



TECHNICAL CIRCULAR No. 129 of 17th May 2013

To:	All Surveyors/Auditors
Applicable to flag:	All Flags
Subject:	MLC 2006, Title 3, C3.1 Accommodation
Reference:	MLC, 2006 – Maritime Labour Convention, 2006

MLC, 2006, Title 3, C3.1

C3. Title 3 Accommodation, recreational facilities, food and catering

C3.1. Accommodation and recreational facilities

C3.1.a. Do the accommodation requirements of Title 3 apply to existing ships?

Regulation 3.1, paragraph 2, of the MLC, 2006 provides that the requirements in the Code that relate to ship construction and equipment apply only to ships constructed on or after the date when the MLC, 2006, comes into force for the flag State. For ships constructed before the entry into force for the flag State, the requirements relating to ship construction and equipment that are set out in the Accommodation of Crews Convention (Revised), 1949 (No. 92), and the Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No. 133), 22 apply to the extent that they were already applicable, under the law or practice of the Member concerned.

One or both of those Conventions may have become applicable through ratification by the country concerned. Or their substance may have become applicable through the country's ratification of the Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147) and/or the 1996 Protocol to Convention No. 147; there may also be cases where Conventions Nos. 92 and 133 have not been ratified but have been made applicable under the country's national law. Even if a country has not ratified any of these Conventions all ships must comply with the basic requirement in Regulation 3.1, paragraph 1 that they "provide and maintain decent accommodations and recreational facilities for seafarers working or living on board, or both, consistent with promoting the seafarers' health and well-being" in accordance with the ships' national legislation. All

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other requirements in the MLC, 2006, as implemented nationally, including those in Standard A3.1 that are not related to construction and equipment, will apply to ships constructed before the MLC, 2006, entered into force for the flag State.

C3.1.b. Can sleeping rooms be located below a ship's load line?

Under Standard A3.1, paragraph 6(c) and (d) of the MLC, 2006, in ships other than passenger ships and special purpose ships [see C3.1.c. What are "special purpose ships"?], sleeping rooms must be situated above the load line amidships or aft, except that in exceptional cases, where the size, type or intended service of the ship renders any other location impracticable, sleeping rooms may be located in the fore part of the ship, but in no case forward of the collision bulkhead. In passenger ships and special purpose ships the competent authority [see A25. Who is the competent authority?] may, on condition that satisfactory arrangements are made for lighting and ventilation, permit the location of sleeping rooms below the load line, but in no case can they be located immediately beneath working alleyways.

C3.1.c. What are "special purpose ships"?

Special purpose ships are training or other ships constructed in compliance with the *IMO Code of Safety for Special Purpose Ships*, 2008, 25 and subsequent versions.

C3.1.d. Must seafarers always be given individual sleeping rooms?

Under Standard A3.1, paragraph 9(a) of the MLC, 2006, in ships other than passenger ships, an individual sleeping room must be provided for each seafarer; but, in the case of ships of less than 3,000 gross tonnage or special purpose ships [see C3.1.c. What are "special purpose ships"?], exemptions from this requirement may be granted by the competent authority [see A25. Who is the competent authority?] after consultation with the shipowners' and seafarers' organizations concerned.

C3.1.e. Does the MLC, 2006 require that cadets have a single cabin?

This situation and terminology may vary between countries. The following answer assumes that the term "cadet" refers to a young person enrolled in a training programme to obtain specific qualifications, which may require work experience on board. The MLC, 2006 does not directly address the question of accommodation for cadets as distinct from other seafarers. The general rule, and the possibility for exemptions, referred to in answering [see C3.1.d. Must seafarers always be given individual sleeping rooms?] would therefore apply.

C3.1.f. Must seafarers have sleeping rooms on board ships engaged on day trips?

Standard A3.1, paragraph 9 of the MLC, 2006 sets out the requirements where "sleeping accommodation on board ships is required". If a ship is not engaged in voyages where seafarers would need to sleep on the ship then sleeping rooms would not be required.

C3.1.g. Must each seafarer be provided with private sanitary facilities?

Standard A3.1, paragraph 11 of the MLC, 2006 requires ships to have a sufficient number of sanitary facilities (with a minimum of one toilet, one wash basin and one tub or

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shower), separate facilities being provided for men and women. Each seafarer is to be given convenient access to them. The Convention does not require private sanitary facilities for each seafarer, but, as recommended in Guideline B3.1.5, paragraph 2 [see A12. What is the status of the Guidelines in Part B of the Code?], where the size of the ship, the activity in which it is to be engaged and its layout make it reasonable and practicable, sleeping rooms should be planned and equipped with a private bathroom, including a toilet, so as to provide reasonable comfort for the occupants and to facilitate tidiness.

C3.1.h. Can the floor area of adjacent private or semi-private sanitary facilities be considered for purposes of calculating the minimum floor area in sleeping rooms?

Standard A3.1 of the MLC, 2006 sets out detailed requirements as to the minimum floor area of sleeping rooms, but does not specify how these areas are to be measured. It provides, however, some guidance (in Guideline B3.1.5, paragraph 6) that space occupied by berths and lockers, chests of drawers and seats should be included in the measurement of the floor area, but not small or irregularly shaped spaces “which do not add effectively to the space available for free movement and cannot be used for installing furniture”. Since an adjacent partitioned sanitary facility would not add effectively to the space available for free movement etc., it could be concluded that the existence of private or personal sanitary facilities would probably have no impact on the measurement of minimum sleeping room floor areas under Standard A3.1, paragraph 9, although they may be relevant to a question of substantial equivalence [see A11. What is a “substantially equivalent” provision?].

Could less space be provided in sleeping accommodation in return for greater comfort? This question has been raised in the context of ships with limited space for seafarers’ sleeping rooms. It raises the concept of “substantial equivalence” addressed in Article VI, paragraphs 3 and 4 of the MLC, 2006 [see A11. What is a “substantially equivalent” provision?]. Any solution to compensate for less floor area in sleeping accommodation would need to be “conducive to the full achievement of the general object and purpose” of the requirements relating to floor space to “give effect to” the provision or provisions concerned (Article VI, paragraph 4). Such a solution might reasonably consist of extra space such as a big, more comfortable day room to be shared by adjoining sleeping rooms; or the definition in Article VI, paragraph 4 might possibly justify a solution providing extra comfort related to sleeping room accommodation, such as the provision of en-suite sanitary facilities. The question has even been raised as to whether extra comfort in general, unrelated to floor area, could be considered in the evaluation of a substantially equivalent solution, such as the grant to the seafarers concerned of extra free time ashore. It is in this context that ratifying members should assess their national provisions from the point of view of substantial equivalence, identifying the general object and purpose of the MLC, 2006 Code, Part A provision concerned (in accordance with paragraph 4(a)) and determining whether or not the proposed national provision could, in good faith, be considered as giving effect to the Part A provision (as required by

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paragraph 4(b)).

C3.1.i. Why are frequent inspections of ship accommodation required and who is to carry them out?

Under Standard A3.1, paragraph 18 of the MLC, 2006, frequent inspections are to be carried out on board ships, by or under the authority of the master, to ensure that seafarer accommodation is clean, decently habitable and maintained in a good state of repair. The results of each such inspection must be recorded and be available for review. These inspections are a key part of ensuring ongoing compliance between flag State inspections. The related procedures are likely to be part of a shipowner's plans, as set out under Part II of the ship's declaration of maritime labour compliance [see C5.1.i. What should be contained in Part II of the declaration of maritime labour compliance (DMLC)?].

C3.1.j. Is there any flexibility provided with respect to the requirements for accommodation and recreational facilities?

The MLC, 2006 contains a significant level of technical guidance with respect to national implementation of the standards for on board accommodation and recreational facilities. These provisions, which are directed to flag States, apply to all ships covered by the Convention. However there also are some exceptions and flexibility based on factors such as gross tonnage levels as well as specific adjustments for some categories of ships such as passenger ships or special purpose ships [see C3.1.c. What are "special purpose ships"?], as well as the possibility for small ships, under 200 GT, to be exempted from certain requirements, after consultation with the shipowners' and seafarers' organizations concerned.

REFERENCES:

- **MLC, 2006 – Maritime Labour Convention, 2006**

ATTACHMENTS: No.

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