



PANAMA MARITIME AUTHORITY
MERCHANT MARINE CIRCULAR MMC-283

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To: Ship-owners/Operators, Company Security Officers, Legal Representatives of Panamanian Flagged Vessels, Panamanian Merchant Marine Consulates and Recognized Organizations (ROs)

Subject: Maritime Labour Convention, 2006 (MLC, 2006)–Seafarer Recruitment and Placement Services Guide

Reference: Law No.2 of January 6, 2009, by which ratified the Maritime Labour Convention, 2006 (MLC, 2006)
Executive Decree No.86 of February 26, 2013, by which regulates the Maritime Labour Convention, 2006 (MLC, 2006)

1. The purpose of this Circular is to inform users of the Panamanian Registry about the “**Guide for ship-owners or ships operators who use seafarer recruitment and placement services that are based in countries or territories in which the Maritime Labour Convention, 2006, does not apply. Regulation 1.4. Number 3.**”

2. OBJECTIVE

- 2.1. Ship-owners who turn to seafarer recruitment and placement services based in countries or territories in which the Maritime Labour Convention, 2006 (MLC, 2006) does not apply, shall ensure that those services are in accordance with the requirements of the Convention. (Regulation 1.4. Number 3.)

3. OWNERS OR OPERATORS OF VESSELS

- 3.1. Ship-owners or ship operators of Panamanian flagged vessels using seafarer recruitment and placement services in countries or territories in which the MLC, 2006 does not apply, shall comply with the following:
- 3.2. The ship-owner or ship operator should keep a copy of the certification of the seafarer recruitment and placement services on land, in the company records. Also should have copies of the seafarers’ employment agreements on board for review.
- 3.3. When the owner employs seafarer recruitment and placement services in countries or territories in which the MLC, 2006 does not apply, he will be the only one responsible in case of ship detention when an inspection is carried out, either by the Flag State or the Port State Control, as well as for the sanctions involving the ship detention.

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4. DEFINITIONS

- 4.1. Seafarer Recruitment and Placement Service¹: means any person, company, institution, agency or other organization, in the public or the private sector, which is engaged in recruiting seafarers on behalf of Shipowners or placing seafarers with Shipowners.
- 4.2. Seafarers Employment Agreement²: includes both a contract of employment and articles of agreement.

5. PROHIBITIONS

- 5.1. It is forbidden for people and/or Agencies engaged in the Seafarer Recruitment and Placement Service, the following:
- 5.1.1. They use means, mechanisms or lists intended to prevent seafarers gaining employment for which they are qualified, or deter it.
 - 5.1.2. To be invoiced seafarer, directly or indirectly, in whole or in part, fees or other emoluments for the hiring, placement or obtaining employment, except the costs for obtaining a national statutory medical certificate, national seafarer's book and passport or other personal travel documents that are similar (however, the total amount of the cost of the visa will be chargeable to the owner).
 - 5.1.3. Hiring or working on board on ships registered in Panama, from any person under 18 years, except for educational cadet takes his practice on board a Panamanian registered ship, under the supervision of a superior.

6. PROCEDURES / RECORDS

- 6.1. People and/or Agencies engaged in the Seafarer Recruitment and Placement Service, should:
- 6.1.1. Keep an updated record of all seafarer recruited or placed by them, which shall be made available to the competent authority for inspection.
 - 6.1.2. Ensure that seafarer and ship-owners know their rights and obligations under their employment agreements, before or during the hiring process and to appropriate measures for seafarers can study them, before and after they are signed and received their respective copies.
 - 6.1.3. Check that seafarers recruited or placed by them possessing the qualifications and documents needed for the employment in question and has successfully completed training for personal safety on board ship.
 - 6.1.4. Ensure, as far as practicable, that the ship-owner has the means to prevent seafarers being abandoned/stranded in a foreign port.
 - 6.1.5. Examine and respond to any complaint concerning their activities and advise the competent authority of any unresolved complaint.

¹ *Maritime Labour Convention, 2006 (MLC, 2006): Definition and Scope of Application– Article II (h), page 3.*

² *Maritime Labour Convention, 2006 (MLC, 2006): Definition and Scope of Application– Article II (g), page 3.*

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- 6.1.6. Establish a system of protection through insurance or equivalent appropriate measure, to compensate seafarers in the event of financial loss to those that could be affected by breach of his Employment Agreement.
- 6.1.7. Maintaining, with due regard to the right to privacy and the need to protect confidentiality, full and complete records of the seafarers covered by their recruitment and placement system, which should include but not be limited to:
 - 6.1.7.1. the seafarers' qualifications;
 - 6.1.7.2. record of employment;
 - 6.1.7.3. Personal data relevant to employment, and
 - 6.1.7.4. Medical data relevant to employment.
- 6.1.8. Maintaining up-to-date lists of the ships for which the seafarer recruitment and placement services provide seafarers and ensuring that there is a means by which the services can be contacted in an emergency at all hours.
- 6.1.9. Adoption of procedures for:
 - 6.1.9.1. Request Information and/or Advice. By families of seafarers, ensuring that they are dealt with promptly and sympathetically and at no cost.
 - 6.1.9.2. Control Management of the Seafarer Recruitment and Placement Service:
 - 6.1.9.3. Ensure that seafarers are not subject to exploitation of seafarers by the seafarer recruitment and placement services or their personnel with regard to the offer of engagement on particular ships or by particular companies.
 - 6.1.9.4. Prevent the opportunities for exploitation of seafarers arising from the issue of joining advances or any financial transaction between the ship-owner and the seafarers which are handled by the seafarer recruitment placement service.
- 6.2. Clearly publicizing costs, if any, which the seafarer will be expected to bear in the Recruitment process.
- 6.3. Prohibit the bill to seafarer, directly or indirectly, in whole or in part, fees or other emoluments for the service of recruitment.
- 6.4. Ensure that seafarers are advised of any particular conditions applicable to the job for which they are to be engaged and of the particular ship-owners' policies relating to their employment.
- 6.5. Ensure, as far as practicable, that all mandatory certificates and documents submitted for employment are up to date and have not been fraudulently obtained and that employment references are verified.
- 6.6. Verify that labour conditions on ships where seafarers are placed are in conformity with the applicable collective bargaining agreements concluded between a ship-owner and a representative seafarers' organization and, as a matter of policy, supplying seafarers only to ship-owners that offer terms and conditions of employment to seafarers which comply with the MLC, 2006 or collective agreements.

7. EMPLOYMENT AGREEMENT

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- 7.1. The people who provide the Seafarer Recruitment and Placement Service shall ensure that, in the Employment Agreements are clearly defined the conditions of employment and in accordance with the regulations established in the Maritime Labour Convention, 2006 (MLC, 2006), the legislation and practices of the Republic of Panama.
- 7.2. It is understood that the seafarers' employment agreements include collective agreements.
- 7.3. Such agreements shall contain, at least, the following information:
- 7.3.1. The seafarer's full name, passport / seaman book, date of birth, nationality, birthplace.
 - 7.3.2. The ship-owner's data (name, address, phone, fax and email)
 - 7.3.3. The place where and date when the seafarers' employment agreement is entered into.
 - 7.3.4. The capacity in which the seafarer is to be employed.
 - 7.3.5. The amount of the seafarer's wages or, where applicable, the formula used for calculating them.
 - 7.3.6. The amount of paid annual leave or, where applicable, the formula used for calculating it.
 - 7.3.7. The termination of the agreement and the conditions thereof, including:
 - 7.3.7.1. If the agreement has been made for an indefinite period, the conditions entitling either party to terminate it are established by Executive Decree No.86 of February 22, 2013, and the period of notice.
 - 7.3.7.2. If the agreement has been made for a definite period, the date fixed for its expiry.
 - 7.3.7.3. If the agreement has been made for a voyage, the port of destination and the time which has to expire after arrival before the seafarer should be discharged.
 - 7.3.7.4. If the ship-owner terminates early the contractual relationship indefinitely, shall give written notice to the seafarer with a minimum of fifteen (15) days in advanced, paying the wages for the services, subject proportional holidays, repatriation and compensation under Executive Decree No.86 of February 22, 2013.
 - 7.3.8. The health and social security protection benefits to be provided to the seafarer by the ship-owner, and details of how, when and where will be held the reparation.
 - 7.3.9. Places that seafarers have the right to be repatriated in accordance with Chapter III of Executive Decree No.86 of February 22, 2013 which regulates the Maritime Labour Convention, 2006 (MLC, 2006)
 - 7.3.10. Maximum period of interrupted service on board, after which the seafarers are entitled to repatriation.
 - 7.3.11. Reference to the collective agreement of applicable.
 - 7.3.12. Hours of rest.
 - 7.3.13. Additional benefits that accrue seafarers, if any.
 - 7.3.14. Method of payment is made.
 - 7.3.15. All other data as may be required by national law.

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8. MEDICAL CERTIFICATE OF SEAFARERS

- 8.1. The seafarers before serving aboard a ship must have a valid medical certificate attesting to fitness to perform the duties which he has to carry out at sea.
- 8.2. The medical certificate must be issued by a duly qualified medical practitioner or, in the case of a certificate solely concerning eyesight, by a qualified person, both recognized by the competent authority to issue such certificate. Physicians should be professionally independent ship-owners, seafarers and their representatives in exercising their medical judgment regarding the procedures for medical examination.
- 8.3. The above is without prejudice to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended (Convention STCW'78, as amended)

September, 2013

Inquiries concerning the subject of this Circular or any request should be directed to:

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