

Abandonment protection can't come soon enough

Carly Fields speaks with Seacurus' Thomas Brown about how amendments to the all-important MLC, 2006 will improve the financial security of all serving seafarers

In existence for nine years and in force for the last two, the Maritime Labour Convention, 2006 (MLC, 2006) can no longer be rightly described as a fledging regulation. Covering all seafarers working on board ships that fly the flag of countries that have ratified the convention, MLC, 2006 was ushered onto the shipping scene promising a set of unified labour standards for seafarers. It has delivered that and more, complementing the conventions of the IMO that deal with safety and security of ships and protection of the marine environment. But what does this mean for seafarers? Does it mean that the issue of abandonment has gone away?

Far from it says Thomas Brown, managing director of specialist marine insurance intermediary Seacurus, pointing to weekly stories in the mainstream shipping press and the International Labour Organization (ILO) abandonment database as proof of the continuing problem. However it was never designed to negate the risk of abandonment, but rather to mitigate the suffering of those who become victims of abandonment, he adds.

"It is hard to see how a regulatory instrument could ever extinguish this risk altogether," he says.

"That said, the aspects of the convention which impose upon the employers of seafarers an obligation to provide financial security should be applauded, as the regulators have, by making financial security an international requirement, recognised the very grave and real consequences of abandonment."

ILO has provided the framework; it is for industry stakeholders to determine how it is implemented and their actions will ultimately decide if the convention's well-meaning intentions are ever realised. Financial security is currently called for in two sections of the convention namely regulation 1.4 and regulation 2.5, which will soon be amended.

Regulation 1.4 attempts to address the risks inherent within the global seafarer recruitment and placement industry. This regulation obligates member states to ensure that seafarer recruitment and placement services operating from their jurisdiction can demonstrate that they have in place an adequate system of financial security to indemnify the financial losses of seafarers they place at sea, in the event of the contractual default of their employer.

"The success of this regulation will be determined by the actions of the member states to ensure that such companies comply," says Capt Brown. "To this end we have seen little demonstrable evidence to make us believe that member state intervention is taking place on a global basis."

The second pillar of financial security can be found in Regulation 2.5 of MLC, 2006 which deals more specifically with the issue of abandonment. This regulation is subject to an important amendment, anticipated to enter into force in January 2017, which will reinstate the obligation on shipowners to ensure that all vessels to which the MLC applies, have on board an in-force certificate of financial security which will accrue a benefit to the crew of that vessel in the event of their abandonment.

"Until this obligation is mandated globally and compliance is enforced globally by port state control, we will not know if the well-meaning intentions of the drafts men and women of the MLC in trying to find a solution to the issue of seafarer abandonment will be achieved. For now it is very much as we were pre MLC when the valuable work of charitable organisations such as The Mission to Seafarers continues to represent the only real and tangible relief to seafarers caught in the abandonment trap."

While there is little on an individual level that seafarers can do to encourage their employers to purchase abandonment cover at this time, there is no substitute for education at an individual level.

"Seafarers need to know their rights. With the right education they will better understand the basis upon which they are employed and to which party they should look for abandonment protection.

Ironically, as the regulation stands at present in its un-amended form, a seafarer employed on a direct basis by a shipowner will be afforded less protection than a seafarer employed by a crew

management company (CMC) and/or placed on board a vessel by a seafarer recruitment and placement service (SRPS).”

Once the amendments are mandated, seafarers can at least check if their employer has invested in abandonment insurance through the certificate that must be displayed. This certificate will provide details of the security and who to call in the event of abandonment.

Seacurus already issues CMC/SRPS insureds with a certificate which they retain in their office and it is in the final development phase of creating an individual seafarer assistance card which links through to an online database where insured seafarers can check for cover and/or notify us of a claim. “We believe we are one of the first insurers to offer individual seafarers this level of service and security.”

Given the slow moving nature of international legislators, seafarers could be forgiven for doubting that the all-important amendments will actually ever come into force. But Capt Brown is resolute: “We are very confident the amendments will be unopposed and will come into force Jan 2017. This will be an historic moment for all seafarers as they will at last have real protection against the risk of abandonment. This should also negate the need to rely on charities such as the MTS to provide for the welfare of abandoned seafarers, as has been the case on so many occasions to date.

“In the 21st century, a global workforce should not have to rely upon charitable relief due to their employers’ financial mismanagement. As consumers we do not contemplate booking an overseas holiday without the security of an ABTA certificate of financial responsibility, so why then should it be assumed that seafarers will assume this very same risk themselves largely on our behalf as the consumers who rely on them getting our goods from A to B?”