



# Kiribati Ship Registry

Singapore Operations Office:

10 Anson Road #25-14, International Plaza, Singapore 079903

Tel: +65 6225 0555 Email: info@kiribaship.com Website: <https://kiribaship.com>

## MARINE CIRCULAR 61/2022

13 December 2022

**TO : Ship Owners, Ship Managers, Ship Operators, Charterers, Ship Masters, Classification Societies and the Shipping Community**

**SUBJECT : Maritime Labour Convention (MLC) 2006 – On-board Complaint Procedures**

### PURPOSE

This circular serves to notify all parties concerned of the requirements of MLC 2006 for on-board complaint procedures for the fair, effective and expeditious handling of seafarer complaints alleging the breaches of the requirements of the MLC Convention.

### REFERENCES

- (a) Maritime Labour Convention, 2006
- (b) Kiribati Marine Circular No. 23/2013 - Implementation of Maritime Labour Convention 2006

### APPLICATION

This Marine Circular is applicable to all Kiribati flagged vessels and seafarers as defined under Article II of MLC 2006.

### BACKGROUND

The MLC Convention requires the ship owner to implement an on-board complaint procedure to provide an avenue for addressing the breaches of the Convention. This circular is to provide the ship owner / operator with a better understanding of the requirements that must be met in implementing an on-board complaint procedure, seafarers' rights in filing a complaint and procedures required.

### CONTENTS

#### 1. General Requirements

- (a) Ship owner / operator shall provide a seafarer a copy of the on-board complaint procedures applicable to the ship together with a copy of their Seafarers' Employment Agreement.
- (b) Seafarer on-board a Kiribati flagged vessel shall have the right to lodge a complaint and to have that complaint investigated, provided it is specific in nature and is alleged to constitute a breach of seafarers' rights under the MLC 2006.
- (c) Victimization of a seafarer for filing a complaint is strictly prohibited. Victimization is defined as any adverse action taken or threatened by any person with respect to a seafarer for lodging a complaint which is not manifestly vexatious or maliciously made.

## 2. On-board Complaint Procedures

- (a) Notwithstanding the procedures laid down in an individual Seafarer's Employment Agreement, the following procedures shall be observed.
- (b) The on-board complaint procedures shall include:
  - i) Contact information of the Company DPA and his Alternate;
  - ii) Contact information of Flag Administration Office:  
  
Kiribati Ship Registry  
Email: [info@kiribaship.com](mailto:info@kiribaship.com)  
Tel: +65-6225-0555  
PIC: Crew Department
  - iii) Contact information of the Competent Authority of the seafarers' country of residence; and
  - iv) Name of the person(s) on-board ship who can, on a confidential basis, provide seafarers with impartial advice on their complaint and assist them in following the complaint procedures. Such assistance rendered by this person may include attending meetings or hearings, if requested by the complainant seafarer.
- (c) Seafarer with a complaint shall have the matter addressed by bringing it to the attention of the proper authority on board, as provided below:
  - i) Immediate Supervisor Officer
  - ii) Head of Department (HOD)
  - iii) Master
- (d) Complaints should be sought to be resolved at the lowest level possible; and only when the matter cannot be resolved to the satisfaction of both parties, should it be elevated to the next level.
- (e) Crew members shall, within seven days from the date of the alleged cause of the complaint, bring the matter to their Immediate Supervisor Officer, HOD, Master or appointee who in the chain of command dealing with the complaint have a further seven days each to bring about a resolution to the complaint, provided that the time limit is appropriate to the seriousness of the matter.
- (f) Notwithstanding the above, seafarers shall have the right to complain directly to the Master and where they consider it necessary, to the Company DPA or Alternate for resolution.
- (g) If a complaint has reached the level of the Master, the Master shall:
  - i) Conduct an investigation;
  - ii) Refer to the Seafarers' Employment Agreement; and
  - iii) Seek the advice of the Company DPA or Alternate if required
- (h) If the Master is unable to find a resolution to the complaint, the matter should be formally referred within 14 days to the Company DPA or Alternate who must resolve the matter in accordance with the terms and conditions of Seafarers' Employment Agreement.
- (i) If a matter is to the unfairness of the Master, then a seafarer should present the complaint directly to the Company DPA or Alternate.
- (j) Until such time before the Company DPA's decision is received, the Master's decision shall be enforceable on all crew concerned.

## 3. External Authorities

- (a) Seafarers shall have the right to file a complaint directly to an appropriate external authority, such as, but not limited to:
  - i) Flag Administration Inspector;
  - ii) Flag Administration Recognized Organization Inspector;

- iii) Port State Control Officer;
- iv) Local seafarer Labour Organization representative; or
- v) Other seafarer welfare assistance services.

- (b) If a complaint reaches the external authority, the authority shall be provided with the contact information of the Flag Administration and requested to communicate the complaint to the Flag Administration.
- (c) Flag Administration shall communicate the complaint to the Company DPA who shall then be expected to resolve the matter in accordance with the terms and conditions of the Seafarers' Employment Agreement to the satisfaction of all crew concerned.

#### **4. Unresolved Disputes & Arbitration Rules**

- (a) The responsibility to settle any complaint lies with the ship owners / operators and seafarers labour organization so as to avoid unnecessary interruption to the operations of the ship.
- (b) Seafarers shall present their complaint to the ship owner / operator through the Master or appointee if the complaint is to the unfairness of the Master, then directly to the ship owner / operator. Seafarers may be represented in the matter by a labour organization (e.g. Seafarer's Union) which is a party to the labour agreement that covers wages and other terms and conditions of Seafarers' Employment Agreement. Efforts shall be made to resolve the matter and to find an agreeable solution.
- (c) If the dispute cannot be resolved through the on-board complaint procedure in the appropriate time allotted, the crew shall have 14 days thereafter to bring it through the Master or appointee to the employer; or if the matter may be to the unfairness of the Master, then directly to the employer. The employer and the seafarers shall have a period of 30 days to reach a settlement.
- (d) If the dispute cannot be resolved after 30 days, either party shall have a further 30 days to call upon the Flag Administration to endeavour to find a resolution to the matter satisfactory to party. The mediation procedures and resolution may be informal.
- (e) If the Flag Administration is unable to mediate the complaint, either party shall have a further 30 days to serve a notice of demand for arbitration and therein designate a proposed arbitrator. In the event that an arbitrator cannot be mutually agreed upon and appointed within 30 days after service of said demand, each party shall appoint an arbitrator and those two arbitrators shall choose the third arbitrator, who will act as the presiding arbitrator of the panel. Should one party fail to appoint an arbitrator, then the first moving party shall thereafter have 14 days to bring the matter to the Flag Administration who shall appoint an arbitrator on behalf of the party failing to respond or alternatively shall act as sole arbitrator.
- (f) The arbitrators shall have 30 days from the receipt of a written request for arbitration to make a final determination in the matter.
- (g) The time periods above may be extended by the Flag Administration with consent of the parties.
- (h) The parties to the arbitration may agree as to the place where the arbitration proceeding shall be held, the language in which the proceeding shall be conducted and, subject to the requirements of section 4 hereof, the rules which will govern the arbitration proceeding. In default of agreement as to the place of the arbitration, the place shall be decided by the arbitrators. In default of agreement as to the rules, the proceeding shall be conducted in the English language under the United Nations Commission on International Trade Law (UNCITRAL) Arbitration Rules, insofar as consistent with the requirements of the Merchant Shipping Act.
- (i) The arbitration proceeding may be informal, and testimony may be given orally and in person to the extent possible. All oral testimony may be recorded unless the parties agree in writing to waive recording. The arbitration award may be in writing, in the English language, and may briefly state the reason for the award. The costs of the arbitration, as determined by the arbitrators, may be borne by both parties unless otherwise awarded by the arbitrators. The payment on account of costs may be made by both parties at the commencement of the arbitration.
- (j) The arbitration award may be enforced, if necessary, by any Court of competent jurisdiction.

## **5. Record Keeping**

- (a) Other than due to the unfairness of the Master, any correspondence from the seafarer to the Company DPA or Alternate should be seen and signed by the Master.
- (b) The complaint with the concluded decision shall be recorded and a copy is to be provided to the crew concerned.

Yours sincerely,

Deputy Registrar  
Kiribati Ship Registry