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# ALON Ocean Wave

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Topics of interest relating to the Philippine Maritime Industry and Shipping

### POEA Standard Employment Contract and implementation of MLC Amendments 2018



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**The implementation of the 2018 MLC Amendments into the POEA Standard Employment Contract**

The current version of the POEA (Philippines Overseas Employment Administration) SEC (Standard Employment Contract) is Memorandum Circular 10 of 2010. Historically the POEA contract has been reviewed on a ten year cycle, in 1998/1999 (2000 Contract), 2008/2009 (2010 Contract). While the MITC (Maritime Industry Tripartite Counsel) commenced a full review of the POEA in 2018, unfortunately due to obligations of the Philippine Government and the impact of COVID in early 2020, then a revised contract for 2020 was not completed.

The POEA has however in Memorandum Circular 34 of 2020 amended the 2010 SEC and implements the MLC 2018 Amendments;

Areas affected are

-  **Definitions:** introduction of two new definitions.
-  **Section 2: Duration Of Contracts;** the addition of paragraph C.
-  **Section 6: Wages;** the addition of paragraph C.
-  **Section 19: Repatriation:** original paragraph H is moved to now become paragraph I and a new Paragraph H inserted.
-  One page employment contract now has reference to the 2018 MLC amendments

**TO: ALL POEA LICENSED MANNING AGENCIES, SHIPOWNERS, AND PRINCIPAL/EMPLOYERS**

**SUBJECT: COMPLIANCE WITH THE 2018 AMENDMENTS TO THE MARITIME LABOR CONVENTION, 2006 WHICH WAS RATIFIED BY THE PHILIPPINES AND SHALL ENTER INTO FORCE ON 26 DECEMBER 2020**

The 2018 Amendments to the Code of the Maritime Labor Convention (MLC), 2006, relating to Regulation 2.1 (Standard A2.1 - Seafarers' employment agreements), 2.2 (Standard A2.2 - Wages), and 2.5 (Guideline B2.5.1 - Entitlement) as agreed by the Special Tripartite Committee on 27 April 2018 mandates the inclusion of certain provisions in the Standard Terms and Conditions Governing the Overseas Employment of Filipino Seafarers On-Board Ocean-Going Ships concerning the seafarers' employment agreement which shall continue to have effect while a seafarer is held captive on or off the ship as a result of acts of piracy or armed robbery against ships, among others.

In compliance with above-cited 2018 MLC Amendments, the POEA Standard Terms and Conditions Governing the Overseas Employment of Filipino Seafarers On- Board Ocean Going Ships as provided in POEA Memorandum Circular No. 10, Series of 2010 is hereby amended to include the provisions covered by the said MLC, 2006 Amendments as follows:

**“Definition of Terms:**

xxx xxx xxx

18. Piracy - shall refer to maritime piracy as defined under the United Nations Convention on the Law of the Sea, 1982

19. Armed robbery against ships - shall refer to any illegal act of violence or detention or any act of depredation, or threat thereof, other



than an act of piracy, committed for private ends and directed against a ship or against persons or property on board such a ship, within a State's internal waters, archipelagic waters and territorial sea, or any act inciting or of intentionally facilitating an act described above

xxx xxx xxx

**SECTION 2. COMMENCEMENT/DURATION OF CONTRACT**

A . xxx

B . xxx

C . Notwithstanding Paragraphs A and B above, the seafarer's employment agreement shall continue to have effect while a seafarer is held captive on or off the ship as a result of acts of piracy or armed robbery against ships, regardless of whether the date fixed for its expiry has passed or either party has given notice to suspend or terminate it.

xxx xxx xxx

**SECTION 6. WAGES**

A. All seafarers shall be paid for their work regularly and in full in accordance with this contract. They shall be paid monthly wages not later than 15 days of the succeeding month from the date of commencement of the contract until the date of arrival at point of hire upon termination of their employment pursuant to Section 18 of this contract.

B. Seafarers shall be given a monthly account of the payments due and the amounts paid to them, including wages, additional payments and the rate of exchange used.

C. Where a seafarer is held captive on or off the ship as a result of acts of piracy or armed robbery against ships, wages and other entitlements under the seafarers' employment agreement, relevant collective bargaining agreement or applicable national laws, including the remittance of any allotments, shall continue to be paid during the entire period of captivity and until the seafarer is released and duly repatriated or, where the seafarer dies while in captivity, until the date of death as determined in accordance with applicable national laws or regulations.

xxx xxx xxx

**SECTION 19. REPATRIATION**

A . xxx

B . xxx

H. The entitlement to repatriation may lapse if the seafarer concerned do not claim it within a reasonable period of time to be defined by national laws or regulations or collective agreements, if applicable;

except where the seafarer is held captive on or off the ship as a result of acts of piracy or armed robbery against ships.

I. The seafarer shall report to the manning agency within 72 hours upon arrival at point of hire.



The Amended POEA Standard Terms and Conditions Governing the Overseas Employment of Filipino Seafarers On-Board Ocean Going Ships bearing the additional provisions pursuant to the 2018 MLC Amendments shall be adopted by licensed manning agencies and their principals/employers as a requirement in the documentation and deployment of Filipino seafarers.

Further, the One-Page Employment Covering Contract which forms part of the Standard Terms and Conditions is likewise amended and hereto attached.

For this purpose, the Licensed Manning Agencies are directed to include these pertinent amendments to the Standard Terms and Conditions in their Anti-Piracy and Pre-Departure Orientation Seminars.

This Memorandum Circular shall take effect on 26 December 2020.

For strict compliance.

A copy of MC 34 2020 is attached and includes the amended one page Employment Covering Contract, the changes here are;

1. The terms and conditions in accordance with Governing Board Resolution No. 09, and Memorandum Circular No. 10, both Series of 2010, and Memorandum Circular No., Series of 2020 (Compliance with the 2018 Amendments to the Maritime Labour Convention, 2006) shall be strictly and faithfully observed.

Any questions or further assistance please email [mis@pandiman.com](mailto:mis@pandiman.com) or [andymalpass@pandiman.net](mailto:andymalpass@pandiman.net)

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