

## **PORTSTATE CONTROL COMMITTEE INSTRUCTION 51/2018/08**

### **GUIDELINES FOR THE PORT STATE CONTROL OFFICER ON THE INSPECTION OF HOURS OF WORK / REST AND FITNESS FOR DUTY**

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# **1 INTRODUCTION**

## **1.1 General**

Fatigue is an important contributing factor to maritime casualties and to health problems of seafarers. Excessive hours of work, insufficient rest or insufficient manning are addressed by the ILO180 Convention “Seafarers Hours of Work and the Manning of Ships Convention” aiming at minimizing fatigue of seafarers.

MLC 2006 revises the ILO180 Convention.

Regarding MLC 2006 and ILO 180: Members of the Paris MoU who have ratified the MLC 2006 before 20 August 2012 are entitled to conduct PSC inspections according to this instruction after 20 August 2013. Members of the Paris MoU who have ratified the MLC 2006 after 20 August 2012 will first be entitled to conduct PSC inspections in accordance with this instruction 12 months after the date of this Members ratification (MLC 2006, Article VIII paragraph 4, and Paris Memorandum, paragraph 2.3). Members of the Paris MoU, who have not yet ratified MLC 2006 can only conduct PSC inspection on ILO 180 if the Members have ratified the Protocol to ILO 147.

STCW Reg VIII/2 and Code A-VIII/2 also lay down minimum limits for the daily rest hours of seafarers who’s duties involve watch keeping or designated safety, prevention of pollution or security duties.

## **1.2 Goals and purpose**

This instruction is intended to provide harmonized guidance to PSCO for inspection in compliance with ILO180, MLC 2006 Regulation 2.3 and STCW Regulation VIII/1 and Code Section A-VIII/1.

## **1.3 Application**

The ILO180 Convention and MLC 2006 applies to all seafarers on seagoing ships, but not to ships which navigate exclusively in inland waters or waters within, or closely adjacent to, sheltered waters or areas where port regulations apply.

For the purpose of these Conventions the term of “seafarer” means any person who is employed or engaged or works in any capacity on board a ship to which ILO180 or MLC 2006 applies.

The ILO180 and MLC 2006 applies “to all ships, whether publicly or privately owned, ordinarily engaged in commercial activities, and does not apply to ships of traditional build such as dhows and junks”.

STCW Regulation VIII/1 applies to all persons who are assigned duty as officer in charge of a watch or as a rating forming part of a watch and those whose duties involve designated safety, prevention of pollution and security duties.

For the scope of these guidelines as defined in ILO180 or MLC 2006 the term *hours of work* means time during which seafarers are required to do work on account of the ship; hours of rest means time outside hours of work; this term does not include short breaks.

Thus when exercising port State control the PSCO may examine information relevant to any persons employed on the ship. However, the provisions regarding rest hours contained in the STCW Convention apply only to seafarers as described above.

## 1.4 Relevant documentation

- the minimum safe manning document<sup>1</sup>;
- crew list;
- tables of shipboard working arrangements;
- records of daily hours of work or daily hours of rest and other relevant documentations;
- Maritime Labour Certificate, Declaration of Maritime Labour Compliance (DMLC), parts 1 and 2, and Seafarers' Employment Agreement (SEA) or collective agreement and other documents, if relevant, after enter into force of MLC 2006.

Footnotes contained in the relevant instruments are to be taken into account for reference purposes only.

## 2 INSPECTION OF SHIP

### 2.1 Pre-boarding preparation

The PSCO should take account of parameters that may have an impact on the ability of the crew to comply with rest hour requirements, such as the size or type of ship, the number and composition of the crew, and if available, the previous port calls and voyages, the cargo operations and management, the port approaches (long pilotage, strait, congested waters, meteorological conditions...).

PSCO should consult THETIS to gain an overview of the previous inspection history of the ship including any outstanding deficiencies or rectification action plan.

### 2.2 Initial Inspection

#### 2.2.1 Table with the shipboard working arrangements<sup>2</sup>

The PSCO should check if :

- the shipboard working arrangements table is in a place easily accessible to the crew. It is likely that this table will be posted in common spaces, such as crew and officers'

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<sup>1</sup> **Resolution A.1047(27)** on principles of minimum safe manning may be understood to provide a common understanding for practical application of the SOLAS convention requirement (Chapter V, Reg 14 - Manning), and to be an indication of what governments - by the act of adoption - generally understand to promote a sound and comprehensive approach in determining safe manning. This resolution is "a reference tool" endorsed by the parties to SOLAS but may not be cited by a PSCO as a deficiency 'Convention reference'.

<sup>2</sup> For additional guidance see IMO/ILO\* Guidelines for the Development of Tables of Seafarers' Shipboard Working Arrangements and Formats of Records of Seafarers' Hours of Work or Hours of Rest paragraphs 10-15 (in particular paragraph 12), See also STCW Reg. VIII, Section A-VIII/1, para. 5 (IMO/ILO Guidelines, Appendix 2, page 12). ILO, together with the IMO developed guidelines and standardized formats relating to shipboard working arrangements and hours of work and rest of seafarers, as referred to in articles 11, standard A2.3 of the Convention. The Guidelines have been included in the PSCO Manual. They provide guidance to flag States but may also be relevant to port State control.

- mess and in adjacent passageways and on the navigation bridge;
- it is in the standardized format or other format established by the flag State;
- It contains the required information (schedule at sea and service in port and the maximum hours of work or the minimum hours of rest required by national laws or regulations or applicable collective agreement);
- it is in the working language of the ship and in English;

### 2.2.2 Records of seafarers' hours of work or rest

The PSCO should check if :

- the records appear to be in conformity with the Convention:
  - i) Do they account for all hours in each 24-hour period?
  - ii) Are they in the working language of the ship and in English?
- the records appear to be in conformity with the table of shipboard working arrangements;
- the records confirm the compliance with the limits set out in ILO180 Art 5 and STCW.

All persons shall be provided with a rest period of not less than:

- .1 A minimum of 10 hours of rest in any 24-hour period; and
- .2 77 hours in any 7-day period.

The hours of rest may be divided into no more than two periods, one of which shall be at least 6 hours in length, and the intervals between consecutive periods of rest shall not exceed 14 hours.

The PSCO should examine the applicable documents, found in section 4. Specifically, the watch schedule and the records of daily hours of rest. The PSCO may inspect the seafarer's personal copy of his/her records pertaining to the hours of rest being held by the seafarer on board in order to verify that the records are accurate.

The shipboard working arrangements shall be in a standardized format<sup>2</sup>, easily accessible to the crew and posted in the working language or languages of the ship and in English.

Daily hours of rest shall be maintained in a standardized format<sup>2</sup>, in the working language or languages of the ship and in English.

PSCO should consider that seafarers who are on call, such as when a machinery space is unattended, are to be provided with an adequate compensatory rest period if the normal period is disturbed by call-outs to work.

While assessing hours of rest, the PSCO should take into account any emergency conditions encountered which required a seafarer to perform additional hours of work for the immediate safety of the ship. In such cases, the master should be consulted for an explanation of the events and how impacted seafarers were provided with an adequate period of rest.

Flag State Administrations may provide exceptions to the requirements of 77 hours in any 7-day period, and the division of rest periods above, for no more than two consecutive weeks provided that the rest period for the seafarer is not less than 70 hours in any 7-day period.

An assistance for PSCO inspecting electronic records is provided at Annex 4.

A guide to exceptions permitted is provided at Annex 1.

### 2.2.3 Age of seafarer

The PSCO should check that seafarers under 18 are not performing night work/watchkeeping unless this is part of a training programme.

### 2.2.4 Maritime labour certificate and DMLC part I and II

During the check of certificates, PSCO should control the maritime labour certificate and the declaration of maritime labour compliance.

## 2.3 **Clear grounds**

Clear grounds to conduct a more detailed inspection include (non-exhaustive list):

- Seafarer under 18 regularly working at night;
- Records or work schedules do not take account of disturbance of period of rest by call-outs to work;
- The standardized table of shipboard working arrangements is not in the working language of the ship, and in English, is not available, not posted (not easily accessible to the crew) or does not contain the required information;
- Records of hours of work or rest are not available, not reasonably filled in up to date, not properly maintained for all seafarers, incorrect, deliberately forged, not signed by the master or his representative and by the seafarer;
- The maximum hours of work are exceeded, or the minimum hours of rest are not reached, or the minimum hours of rest are split into more than 2 periods, one of them less than 6 hours, or the interval between rest periods exceeds 14 hours;
- Evidence of exceeding the limits of work hours and a record of suspension of the schedule, has not been noted in a logbook or other document;
- Provisions for exceptions missing. Exceptions to the maximum hours of work or minimum hours of rest permitted by the competent authority or registered in a collective agreement which does not guarantee countervailing measures (more frequent or longer leave period, compensatory leave for watch keeping seafarers or seafarers working on board ship on short voyages);
- Copies of relevant laws, regulations or collective agreements concerning maximums hours of work/minimum rest not kept on board and/or not easily accessible to the crew;
- Repeated breaches;
- Receipt of a report or complaint containing information that the ship appears not to comply with ILO180 or STCW;
- Seafarer hours of work that are consistently at the upper limits or other factors, such as rest periods that are disrupted by callouts to work;

## 2.4 **More detailed Inspection**

A more detailed inspection should be carried out in the area of ILO180/MLC 2006 and/or STCW if clear grounds have been established under section 2.3.

### 2.4.1 More detailed inspection of the table of shipboard working arrangements and related matters (e.g., missing tables, tables not accessible by crew, table not in the ship language of the ship and in English, tables missing required information)

- Tables required information

In determining if the table of shipboard working arrangements includes the appropriate information, the PSCO should bear in mind that, though ILO180 Art 5.1 or MLC 2006 standard A.2.3.5&6 sets out specific limits to working hours or provides for minimum rest periods, paragraph 6 or 13, provides that:

***Nothing in paragraphs 1 and 2 (or 5 and 6) of this Article shall prevent a Member from having national laws or regulations or a procedure for the competent authority to authorize or register collective agreements permitting exceptions to the limits set out. Such exceptions shall, as far as possible, follow the provisions of this Article but may take account of more frequent or longer leave periods or the granting of compensatory leave for watchkeeping seafarers or seafarers working on board ships on short voyages. (Refer to Annex)***

If the table of shipboard working arrangements does not set out the relevant provisions of the laws, regulations or collective agreements in force in the flag State as concerning maximum hours of work or minimum periods of rest, this would be a deficiency.

- Evidence of safety-related hours of work

Any seafarer may be required by the master to perform hours of works necessary for the immediate safety of the ship, persons on board or cargo or for the purpose of giving assistance to a ship or person in distress at sea. In this situation PSCO may look for evidence of the emergency situation in the log book, including the necessary hours of work.

As soon as practicable after the normal situation has been restored, the Master shall ensure that any seafarers that have performed work in a scheduled rest period are provided with an adequate period of rest. This should be reflected in the record of the hours of work or rest.

Normal conditions cover navigation with restricted visibility or during hours of darkness, in coastal and congested waters, navigation with pilot on board, or ship at anchor – situations that could reasonably have been foreseen or anticipated at the commencement of the voyage.

#### **2.4.2 More detailed inspection of records of seafarers' daily hours of work or their daily hours of rest, and related issues**

- Records are not maintained in conformity with ILO180 Art 8 and STCW Section A-VIII/1.7

In the following cases, the PSCO should require that the deficiency is rectified as provided in Follow-up Actions:

- i) If work hours or rest hours have not been recorded (and the records have not been signed) on a periodical basis;
- ii) If the Master provides the working arrangements but does not provide records of actual hours worked;

- iii) If the format of the records is not available in the working language of the ship and in English;
- iv) If the format of the records is not in the standardized format established by the ILO or in a standardised format established by the competent authority;
- v) If there is no evidence that a copy of the record has been provided to each seafarer.

- Records indicate infringement of limits set out in ILO180 or STCW

The Conventions refer to minimum rest period in any 24 hours without specifying “start time”. However administrations have different interpretations as to how the 24 hour period is defined. So, when calculating the hours of work or rest of a seafarer in a 24 hour period the PSCO should take into account any guidelines, instructions or exceptions issued by the flag State of the ship. Nevertheless, the limits set out in the ILO180/STCW should be fulfilled to ensure continuous compliance.

In the absence of guidelines, instructions or exceptions, hours of work or rest should be calculated for the 24 hours period at any time during the working period.

Only the two longest breaks (that normally compensates interruption of rest period) in that 24 hour period should be counted. Additional short breaks and meal breaks that may have been given should not be added up to arrive at the total daily hours for compliance with ILO/STCW conventions however the PSCO should use professional judgment in determining whether minor and unrepeatable breaches of the hours of work or rest requirements might lead to the crew being fatigued. Nevertheless this deficiency should be recorded.

PSCO should exercise professional judgement when inspecting work/rest hour records.

If infringements of the work/rest hour limits occurred a long time in the past, it may not affect the crew at the time of the inspection, but the information should be reported to flag State.

Regular infringements of the work/rest hour requirements may indicate that the ship is insufficiently manned for the trading pattern and should be reported to flag State.

Recent infringements may be a cause for concern that the seafarers are fatigued and appropriate action may be required (see paragraph 3.2).

ILO 180 Art 7, MLC 2006 standard A.2.3.13 and STCW Regulation VIII/1 provide for temporary derogations to the limits provided in the Conventions. However, ILO180 Art 7.3 and STCW Section A-VIII/1.8, require that, in the event of interruption of rest periods or work required for the safety of the ship, seafarers must be provided with compensatory rest. If the PSCO finds evidence of such interruptions or emergency work, he/she should look for evidence that compensatory rest has been provided.

- No record or evidence of false records

ILO conventions and STCW provide a systematic approach to ensuring that seafarers do not work excessive hours or have at least minimal rest periods. The system relies on record-keeping in order to function correctly. Absence of records or falsification of records undermines this systematic approach and demonstrates an obvious lack of compliance with the Conventions. Both of these situations indicate a likely violation of the relevant instruments.

The PSCO should be also aware that ship’s staff will have other duties in respect of security. Records of security training, drills and exercise as well as the previous and present security levels of the ship could indicate that rest periods have been falsified. However PSCOs should note that they are not permitted to scrutinize the ship security plan regarding the duties of those assigned security responsibilities without the permission of the flag State.

The PSCO may ask to interview crew members in private.

#### 2.4.3 Working hours and rest periods for seafarers under the age of 18

If the examination of the crew list indicates that there is a seafarer on board under the age of 18, the PSCO should check records of daily hours of work and rest to ensure that this seafarer has not been working at night ("night" shall be defined in accordance with national law and practise and it shall cover a period of at least 9 hours, starting no later than midnight and ending no earlier than 5 a.m.).

If a seafarer under the age of 18 is found to have been working at night, the PSCO should determine if the seafarer is at least 16 years of age:

- If below 16, appropriate child labour authorities may be contacted;
- If between 16 and 18, night working is acceptable if the seafarer is part of a training programme, with established schedules, and the specific nature of the duty or a recognized training programme requires that the seafarers perform duties at night. The competent Authority determine after consultation with the shipowners' and seafarers' organizations concerned, that the work will not be detrimental to health or well-being.

#### 2.4.4 No evidence that disturbance of rest period by call-outs to works are taken into consideration

In the examination of compensatory rest periods, if the normal period of rest is disturbed by call-outs to work, PSCO should interview the seafarers and may refer to documents such as the deck logbook, UMS alarm logbook and engine room logbook in order to corroborate the records of seafarer's hours of work or rest with possible call-outs.

In the case of seafarers that are assigned more than the minimum hours of rest per 24 hour period and per week a deficiency should not be recorded in relation to compensatory rest unless the minimum rest periods have not been maintained.

#### 2.4.5 Flag State exceptions/Collective agreements

If infringements of limits set out in ILO conventions and STCW Section A-VIII/1 are covered by exceptions to the limits of hours of work or hours of rest or collective agreements, the PSCO should check if the exception permitted by the flag state doesn't take account of:

- more frequent of longer leave periods;
- the granting of compensatory leave for watchkeepers;
- the granting of compensatory leave for seafarers working on board ships on short voyages.

#### 2.4.6 DMLC part 1 and 2

If DMLC 1 or 2 are incomplete, a deficiency shall be reported according PSCC instruction on MLC 2006.

#### 2.4.7 S.E.A, collective agreement and other document



If S.E.A. or collective agreement are incomplete, a deficiency shall be reported according PSCC instruction on MLC, 2006.

## **2.5 Expanded inspections**

Not applicable

## **3 FOLLOW-UP ACTIONS**

If a more detailed inspection is carried out, any ILO conventions related deficiencies should be individually or collectively considered by the PSCO, using his/her personal judgment, to indicate either:

- if the deficiency could be qualified as a significant deficiency<sup>3</sup> according to PSCC instruction on MLC 2006;
- if the deficiency or group of deficiencies shows a failure or serious failure indicating a lack of effectiveness of the ISM code. In this case the PSCO should refer to the PSCC instruction guidelines for the port state control officer on the ISM Code.

### **3.1 Possible deficiencies**

#### **3.1.1 Examples of deficiencies that should be related to hours of work or rest**

- The absence of a table of shipboard working arrangement or of records of hours of work or rest of seafarers (MLC Regulation 2.3)
- The records of hours of rest are inaccurate or incomplete (MLC Regulation 2.3) and
- Crew member is receiving less than 10 hours rest in any 24-hour period (i.e. working in excess of 14 hours) or 77 hours rest in any 7-day period (MLC Regulation 2.3).
- Records of hours of work or rest have been maintained but are missing some of the required information;
- Records of hours of work or rest are not in standardized format established by the competent Authority;
- Last records of hours of work don't take account of disturbance of rest by call-outs to work;
- Table of shipboard working arrangements has been posted up but is missing some of the required information;
- Shipboard working arrangements are not easily accessible to crew;
- Table of shipboard working arrangements and/or forms for recording of working hours or rest periods are not available in both working language of the ship and in English;
- Records of daily hours of rest are not on board ()..

#### **3.1.2 Example of significant deficiencies**

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- Records of hours of work or rest have been deliberately falsified;
- Evidence of exceeding limits of work (and a record of suspension of the schedule has not been noted in a logbook or other document);
- Exception to maximum hours of work or minimum hours of rest permitted by the competent authority or registered in a collective agreement which does not guarantee

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<sup>3</sup>Whether or not deficiencies are determined to be significant will depend upon the professional judgment of the PSCO concerned. Deficiencies which, having regard to their nature or quantity or repetition, the PSCO would not expect to find on a well run ship would be significant (For further guidance see the Guidelines for Port State Control Officers carrying out inspections under the MLC, 2006).

countervailing measures (more frequent or longer leave period, compensatory leave for watch keeping seafarers or seafarers working on board ship on short voyages;

- A seafarer's work schedule does not conform to the applicable standards;
- Records of hours of work systematically don't take account of disturbance of rest by call-outs to work.

This report should be completed with evidence of non-fulfilment of the regulations concerning hours of work or hours of rest and manning levels such as copies of documents specified in 1.4 collected during the more detailed inspection.

A significant deficiency can also provide objective evidence of failure or lack of implementation of the ISM code.

### **3.2 Deficiencies warranting detention**

If deficiencies are clearly hazardous to the safety or health of seafarers or if there is clear evidence that watchkeeping personnel for the first watch or subsequent relieving watches are unduly fatigued or otherwise not fit for duty the PSCO shall detain the ship until deficiencies have been rectified or the seafarers in question have been sufficiently rested.

PSCO should be aware that in the scope of this guideline, STCW Regulation I/4.3 clearly limits deficiencies warranting detention to: "inability to provide, for the first watch at the commencement of a voyage and for subsequent relieving watches, persons who are sufficiently rested and otherwise fit for duty".

Example of deficiencies relating to rest hours warranting detention:

- Seafarers on board under the age of 18 (except training program) are regularly working at night, ILO 180 Art 6; MLC 2006, standard A.1.1.2 & 4;
- No table of shipboard working arrangements or no records of hours of work or rest, ILO180 Art 5, MLC; 2006, standard A.2.3.10;
- Inability to provide persons who are sufficiently rested and otherwise fit for duty for the first watch at the commencement of a voyage and for the subsequent relieving watches, STCW Reg I/4 2.5;
- Essential personnel as master and chief engineer or officer/rating forming part of a watch showing signs of excessive fatigue and in the judgement of PSCO regarding the next voyage the situation of excessive fatigue may cause an immediate danger for the safety of the ship, the crew and/ or the environment (This deficiency should not be a stand-alone deficiency but should be supported by objective evidence), STCW Reg I/4 4.2.5;
- Records of hours of work or rest have not been recorded, STCW Reg I/4.2.5 ILO180 Art 8 and 10, MLC, 2006 standard A.2.3.12;
- Records of hours of work or rest have been falsified to hide excessive working hours or insufficient rest, STCW I/4 Reg 2.5 ILO180 Art 10, MLC; 2006, standard A.2.3.10;
- Any follow up action listed has not been taken (i.e., any deficiency has MLC, 2006, not been rectified before the ship departed the last port), MLC, 2006, A;5.2.1.6.

### **3.3 Actions to be considered**

If the PSCO finds evidence that records have been falsified, the ship should be detained until a proper system of record keeping has been put in place and the Master demonstrates that the crew is sufficiently rested to continue the voyage.

## **4. REPORTING**

Repeated deficiencies or regular infringements of limits governing hours of work or hours of rest provided in the Conventions shall be reported to Flag state authority with a copy to the Director-General of the International Labour Office (more generally deficiencies concerning MLC, 2006 must be report as indicate in PSCC instructions 46/2012/xx).

Information on continued or repeated breaches detected on ships should be conveyed from one port to the next by “ship related messages” or an ISM related deficiency in the information system.

The codes to be used while inputting the data are the ones attached in Annex 2.

## Annex 1

### **Exceptions<sup>4</sup> to the limit of hours rest or work according to STCW A VIII/1-9, MLC standard A2.3 paragraph 13 and ILO180 Art 5**

The Manila amendments to STCW allow for exceptions to the minimum rest periods provided for in Section A-VIII/1. The exceptions are contained in paragraph 9. It is important not to confuse exceptions with the right of the Master, contained in paragraph 8, to require any seafarer to perform any hours necessary for the immediate safety of the ship, persons on board or cargo or for the purpose of giving assistance to other ships or persons in distress at sea.

Thus, if the table of shipboard working arrangements includes limits which exceed those in ILO180 Art 5 , paragraphs 1 and 2, these limits are to be provided in a collective agreement which has been registered or authorized by the Flag State. A copy of the relevant provisions of the national legislation pertaining to this convention and/or the relevant collective agreements should be kept on board and be easily accessible to the crew (However, there is no requirement for this national legislation or this collective agreement to be in English, and therefore the PSCO may not be able to check the contents of these texts).

If the flag State has ratified ILO180, and if there is evidence that the collective agreement authorizing such exceptions has been authorized by or registered with the flag State, then exceeding the limits of ILO180 Article 5, paragraph 1 and 2 would not be a deficiency.

However, if the limits permit less rest for watch-keepers than provided in STCW<sup>5</sup> this would be a deficiency under the ILO180 and STCW (for example, a collective agreement might provide for less than 77 hours of rest per week for watch-keepers but should not provide for less than the 70 hours required by STCW).

### Requirements

Parties may allow exceptions from the required hours of rest in paragraph 2.2 (77 hours in any 7-day period) and paragraph 3 (hours of rest may be divided into no more than two periods, one of which shall be at least 6 hours in length, and the intervals between consecutive periods of rest shall not exceed 14 hours). These requirements of article 5 of ILO180 provided that the rest period is not less than 70 hours in any 7-day period.

Exceptions from the weekly rest period provided for in paragraph 2.2 shall not be allowed for more than two consecutive weeks. The intervals between two periods of exceptions on board shall not be less than twice the duration of the exception.

The hours of rest provided for in paragraph 2.1 (a minimum of 10 hours of rest in any 24 hour period) may be divided into no more than three periods, one of which shall be at least 6 hours in length and neither of the other two periods shall be less than one hour in length. The intervals .between consecutive periods of rest shall not exceed 14 hours. Exceptions shall not extend beyond two 24-hour periods in any 7-day period.

### Explanation

A 24 hour period is not a calendar day – it is the 24 hour period beginning at a certain time on one day and ending at the same time on the next day.

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<sup>4</sup> Exceptions shall, as far as possible take into account the guidance regarding prevention of fatigue in STCW code section B-VIII/1).

<sup>5</sup> See STCW Regulation VIII/1, Fitness for duty, Section A-VIII/1, Fitness for duty, paragraphs 1 to 4 (these provisions are set out in Appendix 2 of the IMO/ILO Guidelines).

The exceptions must have been allowed for the ship by the Party to the convention, which is normally the flag State. There should be documentation on board from that Party showing that it has allowed an exception. There is no obligation on the flag State to specify what the terms of the exception are.

The exceptions rule allows for a number of combinations of resting hours to provide for flexibility in certain shipping trades. No more than two 24 hour periods of exceptions are allowed in any 7 day period and these 24 hours need not be consecutive. For example an exception could be

applied for 24 hours at the beginning and the end of a 7 day period but at least 70 hours of rest must have been given in that 7 day period. The next time that this work pattern could be applied would be 14 days later (twice the duration of the exception). In the example above the hours of

rest on day 1 and day 7 must still be at least 10 hours but this 10 hours may be divided into no more than three periods of rest (minimum of 6+1+3 or 6+2+2). There could be more than 10 hours rest provided but divided into three periods (6+2+3).

PSCO's should examine the records carefully when an exception has been granted to ensure that the minimum rest periods are being provided.

## Annex 2

### Deficiency Codes

Group code	Defective item	Nature of defect	AT Code	Convention reference
<b>011 - Certificates and Documentation – ship certificate</b>				
01113	Minimum safe manning document	Missing, Invalid, Not properly filled, Entries missing, Withdrawn, Not as required	Within 14 days, Before departure, Rectified, At the next port, As in the agreed flag State condition, Master instructed to ...	SOLAS 74 Ch V Reg 14
<b>012 - Certificates and Documentation – crew certificates</b>				
01209	Manning specified by the minimum safe manning doc	Missing, Invalid, Entries missing, Not as required	Rectified, At the next port, Within 14 days, Before departure, As in the agreed flag State condition, Master instructed to ...,	MLC Art IV.2, Reg 2.7, Std A2.7/1,2, 3  STCW Reg I/4 2.2  SOLAS 74 Ch V Reg 14
<b>013 - Certificates and Documentation - document</b>				
01306	Schedules for watchkeeping personnel	Missing, Not properly filled, Not posted, Not as required	Rectified, At the next port, Within 14 days, Before departure, As in the agreed flag State condition, Master instructed to ...	STCW Sec A-VIII/1.5
01307	Table of shipboard working arrangement ( <i>actual namming "Tables of working hour"</i> )	Missing, Not posted, Incorrect language, Entries missing, Not as required, Not adhered to	Rectified, At the next port, Within 14 days, Before departure, As in the agreed flag State condition, Master instructed to ...	MLC Art IV.2, Reg 2.3, Std A2.3/10,11  STCW Sec A-VIII/1.5
01308	Records of seafarers' daily hours of work or rest ( <i>actual namming "Records of rest"</i> )	Missing, False, Not endorsed, Incorrect language, Entries missing, Incorrect entries	Rectified, At the next port, Within 14 days, Before departure, As in the agreed flag State condition, Master instructed to...	MLC Art IV.2, Reg 2.3, Std A2.3/12,13  STCW Sec A-VIII/1.7
<b>092 - Working and Living Conditions - Working Conditions</b>				
09234	Night working for seafarer under the age of 18	Not as required	Rectified, At the next port, Within 14 days, Before departure, As in the agreed flag State condition, Master instructed to ...	MLC Art IV.3, Std A.1.1. 2/3
09235	Fitness for duty – work and rest hours	Unfit for duty, Rest hours insufficient, Work hours exceeded, Not as required	Rectified, At the next port, Within 14 days, Before departure, As in the agreed flag State condition, Master instructed to ...	STCW Reg I/4.2.5  MLC Art IV.2, Reg 2.3, Std A2.3/2,3,4,5,6,7,8,9, 13
09236	Legal documentation on work and rest hours	Missing, incomplete, Not as required	Rectified, At the next port, Within 14 days, Before departure, As in the agreed flag State condition, Master instructed to ...	MLC Art IV.2, Reg 2.3, Std A2.3/12,13  (ILO 180 art 5)

## Annex 3

### Practical guidance for PSCO inspecting records of work or rest hours.

During the pre-boarding preparation or initial inspection or more detailed inspection due to an overriding factor (ships involved in a collision), special attention should be paid to:

- Ships operating at their minimum safe manning limit as specified in the MSMD;
- Ships operating with minimum safe manning that doesn't appear to consider principles laid down in SOLAS Chapter V, Reg 14<sup>6</sup>
- 6 on/6 off watches (2 watch system), with or without Master on watch;
- Short sea trades involving frequent port calls and stand by;
- Long pilotage, for example, when transiting long estuaries or congested waters such as the Dover straights, Gibraltar straights, **Skagerrak Strait...**
- Type of ship and type of operation involving the crew in loading and/or discharge.
- Ships with previous PSC inspection reports with deficiencies related to hours of work or hours of rest matters;
- Ships with PSC notification related to manning or hours of work/hours of rest;
- Pilot report or evidence of erratic manoeuvring.

### Basic requirements<sup>7</sup>

Regulation	Work/Rest in any 24 hrs	Work/Rest in 7 days	No. and Length of Rest Periods	Schedule	Records and Exceptions
ILO 180/ MLC 2006	Max 14 hrs of work	Max 72 hrs of work	Not more than 2 periods of rest, one of which must be at least 6 hrs.  Interval between rest periods not to exceed 14 hrs.	Specific format table for all seafarers.	Daily hours records to be maintained.
	OR  Min 10 hrs of rest	OR  Min 77 hrs of rest		Actual times for at sea and in port.	Competent authority may allow exception if by collective agreement.
STCW 2010 (Manila amendments)	Min 10 hrs of rest	Min 77 hrs of rest	Not more than 2 periods of rest, one of which must be at least 6 hrs.  Interval between rest periods not to exceed 14 hrs.	Specific format table as ILO, but watchkeepers and safety/pollution/ security positions only.	Daily hours records to be maintained.  Parties may allow exceptions.

### How to check basic requirements

In case of a more detailed inspection, checks have to be done according paragraph 2.4 of the instruction.

STCW requires that records of daily hours of rest are maintained, however ILO permits either daily hours of rest or daily hours of work to be recorded. When recording rest hours the regulations allow for more working hours so it is usually rest hours that are recorded. In either case it should be clear whether rest or work hours are being recorded.

The records of rest should be kept in a standardised format – either following the IMO/ILO model table or a format established by the competent authority of the flag State. The

<sup>6</sup> See Resolution A.1047(27) on principles of minimum safe manning.

<sup>7</sup> See exceptions under STCW A-VIII/1 paragraph 9

principal purpose of the records is to monitor compliance with the provisions and should therefore be simple to complete and allow any non-conformities to be identified readily. If the records of rest are not in the IMO/ILO format the PSCO should look for evidence that the format being used is agreed by the flag State. All the seafarers rest records on board should be in similar format. Records should not be kept on scraps of paper nor should just a total of daily hours of rest be provided. An inspector should be able to determine quickly and clearly what the actual times of rest were for each day.

### **Are the records maintained or kept reasonably up-to-date?**

If the records have not been updated for more than about three days the PSCO should interview various crewmembers to determine that they have kept, or can recall, a personal record of their hours of work or rest. These personal records should be checked against the tables of working hours and other documents such as log-book entries to verify that they are an accurate record of hours worked or rested.

Details of any exceptions granted by the flag State may be found in the collective bargaining agreement or in the seafarers employment agreement.

The PSCO should examine documentation that can provide confirmation of accuracy of the individuals records :

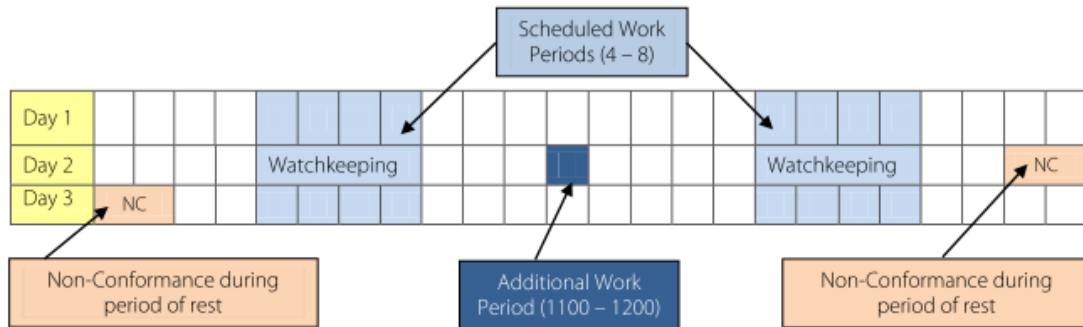
- the minimum safe manning document<sup>8</sup>;
- crew list;
- tables of shipboard working arrangements;
- records of daily hours of work or daily hours of rest and other relevant documentations;
- Bridge and engine logbooks (bell book);
- Sea passage planning;
- Oil record book;
- UMS alarm records;
- Monthly account of wages;
- Flag state reports;
- Previous PSC reports;
- Safety Management System;
- Muster list;
- Cargo Oil Record Book;
- Port calls.

Using the information contained in the documentation, the PSCO should reconstitute seafarers' schedules taking account of manoeuvres, trading areas, frequency of port calls, length and nature of the voyage, commercial operations (e.g tank washing operation) at sea or at port, anchoring, pilot on board, navigation in restricted waters, administrative tasks, technical task (maintenance...), and have an idea of the possible infringements or compliance of the on-going compliance of limits set out in ILO180 or STCW.

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<sup>8</sup> **Resolution A.1047(27)** on principles of minimum safe manning may be understood to provide a common understanding for practical application of the SOLAS convention requirement (Chapter V, Reg 14 - Manning), and to be an indication of what governments - by the act of adoption - generally understand to promote a sound and comprehensive approach in determining safe manning. This resolution is "a reference tool" endorsed by the parties to SOLAS but may **not** be cited by a PSCO as a deficiency 'Convention reference'.





Comparison between the hours of work/rest records with other could confirm accuracy of recording and compliance with the basic requirements concerning the minimum hours of rest or the maximum hours of work.

When the ship is only in port for a short period it may be necessary for surveyors to take copies of the hours of work/rest records for examination ashore. In such circumstances the master should be asked to sign the documents as certified copies.

Seafarers could be also interviewed in case of doubt on records.

When proofs a non-conformance have been found out, copies of these documents must be kept. The level of manning shall ensure on-going compliance with the limits set out in ILO180 Art 5 or MLC, 2006, Standard A.2.7.1 , 2 and 3. If case of repeated infringements of limits set out in STCW or ILO conventions are found out, follow-up action concerning port State should be done according the PSCC instruction 46/2013/XX REV "Guidelines for PSC inspections of certification of seafarer according to the STCW convention and Manning requirements from the flag state.

## Annex 4

### Assistance for PSCO inspecting electronic records of work or rest hours

In case the ship does not have any instructions from the flag State, then the following guidance could be used when checking the hours of work or rest of a seafarer.

- **How does a PSCO verify that the records are up to date ?**

Constraints: visual inspection of the spreadsheets on board on the electronic or computer based system.

#### Guidance for PSCO

Records of the daily hours of work or of rest should be inspected on board to verify compliance with the rest or work hour requirements of the relevant instruments. Individual seafarers should be interviewed to verify the accuracy of the records and should be able to show that the hours recorded electronically are accurate in respect of the hours worked/rested.

- **How does a PSCO verify that the records are in a standardized format ?**

Constraints: the standardized format should be established by the flag State; if not, the model format should be the ILO one.

#### Guidance for PSCO

The work or rest hour records are required to be kept either in the standard format of the ILO or if not in this format then they are to be kept in a standard format established by the flag State. If the flag State establishes a format which differs from the ILO format, it could be expected that all ships of that flag use the same format. If an electronic system is used it may not be feasible for every ship of that flag to use the same recording programme, however the output sheets and recording should follow the ILO format or be approved by the flag State and allow for an easy visual calculation of work or rest hours.

Sometimes electronic records are kept in a spreadsheet format which is set up to print in ILO format – otherwise they should print out in flag State standardized format. The standardized format should make it clear whether hours of rest or hours of work are being recorded for the purpose of compliance with the standards.

- **How does a PSCO verify that a seafarer has received a copy ?**

Constraints: direct questioning of seafarers and documentary evidence is used to verify that a copy of the records have been given to each seafarer.

#### Guidance for PSCO

PSCO's should verify that seafarers have received a signed, or otherwise endorsed, copy of the records of work or rest pertaining to them. The copy could be in electronic format, however it is required that both the Master or authorized person and the seafarer sign the copy.

- **How does a PSCO verify that the record is endorsed by the master or a person authorized by the master ?**

Constraints: visual inspection of the records – electronic records might have some acceptable form of endorsement other than being printed out – such as being emailed internally to seafarers.

#### Guidance for PSCO

Records of rest or work hours should be inspected to make sure that they have been signed, or otherwise endorsed, by the Master or an authorized person. If electronic, there should be some method acceptable to the competent authority whereby the seafarer receives a copy of the record and endorses it to indicate his/her approval.

- **How does a PSCO verify that a seafarer has endorse his/her records ?**

Constraints: visual inspection of the records – electronic records might have some acceptable form of endorsement other than being printed out – such as being emailed internally and personally to seafarer.

#### Guidance for PSCO

Records of rest or work hours should be inspected to see that they have been signed, or otherwise endorsed, by the seafarer. If electronic, there should be some method acceptable to the competent authority whereby the seafarer receives a copy of the record and endorses it to indicate his/her approval. It should not be possible for the seafarer to alter the records so that both the Masters copy and the seafarers copies are the same. There would also need to be a mechanism whereby the seafarer may reject the records (or not sign/accept them) in the case of dispute about the accuracy.