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Interpretation & Application of the ILO Maritime Labour Convention, 2006: A UK Perspective

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Roadmap

- 1 How the UK implemented the MLC
- 2 Substantive protections in practice
- 3 The jurisdictional fault line for seafarers
- 4 2023: the Seafarers' Wages Act as a case study

UK perspective · MLC 2006

Why this matters

- The MLC is often described as the “seafarers’ bill of rights”
- Global minimum standards for working and living conditions
- UK application still turns on scope, jurisdiction and enforcement
- Courts and Parliament continue to work through those boundaries

UK PERSPECTIVE · MLC 2006

The UK implementation route

- No single implementing Act
- Merchant Shipping Act 1995 powers used for a suite of regulations
- Survey & Certification Regulations 2013 — SI 2013/1785
- Minimum Requirements Regulations 2014 — SI 2014/1613
- Hours of Work Regulations 2018
- Recruitment & Placement Regulations 2014

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A curious wrinkle

- MLC designated an “EU Treaty” for section 1(2) of the European Communities Act 1972
- European Communities (Definition of Treaties) (Maritime Labour Convention) Order 2009
- Designation amended in 2011
- Today, practical domestic force rests on the 2013/2014 regulations — particularly post-Brexit

Survey & Certification Regulations 2013

- “Seafarer”: anyone — including the master — working in any capacity on board where the normal workplace is a ship
- 500 GT+ ships on international voyages enter the full certification cycle
- Initial, renewal and intermediate surveys
- Certifying authority: Secretary of State or approved classification society
- Maritime Labour Certificate follows satisfaction that UK MLC standards are met

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Minimum Requirements Regulations 2014

- Loss of ship: unemployment or wage loss — up to two months' wages plus compensation
- Sickness or injury: wages made up until repatriation — generally around 16 weeks
- Medical care on board and ashore — generally up to 16 weeks, subject to exceptions
- Accommodation, recreational facilities, food and catering standards
- Qualified ship's cook requirement
- Breaches may be criminal offences by shipowner and/or master

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Wilson v The Secretary of State for Transport

- Fleet Trainer on a UK-registered cruise ship
- Claimed termination was retaliation for raising concerns
- Regulation 13(5): detriment for lodging an MLC-breach complaint?
- Cabin allocation and wage administration complaints did not identify a Convention breach
- Anti-victimisation protection not engaged
- Takeaway — strict, textual construction of the complaints machinery

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Repatriation: the Mykolaiv detention case

- Vessel detained at Mykolaiv, Ukraine during the war
- Existing crew entitled to repatriation under the MLC — and exercised that right
- Owners engaged a local replacement crew to keep the vessel ready to sail
- Crew costs fed into “sue and labour” recoverability under hull war risks cover
- Takeaway — MLC rights can reshape marine insurance and charterparty disputes

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The jurisdictional fault line

- The decisive question is often territorial scope
- Where does a peripatetic seafarer “work” for UK statutory purposes?
- MLC model: flag-state responsibility and enforcement
- UK statutes: worker may need to be “based” here or to “ordinarily work” here
- Different regimes use overlapping — but not identical — tests

Lawson v Serco

- Section 196 formula in the Employment Rights Act 1996 had been repealed
- Territorial scope of unfair dismissal required a new approach
- Peripatetic workers are assessed by where they are “based”
- Focus on how the contract is actually operated at the relevant time
- Not what the parties contemplated when the contract was made
- Mariners and airline pilots identified as paradigm examples

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Diggins v Condor Marine Crewing Services Ltd

- Chief officer; Guernsey employer; Bahamas-registered ferry
- Route linked the Channel Islands and Portsmouth
- UK-registered-ship provision was not exhaustive
- A foreign-flagged vessel can still fall within unfair dismissal jurisdiction
- General Lawson “base” test applied
- Tours began and ended in Portsmouth, where Mr Diggins lived — Great Britain was his base

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Fleet Maritime Services v The Pensions Regulator

- Cruise vessels spent most time outside UK territorial waters
- Rejected: a ship is transport, not itself the worker's "base"
- A period based at a UK port may amount to ordinarily working in Great Britain
- Tours habitually beginning and ending at a UK port may establish a UK base
- No habitual UK start/end point: no UK base — even for a UK resident
- MLC flag-state protection informed the court's background reasoning

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Ravat v Halliburton

- Not every worker fits neatly into “peripatetic” or “expatriate” categories
- Is there a sufficiently strong connection with Great Britain?
- Is there a sufficiently strong connection with British employment law?
- Ultimate question: is it appropriate for the claim to be brought here?
- A broader evaluative gloss — but still intensely fact-sensitive

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Equality Act 2010: ships and hovercraft

- Reg 3: work wholly or partly in Great Britain — UK registration and Great Britain port/base conditions
- Certain EEA vessels in UK adjacent waters: nationality plus sufficiently close UK link
- Close-link factors: tax, employer establishment and vessel registration
- Reg 4: narrower route for work wholly outside Great Britain and adjacent waters
- Reg 5: nationality-based lower pay can be lawful for specified recruits outside Great Britain
- Distinct from Lawson; five-year review duty; real tension with MLC equal-treatment aspirations

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Seafarers' Wages Act 2023: context

- Direct response to the P&O Ferries controversy of March 2022
- Entire seafaring workforce dismissed and replaced with agency staff
- Replacement staff paid below the UK National Minimum Wage
- MLC-compliant minima can be lower because they follow flag-state law
- Parliament chose a port-facing domestic response

Seafarers' Wages Act 2023: mechanics

- International carriage service between a place outside the UK and a place in the UK
- Leisure/recreational services and fishing vessels excluded
- Targets seafarers outside NMW only because they do not ordinarily work in the UK
- At least 120 port calls a year triggers the declaration regime
- Operator declares UK work paid at or above NMW-equivalent hourly rate
- False declaration or inconsistent operation: criminal offence; harbour surcharge follows
- 2024 Regulations — amended in 2025 and 2026

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Four tensions to take away

- Technical, SI-based implementation versus broad Convention aspirations
- Strict construction in Wilson versus protective purpose
- Multiple territorial tests: dismissal, pensions, equality and wages
- 2023 Act legislates around flag-state wage outcomes
- As crewing becomes more international and agency-based, is flag-state enforcement still fit for purpose?

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Thank you

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Questions and discussion welcome

