



Rev. 0

**REPUBLIC of SAN MARINO
MARITIME AUTHORITY**

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San Marino Policy Letter

SMPL – 2021-MLC-016

02 November 2021

San Marino Ship Register SMSR

Employment of Seafarers on board San Marino- registered vessels

TO: Recognised Organisations, Shipowners, Managers, Masters, Seafarers, SMSR partners,
SMSR brokers, Surveyors, and the general public.



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1. Employment of Seafarers on board San Marino-registered vessels

This policy letter is intended to clarify the rules and requirements for the employment of seafarers on board yachts and ships registered in the San Marino Ship Register (SMSR).

- a. On 26 February 2021 the Republic of San Marino has ratified the Maritime Labour Convention concluded in Geneva on 23 February 2006 (MLC)¹.
- b. The MLC applies to all ships, whether publicly or privately owned, ordinarily engaged in commercial activities².
- c. For the purpose of this Policy Letter 'seafarer' means any person who is employed or engaged or works in any capacity on board a ship to which the MLC applies³, as well as any person who is employed or engaged or works in any capacity on board pleasure yachts not engaged in trade (in private use).
- d. For the purpose of this Policy Letter 'shipowner' means the owner of the ship or another organization or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on shipowners in accordance with the MLC, regardless of whether any other organization or persons fulfil certain of the duties or responsibilities on behalf of the shipowner⁴.
- e. Pursuant to article 12 (Law governing employment contracts) of the San Marino Maritime Navigation Reform⁵:

"The employment contracts of the master and crew shall be governed by the law agreed upon by the parties or, in the absence of such designation, by the law of the State in which the shipowner has his/her habitual residence, if a natural person, or its principal place of business, if a legal person, in any case without prejudice to compliance with the International Labour Organization (ILO) Conventions ratified and implemented by the Republic of San Marino".

¹ With the Conciliar Decree no. 44 dated 26 February 2021.

² Pursuant to article II (Definitions and Scope of Application), paragraph 4, of the MLC.

³ In compliance with article II (Definitions and Scope of Application), paragraph 1, letter (f), of the MLC.

⁴ In compliance with article II (Definitions and Scope of Application), paragraph 1, letter (j), of the MLC.

⁵ Entered into force with Law no. 120 of 2 August 2019.



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2. Employment of Seafarers on board units in commercial use (engaged in trade)

- a. The terms and conditions for employment between a seafarer and a shipowner shall be set out, or referred to, in a clear written legally enforceable agreement (seafarers' employment agreement - SEA).
- b. Where a collective bargaining agreement forms all or part of a SEA, a copy of that collective bargaining agreement shall be available on board.
- c. Seafarers and shipowners are always free to determine the law applicable to the SEA governing their employment relationship, provided that:
 - i. in the absence of such determination, the SEA shall be governed by the law of the state in which the shipowner has his/her habitual residence (if a natural person) or its principal place of business (if a legal person); and
 - ii. for yachts and ships engaged in trade (in commercial use) any such SEA shall in all respects comply with the provisions of the MLC.
- d. Each MLC contracting state shall adopt laws and regulations specifying the matters that are to be included in all SEAs governed by its national law. In all cases SEAs shall be consistent with, and contain the particulars and minimum standards set out in, the MLC⁶.
- e. the San Marino Maritime Navigation Authority (SM MNA) shall have the duty to ascertain that all SEAs entered into by shipowners and seafarers in respect of yachts and ships engaged in trade (in commercial use) are in all respects compliant with the provisions of the MLC.

⁶ Pursuant to Regulations 2.1 to 4.5 of the MLC, including: particulars and minimum standards for wages; hours of work and hours of rest; entitlement to leave; repatriation; compensation for the ship's loss or foundering; manning levels; career and skill development and opportunities; accommodation and recreational facilities; food and catering; medical care; shipowners' liability; health and safety protection; accident prevention; access to shore-based welfare facilities; social security.



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3. Employment of Seafarers on board units in private use (not engaged in trade)

- a) The SM MNA also recommends compliance with the MLC, as far as practicable and reasonable, for SEAs relating to pleasure yachts in private use (not engaged in trade).
- b) Therefore, for pleasure yachts not engaged in trade (in private use) shipowners and seafarers are free to negotiate specific terms and conditions of SEAs in accordance with the foreign law chosen to govern their employment relationship.
- c) The rules and requirements summarized in sections 2(a) to 2(c) above shall apply to all shipowners of yachts and ships registered in the SMSR, irrespective of their residency (for natural persons) or principal place of business (for legal persons).
- d) For the purpose of the employment of seafarers both San Marino shipowners and foreign shipowners shall comply with sections 2(a) to 2(c) above, as applicable.