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## Circular 2022/001

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### Ukrainian seafarers

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Date: 09/03/2022

To whom it may concern,

This BMI Circular relates to all Belgian flagged ships, excluding fishing vessels, and addresses all concerned parties responsible for the manning of Belgian flagged ships.

This circular aims for providing support and detailed guidance in relation to the extension of the service of Ukrainian seafarers on board Belgian flagged vessels, due to the hostile acts against Ukraine and uncertainties and unconfirmed circumstances related to the situation in the northern part of the Black Sea and Sea of Azov.

At the moment, air connection between Ukraine and any other country of the world has been suspended, depriving these seafarers of an opportunity to be repatriated straight to Ukraine.

The Belgian Maritime Inspectorate (BMI) considers that there is a need to apply flexibility under these circumstances considering difficulties to be encountered in repatriation of Ukrainian seafarers and renewing their certificates.

It is acknowledged that the effects on repatriation is to all seafarers from and living in Ukraine.

## I. Certification of Ukrainian seafarers

### A. STCW certificates

The BMI recognizes the difficulties due to the situation in Ukraine as well as to Covid-19 and refers to the statement of the Government of Ukraine in IMO Circular Letter No 4519:

*“The Ministry of Infrastructure of Ukraine has already informed the Secretary General of the International Maritime Organization (IMO) about the extension of the certificates of competence and seafarers identity documents of Ukrainian seafarers until 31.12.2022.”.*

#### 1. Recognition (endorsement) of Certificate of Competency or a Certificate of Proficiency (tankers)

Belgian endorsements of Ukrainian STCW certificates, issued under STCW I/10, which expire in the period 1 April 2021 to 31 December 2022 are granted an extended validity until 31 December 2022. In addition certificates of proficiency under the provisions of STCW V/1 are also subject to this extension.

This extension is only valid on the condition that a valid certificate of medical fitness for seafarers is available at all times or has not expired for more than 3 months and this certificate has been issued by a doctor accredited by an European maritime administration.

The seafarer will not be required to submit an application for this short term extension pending this period.

## 2. Certificates of Proficiency which do not need recognition

Certificates of Proficiency issued by the Ukrainian administration, other than those issued under the provisions of STCW Regulations V/1, will remain valid for service on board Belgian ships.

## 3. Application for (full term) STCW certificates

Individual seafarers can send their application by mail: [STCW95@mobilit.fgov.be](mailto:STCW95@mobilit.fgov.be).

Registered companies are requested to use the application STCW-on-Web.

## 4. Verification of authenticity

If there is any doubt on the authenticity of these certificates, please contact BMI.

Access may be granted only if a legal ground is proven. Applications for a password have to be sent to [stcw95@mobilit.fgov.be](mailto:stcw95@mobilit.fgov.be). Please mention the reasons for your request.

## B. Medical certificates

The Belgian legislation on Maritime Inspection, as well as the Maritime Labour Convention permit in exceptional circumstances a seafarer whose certificate of medical fitness for seafarers expires during a voyage in a location where it is not possible to obtain a medical fitness certificate accepted for working on a Belgian ship to continue working to the next port of call where the crew member can obtain a certificate of medical fitness issued by doctors who are accredited by the Belgian maritime administration or by the maritime administration of an EU-member state or for up to three months after the expiry date of the medical fitness certificate.

The shipowner should contact the BMI for advice: [Ship.Belflag@mobilit.fgov.be](mailto:Ship.Belflag@mobilit.fgov.be).

## II. Seafarers' Employment Agreement

Seafarers are key workers and are at the heart of the economy. They have worked tirelessly to deliver goods, and have made extraordinary sacrifices to keep the economy going in the past two years of pandemic. Ukrainian seafarers are already bearing the impact of this rapidly evolving situation, with seafarers coming to the end of their contracts not being allowed or not wanting to return home.

When other possibilities or options have been exhausted, the ship managers or shipowners shall address the required extension of service on board to the BMI. Taking specific circumstances into consideration, the Belgian Maritime Inspectorate may authorize the extension of the duration of service on board and the Seafarers' Employment Agreement (SEA).

### A. Duration of service on board

The maximum duration of service for each seafarer on board a Belgian flagged vessel is determined by the applicable Collective Bargain Agreement (CBA), fully endorsed by the Belgian Maritime Legislation. The maximum duration of service on board shall not exceed a period of 7 months (Ref. CBA non-pool).

The duration of service on board shall be specified in the seafarers' employment agreement (SEA) and determine the validity of it. The duration of service shall never exceed the maximum duration of service established in the applicable CBA, unless an extension has been authorized.

A valid Seafarers' Employment Agreement (SEA) must remain in force, during the whole time of service on board, until repatriation. Importantly, if any of the SEA's should expire, while the seafarers are in service on board, the SEA's must be extended or new ones issued.

### B. Extension of service on board

The responsible companies or shipowners, are required to take a pro-active approach in organizing crew changes, taking into account the expected routing and ports of call. It is recommended that the companies or shipowners, maintain a close consultation with their respective commercial parties, ensuring the "human element" is considered as a strategic parameter in the overall commercial operation of the vessel.

The company or shipowner shall do the utmost to whenever possible, safely change crew members in a suitable or intended port of call, prior the expiry of the seafarers' employment agreement. The company or shipowner should plan well ahead and take advantage of each opportunity to carry out a crew change.

The company or shipowner, in consultation with the other commercial parties, should take into consideration a possible course deviation to call at a port, or make an unscheduled stop at a port, where a crew change is possible.

The primary objective remains that the company or shipowner does the utmost to change crew as close to the maximum period of service on board as stated in the relevant CBA and SEA.

Any extension of the period of service on board beyond the maximum period of service will be authorized **only on a case-by-case basis** to face the emergency situation and only with the seafarer's consent. Supporting evidence is required.

Under exceptional circumstances the Belgian Maritime Inspectorate may authorize the extension of the duration of service on board and SEA's, for one or more seafarers. The extension may be granted in two stages:

**A. From the maximum period of service until a maximum of 11 months of service on board.**

When the SEA has just expired or is about to expire, and reaching the maximum period of service on board, in accordance with the relevant Collective Bargaining Agreement, and, there is no possibility to safely change the crew member in the intended port of call, an extension of the SEA, valid for up to 11 months from the date of signing on, may be authorized by BMI.

An extension can only be granted subject to the following conditions:

- 1) Objective evidence can be provided that, despite efforts, the crew change could not be carried out (restrictions of ports of call and neighbouring ports, travel restrictions, scheduled routing of the ship) or that the Ukrainian seafarer wishes to continue working on the Belgian ship as long as it becomes possible and safe to return to Ukraine.
- 2) Evidence that the seafarer has agreed with the extension. An extended SEA or a general consent, signed by the concerned seafarer, constitutes sufficient evidence.
- 3) The company or shipowner shall make a plan of action to repatriate/replace the seafarers whose SEA's have been extended at the soonest possible opportunity and within the period of the extension or when it becomes possible and safe to return.

**B. From 11 months of service on board, onwards**

When the extended SEA has just expired or is about to expire, and reaching the maximum extended period of service on board of 11 months, and there is no possibility to safely change the crew member in the intended port of call, an exceptional extension of the SEA, may be authorized by BMI.

An exceptional extension can only be granted subject to the following conditions:

- 1) Objective evidence can be provided that the action plan mentioned under A (3) could not be carried out as intended due to unforeseen circumstances beyond the control of the company or shipowner (sudden changes in restrictions of ports and neighbouring ports, closure of ports, sudden changes in the routing of the ship, quarantine of the ship, breakdown) or due to the fact that a possible and safe return is still not possible.
- 2) Evidence that the seafarer has agreed with the exceptional extension. An exceptional extended SEA or a general consent, signed by the concerned seafarer, constitutes sufficient evidence.
- 3) The ship manager or shipowner shall propose concrete and immediate actions, to repatriate/replace the seafarers whose SEA's have been exceptionally extended, as soon as

possible and within the period of the exceptional extension or when it becomes possible and safe to return.

- 4) Consideration should be given to divert the ship to call at a port, or make an unscheduled stop at an intermediate port, to ensure a crew change can be made.
- 5) The duration of the exceptional extension of the SEA shall depend on the actions mentioned under (3), but shall be kept as short as possible.

### C. Procedure for applying for an extension

For the extension of any seafarers' employment agreement beyond the maximum duration of service on board, BMI may grant authorisation on a case by case basis, based on supporting evidence, justifying such extension.

On facing a situation mentioned under (A) or (B), applicable to one or more seafarers serving on board a Belgian flagged vessel, the company or shipowner shall complete the application form in annex to this circular. The application form is specific to each ship and lists the seafarer(s) for whom an extension of the SEA(s) is required. Multiple application forms may be applicable to one ship over the course of time.

The ship manager or shipowner should prepare the supporting evidence or information stated in A (1),(2)(3) or B (1),(2),(3), whichever applicable.

The completed application form and the supporting evidence shall be submitted to BMI for approval, through [ship.belflag@mobilit.fgov.be](mailto:ship.belflag@mobilit.fgov.be).

The submission shall only be carried out by the responsible company or shipowner. Manning agencies or other employers should not submit any application, unless they are legally mandated by the company or shipowner to act on their behalf. In such case the submission must be accompanied by documented evidence of this mandate or a relevant power of attorney, signed by the company or shipowner.

Upon receipt of the application form, BMI will review and assess the supporting evidence and information. In case of approval the application form will be countersigned and endorsed, and returned to the applying company or shipowner. The countersigning and endorsement may be carried by electronical signature and stamp.

In the other case, further consultation will be set up with the company or shipowner, to obtain further clarification or information.

BMI reserves the right to refuse or reject an application for extension of a SEA, in case the evidence or information, mentioned under A (1),(2)(3) or B (1),(2),(3), whichever applicable, is found insufficient or incomplete to support the application for extension, or if the grounds on which the application for extension is based, is found unjustified. In such case the company or shipowner shall be advised accordingly.

The countersigned and endorsed application form serves as evidence towards any concerned party that the flag state has assessed the necessity to extend the duration of service on board, and authorizes the extension of the concerned SEA(s). Therefore the company or shipowner shall ensure that a copy of the attestation is physically or electronically available on board the ship.

Any SEA issued that is an extension of the original SEA must state that it is an extended contract.

### III. Contact

BMI is to be contacted:

- Through mail: [Ship.Belflag@mobilit.fgov.be](mailto:Ship.Belflag@mobilit.fgov.be),
- For urgent matters: +32 473 70 03 53.

**Annex: Application by the shipowner for an extension of a seafarers' employment agreement (SEA) on ships flying the Belgian flag beyond the maximum duration of service on board related to Ukrainian seafarers**

The annex of this circular is available on <https://mobiliteit.belgium.be/nl/scheepvaart/koopvaardij> as the application form 'Application for extension SEA for Ukrainian seafarers'.

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