. 515 on accommodation, recreational facilities, food and catering on ships section 13 on recreation rooms, office and recreational facilities.

2.1.4 MLC Standard A3.2 – Food and catering

Paragraphs 2(a) and (b) of the Convention's Standard A3.2 introduce an additional requirement that food and drinking water must be provided to seafarers free of charge during their period of service. For Norwegian ships, the requirement for free food and drinking water during the service period is regulated by the Ship Safety and Security Act section 26 first paragraph, which stipulates that persons working on board "shall receive a good and sufficient diet in accordance with [the Food Act] and regulations issued pursuant to this Act". Additionally, the Act of 19 December 2003 No. 24 relating to food production and food safety, etc. (Food Act) section 2 first paragraph first sentence specifies that the Act's requirements apply to foodstuffs, including drinking water.

Paragraph 7 (a) of Standard A3.2 introduces the requirement for frequent inspections of food and drinking water on board ships, covering aspects such as quantity, nutritional value, quality and variety. For Norwegian ships, this requirement is implemented in section 45 of the Regulations of 21 April 2017 No. 515 on accommodation, recreational facilities, food and catering on ships. The fourth paragraph mandates that frequent inspections of provisions and the handling of food and drinking water must be conducted for those working on board. Moreover, the first paragraph of section 45 requires that food and water meet health standards and align with dietary guidelines established by the Norwegian National Nutrition Council, which is appointed by and affiliated with the Directorate of Health.

2.1.5 MLC Standard A4.1 – Medical care on board ship and ashore

A new paragraph 5 in Standard A4.1 addresses the port State's obligation to ensure that seafarers in need of immediate medical care are promptly allowed to disembark and receive appropriate medical treatment ashore.

The NMA considers it standard procedure in Norway to provide seafarers requiring urgent medical attention with access to a doctor or hospital, thereby fulfilling Norway's obligations as a port State under the Convention. Further details are discussed under the new Guideline B4.1.3 in section 2.1.6 below. The NMA views this provision as not suitable for direct inclusion in acts or regulations, as it is deemed unnecessary to regulate the State's obligations in this specific context.

A new paragraph 6 in the Convention's Standard A4.1 concerns the member State's obligation to facilitate the repatriation of deceased seafarers, whether the death occurred in the member State's territory or the ship entered the member State's territorial waters shortly after the death occurred on the high seas. The wishes of the deceased or their next of kin must be taken into consideration regarding the repatriation process.

The NMA believes that the requirement to assist the shipowner in these situations is not suitable for direct inclusion in acts or regulations. However, it is adequately addressed through various existing solutions, as outlined in sections a to d below. These solutions will vary depending on the flag of the ship involved and the nationality of the seafarer.

Refer to section a regarding Norwegian ships, section b regarding foreign ships, section c for general regulations regarding deaths and section d for the Norwegian Maritime Code of 24 June 1994 No. 39.

a. Norwegian ships

Under section 8-1 of the Ship Labour Act, the shipowner has a duty of care towards all persons working on board Norwegian ships in the event of illness or injury, with the master responsible for assisting in fulfilling this obligation.

Section 8-2 first paragraph of the Ship Labour Act stipulates that if a person dies while a) in service on board, b) entitled to nursing care pursuant to section 8-1, or c) travelling at the company's or employer's expense, the company must notify the next of kin and arrange either for burial or the repatriation of the deceased's remains. The master is responsible for assisting in carrying out these duties, as outlined in section 8-2 first paragraph.

Section 8-3 of the Act specifies that the company is entitled to seek reimbursement from the employer for any expenses incurred by the company or the master in fulfilling their obligations under sections 8-1 and 8-2. The employer can seek reimbursement for these expenses from the Norwegian National Insurance or a similar national insurance scheme in the employee's country of residence, as provided for by the relevant regulations.

b. Foreign ships

For foreign ships, it is the flag State's responsibility to establish regulations in line with the MLC requirements. However, it is assumed that, within reasonable limits, the Norwegian government will provide assistance in the case of deaths occurring in Norway or just before the ship's arrival in Norway.

c. General regulations regarding deaths

In the event of a death abroad, the general regulations for assisting Norwegian citizens apply. Refer to the Foreign Service Act of 13 February 2015 No. 9 section 1 first paragraph (3).

For persons covered by the National Insurance Act of 28 February 1997 No. 19, chapter 7 concerning funeral grant and related regulations also applies.

d. Provisions under the Maritime Code

Additionally, section 142 of the Maritime Code governs the repatriation of seafarers. It specifies that "[s]seafarers, whose repatriation it is the Consul's responsibility to arrange, to their destination or to a port at which the ship calls on its voyage, but only in such numbers and on such conditions as the King determines. When not inconvenient, the master is bound without payment to carry the funeral urns of, and any personal belongings left by, seafarers who when they died were Norwegian nationals or were resident in Norway. Provided there are reciprocal arrangements, the King may extend these provisions to apply also to foreign seafarers (their urns and belongings) not covered by the first paragraph."

2.1.6 MLC Guideline B4.1.3 – Medical care ashore

The new paragraphs 4 and 5 in the Convention's Guideline B4.1.3 are non-binding and, therefore, not suitable for direct implementation in acts or regulations.

Paragraph 4 includes a recommendation that port States ensure seafarers are not prevented from disembarking for public health reasons, and that necessary supplies for seafarers are not obstructed. This encourages port States to reconsider practices that deny health care to seafarers in order to protect their population from communicable diseases or other strains on their healthcare systems.

Paragraph 5 includes a recommendation that port States provide immediate medical care to seafarers and clarifies what constitutes such care.

Experience, for instance from the COVID-19 pandemic, has shown that Norway already has measures in place to ensure seafarers arriving in the country can disembark without undue restriction. Additionally, ships in Norwegian ports do not face issues obtaining necessary supplies, and seafarers are not denied disembarkation if they require immediate medical care in Norway. For further details on how the new paragraph 5 of Standard A4.1 has been implemented in Norway, see section 2.1.5 above.

2.1.7 MLC Guideline B4.1.4 – Medical assistance to other ships and international cooperation

An amendment to paragraph 1(k) of the Convention's Guideline B1.4.1 states that the wishes of the deceased regarding repatriation should be taken into account in the context of potential international cooperation among member States. This provision is non-binding and not suitable for direct implementation in acts or regulations, as it pertains to cooperation between member States. For further details, refer to section 2.1.5 above, which explains how the new paragraph 6 of the Convention's Standard A4.1 has already been considered implemented in Norwegian legislation.

2.1.8 MLC Standard A4.3 – Health and safety protection and accident prevention

The new paragraph 1(b) of the Convention's Standard A4.3 introduces a requirement that personal protective equipment (PPE) must be appropriately sized.

In Norwegian legislation, this requirement is addressed in the Regulations of 1 January 2005 No. 8 on the working environment, health and safety of persons working on board ship, specifically in chapter 3 on personal protective equipment. Section 3-1 second paragraph of the Regulations states that PEE must be used when risks cannot be eliminated or sufficiently reduced by technical protective measures, work methods or procedures. Additionally, section 3-3 first paragraph (d) specifies that all PEE must fit those working on board, with adjustments made as needed to ensure proper fit.

2.2 Need for amendments to Norwegian legislation

The Norwegian Maritime Authority has determined that certain amendments from the MLC need to be incorporated into Norwegian legislation. These include Standard A1.4 paragraph 5(c)(vi) on recruitment and placement services, Standard A4.3 on the reporting of fatality data, and Appendices A2-I and A4-I on the modification of evidence of financial security. Refer to sections 2.2.1 to 2.2.4 below for details.

Since statutory authority already exists for incorporating these MLC amendments, and current regulations cover related provisions, the NMA proposes integrating these changes into existing regulations. The legal bases for these regulations are outlined in the respective sections below.

The general principle applied is that the scope of existing regulations should extend to include the new MLC requirements. For those regulations where amendments are proposed, the scope already exceeds that of the MLC in relation to Norwegian ships. With the exception of the Regulations of 27 June 2008 No. 744 on the obligation to notify and report marine accidents and other incidents at sea, the NMA proposes extending the scope of existing regulations to incorporate the MLC amendments. There is no reason to suggest otherwise, as these amendments represent minor extensions or clarifications of the current legislation.

However, in the case of the Regulations of 27 June 2008 No. 744 on the obligation to notify and report marine accidents and other incidents at sea, which apply to both Norwegian and foreign ships, it is proposed that the requirement to report fatality data be limited to Norwegian ships only. This is because the MLC requirement applies exclusively to ships flying the flag of the Member State. Furthermore, it is proposed that the reporting

requirement apply to Norwegian ships, with the exception of recreational craft, whereas the current regulations apply to all Norwegian ships. Further details on this can be found in the explanation of the regulatory amendments in section 2.2.2 below.

2.2.1 Proposed implementation of MLC Standard A1.4 – Recruitment and replacement – in the Regulations on the use of recruitment and placement services on ships

The amendment to Standard A1.4, paragraph 5(c)(vi), introduces a requirement for recruitment and placement services to ensure that employees are informed, either prior to or during the recruitment process, about their rights regarding the insurance or equivalent protective measures that these services are already obligated to provide under the Convention, cf. existing paragraph 5(c)(vi).

The NMA proposes incorporating this MLC amendment into the Regulations of 19 August 2013 No. 999 on the use of recruitment and placement services on ships section 3, which deals with the duties of employers. These Regulations govern the rights of employees when recruitment and placement services are used on Norwegian ships, cf. section 1. The Regulations focus on employers who use these services to recruit and place employees on cargo ships and passenger ships, cf. section 3 on the employer's duties. The legal basis for these Regulations stems from section 3-9 of the Ship Labour Act, which governs the use of recruitment and placement services.

Since the MLC amendment introduces an information requirement that aligns with an existing right already covered by these Regulations, the NMA proposes expanding the scope of the Regulations to incorporate this new provision.

In the existing section 3 first paragraph (k), employers are required to have documentation proving that the recruitment and placement service they use has a system of protection (insurance or an equivalent appropriate measure) in place. This protection system is intended to compensate employees for any monetary loss that might arise if the recruitment and placement service or the employer fails to meet their obligations under the employment agreement.

The NMA proposes amending this provision to require that employers also have documentation showing that the recruitment and placement service has procedures in place to inform employees about the protection system either before or during the recruitment process.

<u>Proposed amendments to section 3 first paragraph (k):</u>

k. have a system of protection, by way of insurance or an equivalent appropriate measure, *about which the employee is informed prior to or during the recruitment process. The protection system* shall compensate employees for *any monetary losses* they may incur as a result of the failure of the recruitment and placement service or the employer to meet their obligations under the employment agreement.

2.2.2 Proposed implementation of MLC Standard A4.3 – Health and safety protection and accident prevention – in the Regulations on the obligation to notify and report marine accidents and other incidents at sea

For the sake of clarity, it is important to note that the minor change in the introductory text of MLC Standard A4.3 paragraph 5, replacing "competent authority" with "each member," holds no practical significance for Norway as a member State.

The new paragraph 5(a) of Standard A4.3 introduces a requirement for flag States to annually report *all* fatalities among seafarers working on board their ships to the International Labour Organization (ILO). This represents a new reporting obligation, as fatalities of this nature are not currently covered by Norwegian regulations on the reporting of marine accidents. The aim of this requirement is to enable the ILO to compile this information in a global register, facilitating the tracking and analysis of trends in international shipping. Additionally, Guideline B4.3.5 new paragraph 5 specifies that fatality data should include, but is not limited to, details on the classification of death, ship type and gross tonnage, location of the fatality (at sea, in port, at anchorage), as well as the seafarer's sex, age, occupational position and department.

To ensure compliance with Standard A4.3 new paragraph 5(a) and to obtain comprehensive data on all fatalities, the NMA proposes amendments to sections 1 and 6 of the Regulations of 27 June 2008 No. 744 on the obligation to notify and report marine accidents and other incidents at sea.

These Regulations apply to Norwegian ships and, with certain limitations, to foreign ships, cf. section 1 on the scope of the Regulations. However, the Regulations do "not apply to military vessels, except as mentioned in the first paragraph (d), and in the event of marine accidents which not only involve military vessels", cf. section 1 fourth paragraph. The exclusion of military vessels from the new reporting requirement aligns with MLC Article II paragraph 4, which states that the Convention does not apply to warships or naval auxiliaries.
The legal basis for the Regulations derives from the Norwegian Maritime Code, the Ship Safety and Security Act and the Act of 26 June 1998 No. 47 relating to recreational and small craft. The proposed regulatory amendments are founded on section 47 of the Ship Safety and Security Act, which outlines the company's duty to notify and report.

The NMA proposes to limit the reporting requirement for Norwegian ships to the fatalities specified in the Regulations, excluding recreational craft. The proposed new third paragraph of section 6 addresses this change, cf. section 1 first paragraph new subparagraph g.

Foreign ships are exempt from this reporting requirement because the obligation to report fatalities, as stipulated in Standard A4.3 new paragraph 5(a), is directed specifically at flag States.
Additionally, recreational craft are excluded because they do not fall within the scope of the MLC. Refer to the definition of recreational craft in section 2(f) of the Regulations: "Any floating device which is intended for use and capable of moving on water and not used for commercial purposes." Furthermore, the NMA believes already receives relatively good information about fatalities on recreational craft through police reports, even though these fatalities typically involve individuals who are alone on board. See the reporting form intended for the police here (in Norwegian only): Rapport om ulykke med fritidsfartøy - Sjøfartsdirektoratet.

The Norwegian Maritime Authority further proposes a clarification regarding the location of fatality, specifying that fatalities occurring on board or in connection with the operation of the ship must be reported to the NMA. In this regard, the NMA emphasises that the regulations cover incidents arising from the operation of the ship, meaning that the reporting requirements apply not only to incidents occurring on board the vessel. The NMA seeks to clarify this in the proposed amendments to the Regulations concerning the reporting of fatality data. This clarification means that, in addition to fatalities occurring on board the ship, the company must ensure that any fatality occurring in connection with the ship's operation – whether at sea, in port, at anchorage or any other location where the ship is situated – is reported. Please refer to the Convention's Guideline B4.3.5 new paragraph 5 for the specification of the location of fatalities in section 2.3.2 below.

The Regulations apply to all persons working on board the ship, meaning that the reporting obligation is not limited to those who are classified as seafarers under the MLC. This approach continues the substantive scope of both the Regulations and the Ship Safety and Security Act.

The primary aim of the proposed regulatory amendments is to enable the NMA to submit an annual report to the ILO on all deaths related to Norwegian ships covered by the MLC, using the reported information. However, by collecting this information, the NMA will also be able to contribute to better prevention and follow-up of fatalities occurring on board or in connection with the ship's operation. Therefore, the NMA wants all Norwegian ships used for commercial purposes to be included in the reporting system, meaning that the requirement should not be limited to cargo and passenger ships operating in trade area 3 or greater trade area (Norwegian convention ships).

The rationale for including all Norwegian ships used in commercial operations in the new reporting requirement is primarily that it will contribute to increased knowledge, better prevention, and more thorough

follow-up of fatalities related to the operation of ships. A larger data set could also facilitate more research in this field. In this context, reference is made to the NMA's work on Norway's Vision Zero, an effort to prevent deaths and serious injuries at sea, adopted by the Storting in 2022. Vision Zero aims to ensure that no one loses their life or is seriously injured while at sea.

The vision focuses on accidents that result in fatalities and serious injuries on board ships. The NMA is currently developing the "National Action Plan for Maritime Safety". The measures stemming from this action plan will serve as the primary tools in the pursuit of achieving Vision Zero. By registering all fatalities on board Norwegian ships used for commercial purposes, regardless of the cause of death, the NMA will be able to identify trends and connections that have so far been difficult to detect. This information will be valuable for identifying key focus areas in the ongoing effort toward Vision Zero. Please also refer to the discussion of Vision Zero here: Bakgrunn - Sjøfartsdirektoratet.

To simplify the reporting process when the new requirement comes into force, it is planned that reporting to the NMA will be done using a prescribed form. Rather than creating a separate form, the NMA will amend the existing form for reporting accidents and near-misses by adding new fields for registering fatalities and describing the cause of death. Since the current reporting form is named KS-0197 Maritime casualty report – Ship and personnel, it will also be necessary to change the form's name. The form has not yet been finalised, but based on the draft reporting form developed by the ILO, it is likely that non-accident-related deaths will be categorised as illness, person overboard, occupational injury, suicide, other and under investigation/unknown.

The proposed Regulations require that companies with Norwegian ships used for commercial purposes ensure that all fatalities occurring on board or in connection with the operation of their vessels are reported to the NMA following the reporting procedure set out in section 6 of the Regulations. This means that the master or the company must report the fatalities to the NMA by submitting the reporting form within 72 hours of the incident.

Since the regulatory amendments apply to more Norwegian ships than those covered by the MLC, it can be argued that the proposed way to implement the Convention's requirement includes a special Norwegian requirement. However, the NMA considers the requirement to report all fatalities on board or in connection with the operation of Norwegian ships used for commercial purposes to have limited consequences for the Norwegian shipping industry.

It is proposed not to incorporate the requirement to report fatalities to the ILO in Norwegian regulations, as this responsibility will lie with the NMA. Nevertheless, the NMA will ensure that the requirement is included in relevant procedures.

Proposed amendments to section 1 first paragraph (g):

g. all fatalities occurring on board or in connection with the operation of Norwegian ships, with the exception of recreational craft.

Proposed amendments to section 6, the headline:

Reporting fatalities, marine accidents, other incidents and occupational diseases

Proposed amendments to section 6 third paragraph:

All deaths occurring on board or in connection with the operation of Norwegian ships, with the exception of recreational craft, shall be reported to the Norwegian Maritime Authority using a prescribed form within 72 hours of death. The reporting requirement applies regardless of the cause of death.

Comments on the proposed amendments

Note that section 6 specifies that "all deaths" must be reported. This aligns with the wording in MLC Standard A4.3 new paragraph 5(a), which states that the flag State must report "all deaths" to the ILO.

Furthermore, section 6 third paragraph specifies that reporting must be conducted regardless of the cause of death.

The existing reporting obligation pursuant to section 6 first paragraph, which may also involve reporting deaths, still applies to both Norwegian and foreign ships, cf. section 1 second paragraph (b).

2.2.3 Proposed implementation of amendments to MLC Appendix A2-I – Evidence of financial security – in the Regulations on financial security related to the entitlements of abandoned employees on Norwegian ships

Appendix A2-I of the Convention contains requirements regarding the content of the evidence of financial security to cover the entitlements of abandoned seafarers. Standard A2.5.2 paragraph 7 states that "[t]he certificate or other documentary evidence of financial security shall contain the information required in Appendix A2-I. It shall be in English or accompanied by an English translation".

The MLC amendment entails an amendment to subparagraph g of MLC Appendix A2-I, where "name of the shipowner" is replaced by "name of the shipowner, or of the registered owner if different from the shipowner".

The NMA proposes to implement this change in the Regulations of 19 December 2017 No. 2293 on financial security related to entitlements of abandoned employees on Norwegian ships, specifically in section 6 on documentation of financial security.

These Regulations apply to Norwegian cargo ships and passenger ships engaged on foreign voyages, cf. section 1 on the scope of application. The company is responsible for ensuring financial security under the Regulations, cf. section 2. To document that the obligation to furnish financial security has been met, a certificate or other documentary evidence issued by the financial security provider must be carried on board, cf. section 2. The Regulations are grounded in the Ship Labour Act section 4-7 concerning the company's obligation to furnish a guarantee.

Since the MLC amendment only involves a change that allows the owner of the ship to hold the evidence of financial security under the Regulations if the owner is different from the company, there is no need to alter the scope of the Regulations in response to the proposed amendments.

The alternative allowing the registered owner to hold the financial security is proposed to be included in section 6 second paragraph (g) of the Regulations.

<u>Proposed amendments to section 6 second paragraph (g):</u>

g. name of the company *or of the registered owner if different from the company*

2.2.4 Proposed implementation of amendments to MLC Appendix A4-I – Evidence of financial security – in the Regulations on guarantees for social security entitlements for employees on Norwegian ships

Appendix A4-I of the Convention contains requirements regarding the content of the evidence of financial security to cover expenses related to a seafarer's illness, injury or death. Standard A4.2.1 paragraph 14 specifies the following: "The certificate or other documentary evidence of financial security shall contain the information required in Appendix A4-I. It shall be in English or accompanied by an English translation.».

The MLC amendment entails a modification to subparagraph g of the MLC Appendix A4-I, where "name of the shipowner" is replaced by "name of the shipowner, or of the registered owner if different from the shipowner".

The NMA proposes implementing this change in section 7 of the Regulation of 18 February 2005 No. 145 on guarantees for social security entitlements for employees on Norwegian ships, which pertains to documentation of the required guarantee.

These Regulations apply to certain groups of workers on Norwegian ships who are not covered by Norwegian social security schemes, cf. section 1 regarding its scope. The company is responsible for ensuring financial security under the Regulations, cf. sections 3 and 5. To demonstrate that the obligation to provide financial security has been fulfilled, a certificate or other documentary evidence issued by guarantor must be available on board, cf. section 6. The Regulations are grounded in the Ship Labour Act section 4-7 concerning the company's obligation to furnish a guarantee.

Since the MLC amendment only involves a change that allows the owner of the ship to hold the evidence of financial security under the Regulations if the owner is different from the company, there is no need to change the scope of the Regulations in response to the proposed amendments.

The alternative allowing the registered owner to hold the evidence is proposed to be included in section 7 third paragraph subparagraph g of the Regulations.

Proposed amendments to section 7 third paragraph (g):

g. name of the company *or of the registered owner if different from the company*

2.3 Other implementation of MLC amendments

This section describes amendments to the Maritime Labour Convention (MLC) that, in the opinion of the Norwegian Maritime Authority, are either unsuitable for regulatory implementation or are better addressed through alternative measures and therefore do not require regulatory amendments.

2.3.1 MLC Guideline B4.4.2 – Welfare facilities and services in ports

A new paragraph 5 has been added to Guideline B4.4.2, recommending that port States provide seafarers on ships in their ports and associated anchorages with internet access, and that this service should be affordable or even free.

This provision is non-binding and is not considered suitable for direct implementation in laws or regulations, as it is deemed inappropriate to regulate the State's obligations in this specific context. However, the NMA has informed the Ministry of Trade, Industry and Fisheries and the Norwegian Coastal Administration about this new guideline, referencing the possibility of considering requirements for port and anchorage owners to provide internet access to seafarers under the Ports and Waterways Act of 21 June 2019 No. 70. The NMA recognises that only a few ports in Norway currently offer internet access to seafarers.

2.3.2 Proposed implementation of Guideline B4.3.5 – Reporting and collection of statistics

A new paragraph 4 has been added to Guideline B4.3.5, recommending that flag States use a specific format when reporting fatality data in accordance with Standard A4.3, new paragraph 5(a), and for the classification of fatalities, as specified by the ILO. However, this reporting format has not yet been finalised. Since this provision is non-binding, it is not deemed suitable for direct implementation in Norwegian acts or regulations. Nevertheless, the NMA will consider this recommendation when reporting fatalities to the ILO.

Additionally, the new paragraph 5 suggests including information on the classification of death, ship type and gross tonnage, location of the fatality (at sea, in port, at anchorage), and the seafarer's sex, age, occupational position and department. While this provision is non-binding and considered suitable for direct implementation in acts or regulations, the NMA will take these recommendations into account when reporting fatalities to the ILO.

For further details, refer to the proposed requirement to report fatalities to the NMA, as mentioned under the description of the proposed implementation of Standard A4.3 in section 2.2.2 above.

3. Administrative and financial implications

The Norwegian Maritime Authority assesses that the consequences of the proposed regulatory amendments will be sufficiently limited, thereby not affecting the overall operating conditions for the Norwegian shipping industry. The NMA believes that the benefits of these proposals, particularly in relation to Vision Zero, will far outweigh any disadvantages.

3.1 Private sector

3.1.1 Employers with employees on board Norwegian ships

Section 3 first paragraph of the Regulations of 19 August 2013 No. 999 on the use of recruitment and placement services on ships imposes duties on the employer when using recruitment and placement services for the recruitment and placement of employees on Norwegian ships.

The proposed amendments to section 3 first paragraph subparagraph k do not change the employer's obligation to perform documentation checks. However, they require employers to maintain documentation proving that recruitment and placement services have updated procedures in place. These procedures must ensure that the employees are informed about their existing protection system (insurance or other appropriate measures) of the recruitment and placement services.

3.1.2 Shipping companies with Norwegian ships

a. Regulations on the use of recruitment and placement services on ships

If the employer is not the company, the company remains obligated to ensure compliance with the provisions of or pursuant to the Ship Labour Act concerning employees working on board Norwegian ships, cf. section 2-4 first paragraph. This obligation also extends to the employer's compliance with section 3-9 of the Ship Labour Act on the use of recruitment and placement services and section 3 of the Regulations of 19 August 2013 No. 999 on the use of recruitment and placement services on ships.

The company's burdens in this regard are not expected to significantly increase, even though the employer's documentation requirement will expand slightly due to the proposed amendments to section 3 (k) of the Regulations of 19 August 2013 No. 999 on the use of recruitment and placement services on ships.

b. Regulations on the obligation to notify and report marine accidents and other incidents at sea

The new requirement to report all fatalities occurring on board or in connection with the operation of Norwegian ships, excluding recreational craft, will impose an additional reporting duty on shipowners with Norwegian ships, cf. proposed section 6 new third paragraph of the Regulations of 27 June 2008 No. 744 on the obligation to notify and report maritime accidents and other incidents at sea. (It should be noted that while the master is also obligated to report, the overall responsibility lies with the company, cf. the Ship Safety and Security Act section 6 on regarding the general duties of the company.)

Since the Norwegian Maritime Authority plans to use the existing reporting form for maritime accidents, occupational accidents and near-miss incidents, with modifications, for reporting fatalities regardless of cause, the additional burden of this reporting requirement is deemed minor compared to the expected benefits. The NMA anticipates that this reporting will contribute to the prevention of fatalities on board. Furthermore, the NMA has observed that the Zero Vision initiative is widely supported.

c. Regulations on financial security related to the entitlements of abandoned employees on Norwegian ships and Regulations on guarantees for social security entitlements for employees on Norwegian ships

As a result of the amendments to Appendices A2-I and Annex A4-I of the Convention regarding evidence of financial security, companies subject to the regulations on financial security and guarantees must ensure that the documentation is updated as necessary in accordance with the revised MLC Appendices. This requires that

the wording in the financial security or guarantee documents clearly indicates whether the company or the registered owner of the ship holds these documents.

The amendments to the regulations will provide greater contractual flexibility between the company and the registered owner, allowing the registered owner to be designated as the holder of the financial security or guarantee instead of the company, if the company is not also the owner. However, since the company remains responsible for ensuring the existence of the financial security or guarantee, the administrative costs for the company are expected to remain largely unchanged, regardless of whether the company or the shipowner is identified as the holder of the documents.

d. Declaration of Maritime Labour Compliance (DMLC)

The Declaration of Maritime Labour Compliance (DMLC) Part I does not require any amendments when the MLC amendments and the related regulatory changes take effect. This declaration is part of the Maritime Labour Certificate (MLC Certificate), as outlined in section 14 of the Regulations of 22 December 2014 No. 1893 on supervision and certificates for Norwegian ships and mobile offshore units.

No amendments to DMLC Part I are necessary because the proposed regulatory changes only pertain to legislation that is already included in that declaration.

However, the company is responsible for ensuring that the procedures referenced in DMLC Part II are updated in accordance with DMLC Part I.

3.2 Persons working on board ships

The NMA believes that the proposed amendments to the Convention will significantly enhance the working and living conditions for persons working on ships, regardless of whether they fly the Norwegian flag.

One key requirement is for recruitment and placement services to inform their employees, either before or during the recruitment process, about insurance arrangements or other suitable measures. This will enable seafarers to better compare different services, cf. the proposed amendments to section 3 first paragraph subparagraph k of the Regulations of 19 August 2013 No. 999 on the use of recruitment and placement services on ships. This initiative is expected to foster positive competition among recruitment and placement services.

Additionally, the NMA believes that the obligation to report all fatalities occurring on board or in connection with the operation of Norwegian ships used for commercial purposes will enhance the focus on preventing all causes of fatalities at sea. Furthermore, the NMA anticipates that this will result in closer monitoring of personnel on board, particularly concerning their health and psychosocial well-being.

3.3 Public sector

Generally speaking, the implementation of the Maritime Labour Convention (MLC) amendments is anticipated to require minimal resources from the public sector.

For the Norwegian Maritime Authority, this implementation will primarily involve regulatory work and training of personnel tasked with enforcing the regulatory amendments.

The new requirement to report fatalities, as outlined in section 6 third paragraph of the Regulations of 27 June 2008 No. 744 on the obligation to notify and report marine accidents and other incidents at sea, will necessitate the allocation of resources for the NMA. This includes updating reporting forms and managing the receipt and processing of fatality reports. Additionally, the NMA will need to ensure new annual reporting of fatalities to the ILO.

It is expected that the need for guidance on these regulatory amendments from the shipping industry will be limited.

Sjøfartsdirektoratet
Norwegian Maritime Authority

Yours faithfully,

Alf Tore Sørheim
Interim Director General of Shipping and Navigation

Henrikke Roald
Acting Head of Department
Legislation and International Relations

This document has been electronically approved, and therefore does not contain handwritten signatures.

Attachments:
1. Proposed amendments to the Regulations on the use of recruitment and placement services on ships
2. Proposed amendments to the Regulations on the obligation to notify and report marine accidents and other incidents at sea
3. Proposed amendments to the Regulations on financial security related to the entitlements of abandoned employees on Norwegian ships
4. Proposed amendments to the Regulations on guarantees for social security entitlements for employees on Norwegian ships
5. MLC amendments in the original (English) version – «Amendments of 2022»
6. MLC amendments in Norwegian, translated by the Norwegian Maritime Authority
7. List of consultative bodies

CC
Ministry of Trade, Industry and Fisheries P.O. Box 8090 Dep N-0032 OSLO