

A Changing of the SEAs

We get up to all sorts at Bargate Murray, and while it's well known that we're involved in some of the largest new builds on the planet, have undertaken some of the highest value brokerage deals in yachting history and represent high profile superyacht owners in court and arbitration when their yachting dream has gone awry, there is plenty going on which is perhaps lesser known.

Take, for example, the work we do in the background assisting clients with the wide-ranging issues that crop up concerning their crew, including their seafarer employment agreements (SEAs). In fact, even less known again is the fact that Bargate Murray drafted the first MLC compliant SEAs to receive approval from the Cayman Islands Shipping Registry back when the MLC first came into force almost a decade ago.

A superyacht is nothing without its crew, so it surprises me how often seafarers, and their employment agreements, fall to the bottom of the list of things most important to owners.

There can be little doubt that the Maritime Labour Convention 2006 ("**MLC**") brought in swathes of very welcome seafarer protections, but do all seafarers across the superyacht fleet enjoy those protections? I suspect not.

Of those who believe they're employed in an MLC compliant manner, are many of them missing out on the most recent amendments to the MLC? I suspect so.

And to all the yacht managers, crew employers and other folk out there responsible for rolling out SEAs, this article is not intended as a dig at you (in fact my appreciation of the number of plates you're already spinning day-to-day is well documented), but more a wake up call for all of us that the superyacht world, and the wider world around it, is constantly changing and this is simply another area where we must all make an effort to keep pace.

Take the Amendments of 2018 to the Maritime Labour Convention, 2006, as amended (the “**2018 Amendments**”) – does your SEA expressly state that it shall continue to have effect where the seafarer is held captive on or off the boat as a result of piracy or armed robbery, or that the seafarer's benefits will continue to be paid for the full duration of such period?

Ok, these eventualities may seem unlikely on the average superyacht, but the seafarer is entitled to these protections nonetheless, and it is important that they, and those who employ them are aware.

What is more likely to affect the average superyacht crew member is the next round of amendments approved by the International Labour conference at its 110th session in June of this year and expected to come into effect in 2024 (the “**2022 Amendments**”). These amendments focus more on crew welfare and wellbeing, creating a new obligation to factor “social connectivity” into the provision of appropriate recreational facilities, amenities and services.

There is still plenty of time to ensure that your SEAs, and wider operations, comply with the 2022 Amendments, but if some of the SEAs which cross our desks are anything to go by, there are plenty of seafarers out whose terms of employment fall some way short of being in any way MLC compliant.

While this article focuses on the regulatory requirements of the MLC (which I firmly believe should apply mandatorily to all seafarers, for the record), we also see issues crop up as a result of the SEAs being used being wholly inadequate in dealing with daily life onboard a yacht, and the typical issues which arise. From crew discipline, to injuries during recreational time, to the basics of knowing when a seafarer is and isn't on duty, issues are often at risk of being blown out of all proportion because the SEA is unclear or ambiguous.

Our recommendation (and what we do for our clients) is to review your SEAs annually; take stock of which issues have arisen during the last season and ask yourself whether your SEA was up to scratch for dealing with those issues. Could it be amended in a way to provide greater clarity to the seafarer and employer alike? Were failings to comply with MLC brought to light which need fixing? Are there new amendments to the MLC coming in which necessitate a policy or SEA update? Does Flag have its own requirements which go above and beyond the MLC? Careful – some do! Undertaking this process annually has many benefits, not least of all being that you should find yourself needing the assistance of someone like me less throughout the year whenever an issue crops up!

Employing crew is considered by some as a necessary evil (a bit like using a lawyer!), but the reality is crew are not only vital for the effective operation of any yacht (like a lawyer, one might argue), but they can make or break the owner's or charterer's enjoyment of their yacht.

Treat your crew right and you will nurture a positive, familial environment where everyone knows their job and adds value to your experience - you might even enjoy having them around (I won't even try to argue that one for your lawyer).



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