

Commonwealth of Dominica



Office of the Maritime Administrator

Policy Letter: 01-20 – Policy Regarding Charter Parties and Crew Changes Under Charter Party Arrangements

Applicability: All Ship Owners, Operators, Charterers, Masters and Officers of Dominica-flagged Vessels and Recognized Organizations

1. General

This Policy Letter sets forth specific guidance on the requirements for acceptance of any vessels registering with the Commonwealth of Dominica under charter party arrangements.

2. Charter Parties and Crew Changes

2.1 The COVID-19 pandemic has brought with it many complications for operations of vessels at sea. Importantly for the purposes of this Policy Letter, current estimates place approximately 400,000 seafarers¹ in situations forcing them to remain at sea beyond the contracted time periods in their Seafarer Employment Agreements (“SEAs”) as a result of COVID-19 travel restrictions preventing crew changes. These restrictions are largely the result of the number of port states that have not yet named seafarers as key workers for the facilitation of crew changes and repatriation.

2.2 The Administration considers seafarers to be key workers, and is working diligently to ensure that all seafarers are able to return home at the end of their respective contracts by working with other nations as needed. While it may allow for the extension of SEAs on a case-by-case basis (provided that the seafarer and the vessel owner(s) Mutually agree to the extension in writing), the Administration also notes that this position is in contrast to the position of some port state authorities elsewhere.² The Administration continues to encourage early dialogue between all relevant stakeholders in order to avoid costly delays and/or detentions, as well as the planning ahead for crew

¹ See, e.g., <https://www.marineinsight.com/shipping-news/itf-and-marlow-battle-to-get-crew-changed-as-crisis-hits-eight-months/>.

² See CD-MS-C 10-20 (Rev. 02), “CORONAVIRUS DISEASE UPDATES” § 4.0 (01 October 2020), available online at <https://dominica-registry.com/wp-content/uploads/2020/10/CD-MS-C-10-20-CORONAVIRUS-DISEASE-UPDATES-rev02.pdf>.

changes in light of the known difficulties.

- 2.3 The Administration has been made aware of numerous instances in which charterers of vessels operating under a charter party have either a) outwardly and explicitly ignore the provisions of said charter party(ies) or b) implement or attempt to implement what are now being referred to as “no crew change” clauses.³
- 2.4 “No crew change” clauses are provisions within charter parties which prevent vessel owners and/or managers from deviating to nearby ports allowing for crew changes, and sometimes demand in the alternate that owners of vessels take full financial responsibility for crew change-related deviations and time lost. Some charterers have also outright refused the inclusion of the BIMCO-created diversion clause⁴ or similar language into charter parties, and even refused vessels if a crew change was set to occur during the term of the charter party.⁵
- 2.5 The Administration notes that INTERCARGO has brought this issue to light in the public domain, and hereby endorses INTERCARGO’s position condemning these practices. In particular, the Administration agrees that not only is this practice contrary to international law and any corporate social or other responsibilities, but it is also a callous and unacceptable response to the maritime industry-wide impacts of this immense humanitarian crisis.⁶

3 Maritime Labour Convention 2006 (“MLC”) Requirements

- 3.1 The MLC provides the international legal obligations of all ratifying states related to ensuring the necessary conditions of employment for seafarers. The MLC, among other things, guarantees seafarers the right to repatriation at no cost to them upon either: the expiration or valid termination of their respective SEAs (after the notice period if it is by termination by the shipowner), the inability of the seafarer to continue to carry out his or her duties under the SEA or the inability to expect him or her to carry them out under the circumstances, or in any event after serving twelve (12) months on board. Without timely crew changes, seafarers are denied this right.
- 3.2 While the Commonwealth of Dominica is not yet a ratifying state vis-à-vis the MLC, the Administration nonetheless gives full effect to these rules through [CDP 800 \(Rev. 03\)](#) and [CD-MSA 05-13 \(Rev. 01\)](#), among other instruments.
- 3.3 As a result of the Administration’s implementation of the MLC and its position that we all Honor the Mariner, all Dominica-flagged vessels are required to comply with the

³ See, e.g., <https://splash247.com/charterers-accused-of-preventing-crew-changes/>; <https://splash247.com/dark-tactics-deployed-to-make-crew-changes-harder/>; and <https://www.marineinsight.com/shipping-news/itf-and-marlow-battle-to-get-crew-changed-as-crisis-hits-eight-months/>.

⁴ The language and description of this template clause is available online at <https://www.bimco.org/contracts-and-clauses/bimco-clauses/current/covid-19-crew-change-clause-for-time-charter-parties-2020>.

⁵ See n.1.

⁶ See https://www.intercargo.org/wp-content/uploads/2020/11/INTERCARGO-MEDIA-RELEASE_02_11_2020.pdf; <https://lloydlist.maritimeintelligence.informa.com/LL1134511/Intercargo-calls-out-charterers-preventing-crew-changes>; and <https://www.maritime-executive.com/article/intercargo-calls-for-end-to-charters-preventing-crew-changes>.

requirements of the MLC. The Administration recognizes that the difficulties of effecting crew changes associated with the COVID-19 pandemic necessitate some flexibility, but the Administration will not tolerate intentional delaying or scapegoating of other stakeholders as a means of avoiding additional actions needed to effectuate the crew changes.

4. Charter Parties Shall Comply with International Legal Obligations

- 4.1 Referring to the above information, the following sections detail the policy of the Administration regarding charter parties, effective immediately.
- 4.2 The Administration's position is that seafarers are key workers and are absolutely entitled to all rights enshrined in the MLC. As such, any failure to adhere to those requirements to the fullest extent practicable, any attempt to deprive crew members of one or more seafarers' rights under the MLC through the use of some type of "no crew change" clause or otherwise, and/or any failure to adhere to the provisions of a charter party – any one of which alone is in violation international law, Dominica law, and most of all, basic human decency – shall not be accepted by the Administration. As the Administration considers these to be egregious violations, the offending charterer(s) will be penalized to the maximum extent under Dominica law.
- 4.3 When applying to the Administration for charter-in or charter-out registrations, the charter party is a required document, to be provided prior to vessel acceptance and registration. The Administration shall not accept any vessel for registration, nor grant any vessel permission to charter-out, under charter party arrangements which contain any type of "no crew change" clause as described above.
- 4.4 Further, it is the Administration's position that ANY attempted or successful denial of these rights to seafarers onboard Dominica-flagged vessels shall lead to the deregistration of each vessel engaged in such activities and, at the Administration's discretion, any or all additional vessels flagged with Dominica that are owned, operated, or chartered by the same individual(s)/company(ies).

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