



## **Circular N° CH 43-12**

**To: Shipowners, Operators and Masters of all Swiss flagged Vessels and Recognised Organisations**

**Subject: Shipowners' Liability**

- Reference:**
- a) **Maritime Labour Convention, 2006, as amended, (hereafter "MLC"), Regulation 4.2**
  - b) **Federal Law on Navigation under the Swiss Flag (Navigation Act Art 63, Art 84 et seq.; Navigation Ordinance Art 41 et seq.)**
  - c) **Collective Agreement of Employment (CAE)**

### **PURPOSE:**

This Notice outlines the shipowners' obligation to maintain insurance or other financial security to assure compensation in the event of a contractual claim involving death or long-term disability due to occupational accident, illness or hazard as set out in national law, the seafarers' employment agreement or collective agreement.

### **APPLICABILITY:**

This Notice applies to all commercial vessels registered under the Swiss flag.

### **REQUIREMENTS:**

#### **1. General**

- 1.1 All of a ship's crew members who are registered as such in the muster roll are insured against illness and occupational accident.
- 1.2 A financial security system shall provide for the payment of all contractual claims covered by it which arise during the period for which the document is valid.
- 1.3 Seafarers' employment agreements shall contain the particulars of the seafarer's claim of compensation or make reference to the valid CAE.

#### **2. Requirements and Claims**

The required financial security system should cover the following issues:

- A) A contractual compensation shall be paid in full and without delay;
- B) There shall be no pressure to accept a payment less than the contractual amount;
- C) Where the nature of the long-term disability of a seafarer makes it difficult to assess the full compensation to which the seafarer may be entitled, an interim payment or payments shall be made to the seafarer so as to avoid undue hardship;
- D) A payment to the seafarer shall be made irrespective of other legal rights, but such payment may be offset by the shipowner against any damages resulting from any other claim made by the seafarer against the shipowner and arising from the same incident;

- E) The claim for contractual compensation may be brought directly by the seafarer concerned, or their next of kin, or a representative of the seafarer or designated beneficiary;
- F) A financial security should not cease before the end of the period of validity of the insurance, unless the Flag State is given at least thirty (30) days' notice.
- G) Seafarers receive prior notification if a shipowner's financial security is to be cancelled or terminated.

### **3. Declaration**

- 3.1 Every ship flying the Swiss flag shall carry on board from 18 January 2017 a certificate or other documentary evidence of financial security issued by each financial security provider.
- 3.2 The certificate or documentary evidence should contain the information as required in Appendix A4-I of MLC, 2014 Amendments:
  - name of the ship;
  - port of registry of the ship;
  - call sign of the ship;
  - IMO number of the ship;
  - name and address of the provider or providers of the financial security;
  - contact details of the persons or entity responsible for handling seafarers' contractual claims;
  - name of the shipowner;
  - period of validity of the financial security; and
  - an attestation from the financial security provider(s) that the financial security meets the requirements of MLC Standard A4.2.1.
- 3.3 A copy of such document shall be prominently placed on board where it is available to the seafarers. It shall be in English and, if necessary, in a language suitable for the crew members.
- 3.4 A copy of such documents shall be served to SMNO.

### **4. Receipt and Release Form**

All parties should pay attention to the fact that a payment must be documented. Please consult MLC Guideline B4.2.2 and Appendix B4-I.

### **5. Date of Application**

By **18 January 2017**, compliance with MLC Regulation 4.2 has to be reached without exception. Compliance will be verified during the first intermediate inspection carried out on or after 18 January 2017.

Swiss Maritime Navigation Office SMNO