



**Ministero  
delle Infrastrutture e dei Trasporti**  
**Comando generale  
del Corpo delle Capitanerie di porto**

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Reparto VI

**A ELENCO INDIRIZZI ALLEGATO**

**CIRCOLARE TITOLO:  
SICUREZZA DELLA NAVIGAZIONE**

**Non serie: n. 49/2020**

**Argomento: Coronavirus (nCov-2019) – Clausole "No crew change" nei charterparties.**

Riferimento: *IMO Circular letter No. 4204/Add.36* del 18 dicembre 2020 e *No. 4204/Add.36/Rev. 1* del 23 dicembre 2020.

Con le Circolari in riferimento, allegate per pronta consultazione, l'Organizzazione Marittima Internazionale ha manifestato viva preoccupazione per la pretesa avanzata da alcuni noleggiatori – venuta alla luce da poche settimane – di includere nei contratti la clausola c.d. "no crew change".

Sottoscrivendola, la controparte si impegna ad evitare i cambi equipaggio in presenza di carico a bordo ovvero a non deviare la rotta della nave per scalare porti ove intraprendere tale operazione.

Tale approccio non solo mina gli sforzi profusi, a livello nazionale sulla tematica in discorso ma contrasta con le molteplici iniziative intraprese, a livello internazionale, per garantire sia lo sbarco di chi è rimasto bloccato a bordo sia l'avvicendamento di coloro che attendono di poter riprendere il proprio lavoro.

Quanto sopra, in spregio alle disposizioni in materia di sicurezza della navigazione e di lavoro marittimo e senza riguardo per le prevedibili ricadute di natura psico-fisica su marittimi bloccati sulle navi ben oltre il periodo massimo consentito dai contratti collettivi di lavoro o prescritto dalla MLC,2006.

Con tali Circolari la citata Organizzazione, da una parte, ha invitato i noleggiatori ad astenersi dall'inserire la clausola contrattuale accennata in premessa e, dall'altra, ha sensibilizzato armatori ed operatori a rifiutarsi di sottoscriverla. Clausole contrattuali alternative per una efficace gestione degli avvicendamenti di equipaggio sono, infatti, disponibili e possono essere utilizzate.

Alla luce di quanto precede, con la presente si invita l'armamento nazionale ad aderire, in modo convinto e deciso, all'appello dell'IMO nonché ai contenuti della presente Circolare facendo valere gli strumenti normativi che prevedono, obbligatoriamente, il corretto e naturale avvicendamento del personale imbarcato.

Eventuali situazioni che ricadono nel contesto sopra descritto siano portate all'attenzione di questo Comando generale all'indirizzo e-mail funzionale [ufficio2.reparto6@mit.gov.it](mailto:ufficio2.reparto6@mit.gov.it)

**IL CAPO REPARTO**  
**Amm. Isp. (CP) Luigi GIARDINO**  
(documento sottoscritto con firma digitale,  
ai sensi del D.lvo 82/2005 n.21)

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4 ALBERT EMBANKMENT  
LONDON SE1 7SR  
Telephone: +44 (0)20 7735 7611 Fax: +44 (0)20 7587 3210

Circular Letter No.4204/Add.36  
18 December 2020

To: All IMO Members  
United Nations and specialized agencies  
Intergovernmental organizations  
Non-governmental organizations in consultative status

Subject: **Coronavirus (COVID 19) – "No crew change" clauses in charterparties**

The Secretary-General wishes to draw attention to the matter of "no crew change" clauses in charterparties.

The crew change crisis is now in its tenth month. Hundreds of thousands of seafarers remain onboard ships well beyond the expiration of their seafarer employment agreements, some not being paid and all unable to be repatriated. A similar number remain unable to join ships, unable to begin their contracts and work to support their families. The situation continues to constitute a humanitarian crisis that threatens not only seafarers' health and wellbeing but also the safety of navigation and the uninterrupted flow of the global supply chain. While there have been some encouraging signs of progress, including 46 Member States and one Associate Member having designated seafarers as key workers, and the industry-developed framework protocols for ensuring safe crew changes and travel during the pandemic set out in MSC.1/Circ.1636 being applied, much more needs to be done. Policies or practices that prevent or inhibit safe, regular crew changes should be revised or eliminated.

In recent weeks, IMO's Seafarer Crisis Action Team (SCAT) has been made aware of a worrying development that is preventing crew changes on certain ships and that does not allow ships to deviate to ports where crew changes could take place. Certain charterers are demanding the inclusion of "no crew change" clauses in charterparties, that is, no crew changes can occur whilst the charterer's cargo is aboard. In addition to the reports received by SCAT, some Member States and international organizations made statements at the recent 107th session of the IMO's Legal Committee condemning the use of such clauses in ships' charterparties. The Committee invited submissions on the matter to its 108th session.

"No crew change" clauses undermine the efforts undertaken to solve the existing crisis and go against the urgent calls recently made by the United Nations General Assembly, the Maritime Safety Committee and the ILO Governing Body to designate seafarers as key workers and facilitate crew changes. Such clauses exacerbate the mental and physical fatigue among exhausted seafarers, undermine compliance with the provisions of the Maritime Labour Convention, 2006, as amended (MLC, 2006) and further threaten the safety of navigation. As a

matter of safety and corporate social responsibility, we call upon all charterers to refrain from requesting to include such clauses in charterparties, and we further call upon shipowners and operators to reject them if they are demanded. Alternative contractual clauses that allow for crew changes during the pandemic are available and should be utilized.

Resolving the crew change crisis requires the best efforts of all stakeholders. The elimination of the use of "no crew change" clauses is just one of those efforts. Seafarers need our continued support, and the IMO and ILO Secretariats reaffirm their commitment to assist all Member States, the industry and seafarers in this regard.

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4 ALBERT EMBANKMENT  
LONDON SE1 7SR  
Telephone: +44 (0)20 7735 7611 Fax: +44 (0)20 7587 3210

Circular Letter No.4204/Add.36/Rev.1  
23 December 2020

To: All IMO Members  
United Nations and specialized agencies  
Intergovernmental organizations  
Non-governmental organizations in consultative status

Subject: **Coronavirus (COVID 19) – "No crew change" clauses in charterparties**

The Secretary-General of IMO and the Director-General of ILO wish to draw attention to the matter of "no crew change" clauses in charterparties.

The crew change crisis is now in its tenth month. Hundreds of thousands of seafarers remain onboard ships well beyond the expiration of their seafarer employment agreements, some not being paid and all unable to be repatriated. A similar number remain unable to join ships, unable to begin their contracts and work to support their families. The situation continues to constitute a humanitarian crisis that threatens not only seafarers' health and well-being but also the safety of navigation and the uninterrupted flow of the global supply chain. While there have been some encouraging signs of progress, including 48 Member States and one Associate Member having designated seafarers as key workers, and the industry-developed framework protocols for ensuring safe crew changes and travel during the pandemic set out in MSC.1/Circ.1636 being applied, much more needs to be done. Policies or practices that prevent or inhibit safe, regular crew changes should be revised or eliminated.

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