



## MLN 2.4

Revision No 2

DEPARTMENT OF ECONOMIC DEVELOPMENT

### **MLC Title 2.4 Entitlement to leave**

This MLN provides guidance on compliance with Isle of Man (IOM) regulations which give effect to MLC 2006 Title 2.4. Implementation of these guidelines will be taken as evidence of compliance with the Isle of Man regulations.

The guidelines do not preclude the shipowner from demonstrating an equivalent or higher standard as an "alternative method" of evidence of compliance.

Documents referred to in this notice:

Maritime Labour Convention (MLC) 2006;

Maritime Labour Notice 2.5 Repatriation.

Most regulations and notices are available on the Isle of Man Government website: [www.iomshipregistry.com](http://www.iomshipregistry.com) or by contacting [marine.survey@gov.im](mailto:marine.survey@gov.im)

#### **Entitlement to leave**

1. The Seafarer's Employment Agreement (SEA) includes the amount of paid annual leave the seafarer earns and this amount must be a minimum of 2.5 days for every month the seafarer works. This Maritime Labour Notice explains how shipowners can meet the requirements of MLC and the Isle of Man regulations to ensure seafarers receive at least the minimum amount of paid annual leave and paid public holidays. Seafarers shall also be granted shore leave as far as the operational requirements of their position allows.

#### **Calculation of annual leave and public holidays**

2. It is the shipowner's responsibility to ensure seafarers are given paid annual leave and paid public holidays. Paid annual leave shall be calculated on the basis of a minimum of 2.5 days per 30 days service period. Public holidays shall be calculated on the basis of 10 days earned for every 12 months worked. However a Collective Agreement (CA) may have a different rate, for both annual leave and public holidays.

The service period is the period of time from when a seafarer leaves to travel to a vessel up until the time the seafarer has been repatriated (refer to MLN 2.5 Repatriation). This includes all the days the seafarer has been on the vessel and travelled to and from the vessel. If the time travelled to or from the ship includes a fraction of a day, this must be

rounded up to a full day for the service period calculation. However if the seafarer decides to take local leave before being repatriated this should not be included in the service period.

For service periods of less than 30 days the minimum annual leave entitlement shall be calculated on a pro-rata basis and be expressed in days. Any fraction of a day shall be rounded up to the nearest half day.

For example, a seafarer spends 2 days travelling to the vessel, works for 41 days and then spends 2 days travelling home.

The Service Period is  $2 + 41 + 2 = 45$  days

The leave earned is calculated by -

	<b>Service Period</b>	<b>Leave Earned</b>
	30	2.5
	15	1.25
<b>Total</b>	45	<b>3.75</b>

Total leave earned = 3.75 days, rounded up to 4 days paid annual leave.

### **Public holidays**

If a seafarer is serving under a CA which includes paid public holidays the seafarer is not also entitled to the Isle of Man public holidays stated below.

Shipowners must ensure seafarers receive an additional 10 days public holiday for every service period of 12 months to reflect the public holidays available on the Isle of Man. For service periods of less than 12 months, the public holiday entitlement shall be calculated on a pro-rata basis. It is not stated in the regulations when the public holidays have to be taken and it is possible for a seafarer to have a day off in lieu of a public holiday subject to the vessel's operational requirements when the vessel is in port. However in most cases it is expected that public holidays will be added onto the seafarer's annual leave.

So for a service period of 45 days the public holidays are calculated as follows -

	<b>Service Period</b>	<b>Public Holidays</b>
<b>Total</b>	45	<b>1.23</b>

Total Public Holidays earned = 1.23 days, rounded up to 1.5 days paid public holidays.

### **What is not counted as part of the minimum annual leave or public holidays**

3. The following shall not be counted as part of the minimum annual leave with pay or as a public holiday -

- a. Periods of incapacity from work resulting from illness, injury or from maternity;
- b. Temporary shore leave granted to a seafarer while under an SEA;
- c. Compensatory leave of any kind;
- d. Travel time to and from the ship and time awaiting repatriation.

#### **Pay during the minimum annual leave and public holidays**

4. The level of pay during the seafarer's minimum annual leave and public holiday entitlement must at a minimum be that of the seafarer's pay for normal hours of work as agreed to in their SEA, which can be either -
  - a. basic pay (which does not include payments for overtime worked, bonuses, allowances, paid leave or any other additional remuneration); or
  - b. a consolidated wage

#### **Prohibition on forgoing minimum annual leave and public holidays with pay**

5. Any agreement for seafarers to forgo their minimum annual leave or public holiday entitlements with pay is prohibited.

#### **Recalling a seafarer while on annual leave or a public holiday**

6. A seafarer cannot be recalled while they are taking their minimum annual leave. However it is permitted for a seafarer to be recalled during a public holiday, or any leave taken in lieu of a public holiday. This should only happen in cases of extreme emergency and with the seafarer's consent.

#### **Taking of minimum annual leave**

7. A seafarer is entitled to take annual leave in the place with which they have a substantial connection, normally the same place to which they are entitled to be repatriated in accordance with their SEA. Seafarers must not be required without their consent to take annual leave at a different location.

The time at which annual leave is taken should, unless it is fixed by a CA or an arbitration award be determined by the shipowner after consultation. As far as possible this shall also be in agreement with the seafarers concerned or their representatives.

#### **Young seafarers**

8. Seafarers under the age of 18 must be offered repatriation at no expense to themselves to the place of original engagement in their country of residence in order to take any annual leave earned during the voyage and when -
  - they have served for 6 months (or less if specified in their SEA or CA); and
  - they have worked on a foreign-going ship which has not returned to their country of residence in that time.