

ISSUE 63  
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# The Crew

CAREER • TRAINING • TECHNOLOGY • MONEY • OPERATIONS • ADVICE



# REPORT

## DELIVERING THE GOODS

A team of industry experts explain how to achieve a smooth new build delivery.

## MIA ELISE

Captain Ron Woods of busy charter yacht *Mia Elise* explains how his crew achieve the highest standards.

## MILLENNIUM CUP

We interview the captains of New Zealand's regatta and speak to winning owner and captain of first timer *Zefiro*.

## SOCIAL SECURITY

We tell crew how they can find out if they should be making social security contributions under the MLC.



# PAYING THE PIPER

Many crewmembers are unaware of their legal obligation to pay social security and in the past haven't always paid their necessary contributions. But under the Maritime Labour Convention 2006 a crewmember's social security will be under scrutiny and it is imperative crew understand what they need to be paying and to whom.

WORDS BY JOHN COOK  
OF LESIA GROUP

What is going to change for crew as a result of the Maritime Labour Convention 2006 (MLC)? Are there new regulations or laws that mean crew will have to start paying social security contributions where there was no requirement before? These are some of the questions that crew want the answers to as time moves remorselessly towards 20 August, 2013, the date that the MLC comes into force.

The fact is that legislation on social security for crew has been in place for decades in most countries of which crew are either nationals or residents, or in which otherwise domiciled. Most crew do not realise that they have a contribution to make, or know to which agency they should make the contribution. Some simple guidelines crew can follow to give them a good idea as to whether a contribution is due to any agency are the following: know the flag of the yacht on which you are working; know your country of nationality, or domicile if you are from the UK (including the Isle of Man); and know your country of residence.

The reason for needing this knowledge is that if you have a connection by way of nationality (or domicile for the UK) or residence to the flag state of the yacht, there is a very good chance that you will have a mandatory primary (employee) social security contribution to make to the social security agency in the flag state.

The word 'mandatory' is very important here. In the International Labour Organization's (ILO's) Guidelines for Flag State Inspections it says the flag state inspector will check the basic requirements on the following basis: "Seafarers who are subject to the flag state's social security legislation, and, to the extent provided for in its national law, their dependents, are entitled to benefit from social security protection no less favourable than that enjoyed by shore workers."

The inspector is then told how to check and where to look. So, the inspector will: "Check for evidence that, for seafarers covered by the national social security system, the appropriate contributions are being made if it is a contributory system," and "Interview, in private, a representative number of seafarers to confirm that mandatory contributions, if any, are made." Examples of deficiencies are: "No information on protection in the SEA [Seafarer Employment Agreement]" and "Mandatory contributions are not being made".

So what are the chances of the inspector knowing exactly which of the crew have a mandatory social security contribution to make to the flag state? Probably very little, in my opinion. However, the inspector will most likely pass the information on to the social security agency in the same territory for them to make a decision as to whether such a contribution needs to be made. For those crewmembers who should have been making contributions for years this could cause a problem, as they could end up paying contributions for the previous years along with any

penalties and/or interest that may be applied on what would be regarded as late payment.

Most countries have similar legislation and of course there can be many different scenarios that can lead to contributions being made. For example, nationals and residents of the EU/EEA (European Economic Area) working on a yacht flagged in the EU/EEA are bound by the legislation not only of the flag state but also of EU legislation. In addition there are the bilateral and reciprocal agreements between countries which can also have an effect on whether crew pay a contribution and, if so, to which agency.

What can crew do, then, to get their affairs in order before an agency gets in touch with them as a result of an inspection? The first and most obvious thing is to contact an adviser to get an assessment on whether or not there is a contribution to make to the flag state based on their own personal circumstances. If it is determined that no contribution is due to the flag state, then you may still be liable to pay contributions to an agency in your place of residence. The MLC requires that each member, or government, of the ILO "take steps according to its national circumstances to provide the complementary social security protection... to all seafarers ordinarily resident in its territory."

If there is a liability then crew can either contact the agency directly or engage the services of a professional to do the work on their behalf. Using a professional may cost more but they may also be able to assist in minimising the liability, although there are no hard and fast rules or any guarantees. My message to all crew is simple: seek professional advice. ■

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LULU@THESUPERYACHTGROUP.COM  
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