

## **KISH P & I LOSS PREVENTION CIRCULAR KPI-LP-108-2013** **(Update on MLC & Financial Security Requirements)**

Referring to the previous circulars concerning the Maritime Labour Convention (MLC), the count down for its entry into force (20.August.2013) has brought the Convention and its requirements on ship-owners into focus and in particular the financial security requirements established in the Convention.

The following are points to ponder & need to be reiterated here:

### **► Standard A2.5 – Repatriation:**

This Standard and accompanying Guidelines provide that seafarers must be repatriated at no cost to themselves; outlines the circumstances in which seafarers are entitled to repatriation, and requires that ship-owners shall provide financial security for the liabilities established in the Standard. Members must be aware that, in order to assist in complying with these financial security requirements, all Clubs have agreed to extend the scope of standard P&I cover to include repatriation in cases of insolvency and in the other circumstances listed in the MLC where seafarers are entitled to repatriation.

This Standard does not include a provision concerning outstanding unpaid wages. Liability for unpaid wages following abandonment is a feature of the principles agreed in the International Labour Organization (ILO) in 2009, but these principles are not applicable at this stage and there is no requirement in the MLC to provide financial security by way of insurance cover for unpaid wages. The ILO principles are subject to further discussion and negotiation, and to take this forward ILO has scheduled a meeting for April 2014. It will then take several years for the principles to be considered and finalized in ILO, and then implemented in State Parties to the MLC. The current position, therefore, is that unpaid wages are not covered by the MLC and there is no

requirement to provide financial security for such wages.

### **► Regulation 4.2 – Ship-owners’ Liability (for sickness, injury or death):**

The MLC provides that States Parties shall ensure that seafarers on vessels flying their flag are entitled to compensation in the event of death or long term disability due to an occupational injury, illness or hazard as set out in national law, the seafarer’s employment agreement or collective agreement and that there must be financial security for such compensation. Such claims are generally already covered under the standard P&I cover provided by a member’s P&I club entry for, subject to the club rules.

### **► Standard 1.4 Recruitment and Placement:**

The MLC does not introduce a requirement on ship-owners to provide financial security in respect of the recruitment of seafarers. The MLC imposes certain duties and obligations on State Parties to the MLC, agencies involved in recruitment and placement services may be subject to specific licensing requirements, but this is a matter for each State Party to consider when implementing the Convention.

### **► Standard 2.2 Wages:**

The MLC does not introduce an obligation on ship-owners to maintain financial security for unpaid wages to seafarers. It does, however, introduce obligations on State Parties who will require that seafarers receive payment in accordance with their employment agreements. Such obligation to pay seafarers wages is likely to be incorporated in the existing national law of each State Party.