

Commonwealth of Dominica



Office of the Maritime Administrator

TO: All owners, operators, masters, and crew of Dominica flagged vessels; Recognized Organizations; Flag State Inspectors; Seafarers holding or seeking Dominica licensing and/or training; and Seafarer Recruitment or Placement Agencies.

SUBJECT: MARITIME LABOUR CONVENTION COMPLIANCE
Title 1: Minimum Requirements for Seafarers to Work on Board Ships

REFERENCE:

- (a) Maritime Labour Convention, 2006;
- (b) Dominica Maritime Act, 2002, as amended;
- (c) Dominica Maritime Regulations, as amended;
- (d) CDP 300 – Mariner Training and Certification;
- (e) CDP 800 – Dominica Maritime Labour Compliance;
- (f) ILO Convention No. 7 (Minimum Age);
- (g) ILO Convention No. 9 (Placing of Seaman Convention);
- (h) ILO Convention No. 16 (Medical Examination of Young Persons);
- (i) ILO Convention No. 53 (Officers' Competency Certificates);
- (j) ILO Convention No. 58, (Minimum Age, Revised);

- (k) ILO Convention No. 73 (Medical Examination);
- (l) ILO Convention No. 74 (Certification of Able Seaman);
- (m) ILO Convention No. 147 (Merchant Shipping);
- (n) Protocol of 1996 to ILO Convention No. 147; and
- (o) ILO Convention No. 179 (Recruitment and Placement of Seafarers).

APPLICABILITY:

All Dominica flagged ships whether publically or privately owned ordinarily engaged in commercial activities and international voyages; all seafarers; all shipowners and shipowners' associations providing employment to Dominica vessels or Dominica credentialed seafarers; and all seafarer recruitment and placement agencies providing services to Dominica credentialed seafarers.

EXCEPTIONS:

The following ships are exceptions to the requirements of this policy letter:

- Ships which navigate exclusively in inland waters or waters within, or closely adjacent to, sheltered water or areas where port regulations apply;
- Ships not ordinarily engaged in commercial activities or international voyages;
- Ships engaged in fishing or in similar pursuits;
- Ships of traditional build such as dhows and junks; and
- Warships or naval auxiliaries.

PURPOSE:

The purpose of this Policy Letter is to bring to the attention of all concerned the requirements regarding changes to the minimum requirements for seafarers to work on board ships as laid out within CDP 800 (*Dominica Maritime Labour Compliance*). The categories of minimum requirements for seafarers to work on board ships that are affected by CDP 800 include the following:

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1. Minimum Age
 2. Medical Certificates
 3. Training and Qualifications
 4. Recruitment and Placement

BACKGROUND:

On 7 February 2006 the 94th Session of the General Conference of the International Labour Organization (ILO) was convened in Geneva by the governing body of the ILO in order to consolidate existing international maritime labour Conventions and Recommendations, including the fundamental principles in other international labour Conventions. On 23 February 2006, the resultant document was adopted by the General Conference of the International Labour Organization as the Maritime Labour Convention, 2006.

CDP 800 *Dominica Maritime Labour Compliance* has been adopted by the Commonwealth of Dominica Maritime Administration as a national instrument to effectively implement provisions of Maritime Labour Convention, 2006. The following information corresponds to the provisions of Title 1 of CDP 800.

DEFINITIONS:

1. *Able Seafarer* means any seafarer who is deemed competent to perform any duty which may be required of a rating serving in the deck department, other than the duties of a supervisory or specialist rating, or who is defined as such by national laws, regulations or practice, or by collective agreement;
2. *Basic Pay or Wages* means the pay, however composed, for normal hours of work; it does not include payments for overtime worked, bonuses, allowances, paid leave or any other additional remuneration;
3. *Consolidated Wage* means a wage or salary which includes the basic pay and other pay-related benefits; a consolidated wage may include compensation for all overtime hours which are worked and all other pay-related benefits, or it may include only certain benefits in a partial consolidation;
4. *Seafarer* means any person who is employed or engaged or works in any capacity on board a ship;
5. *Hours of work* means the time during which seafarers are required to do work on account of the ship;

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6. *Hours of rest* means the time outside hours of work; this term does not include short breaks;
 7. *Night* is the period of time between 9 PM (2100) to 6 AM (0600);
 8. *Overtime* means time worked in excess of the normal hours of work;
 9. *Seafarer Employment Agreement* includes both a contract of employment and articles of agreement;
 10. *Seafarer Recruitment and Placement Service* means any person, company, institution, agency or other organization, in the public or private sector, which is engaged in recruiting seafarers on behalf of shipowners or placing seafarers with shipowners;
 11. *Ship* means a ship other than one which navigates exclusively in inland waters or waters within, or closely adjacent to, sheltered waters or areas where port regulations apply;
 12. *Shipowner* means the owner of the ship or another organization or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on shipowners in accordance with *CDP-800 Maritime Labour Compliance*, regardless of whether any other organizations or persons fulfill certain of the duties or responsibilities on behalf of the shipowner;
 13. *Ships Cook* means a seafarer with responsibility for food preparation.

REQUIREMENTS

General

1. Minimum Age

- a) The employment, engagement or work on board a ship of any person under the age of 16 is prohibited.

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- b) The employment, engagement or work of seafarers under the age of 18 is prohibited where the work is likely to jeopardize their health or safety.
- c) Where a shipowner/operator has in place a Shipboard Occupational Health and Safety Program, it shall address the safety and health of young seafarers and, specifically, restrictions on work considered hazardous for those under the age of 18.
- d) Prior to employment, a seafarer under the age of 18 shall be:
- i. Assessed for competency to perform a task or job while being given an explanation and/or walk through of all procedures, including safe working practices, and required to take pre-job training, if competence cannot be determined; and
 - ii. Provided with age-appropriate information concerning the prevention of accidents and the protection of their health on board ships. Such information should include the detrimental effects of alcohol and drug abuse and the abuse of other potentially harmful substances, and the risks and concerns related to HIV/AIDS and other health-risk-related activities.
- e) The activities or work likely to jeopardize the health or safety of seafarers under the age of 18 are those as determined by the shipowner/operator, and may be included in the development of a Shipboard Occupational Health and Safety Program, shall include but not be limited to:
- i. The lifting, moving, or carrying of heavy loads or objects;
 - ii. Entry into boilers, tanks and cofferdams;
 - iii. Exposure to harmful noise and vibration levels;
 - iv. Operating hoisting and other power machinery tools, or acting as signalers to operators of such equipment;
 - v. Handling mooring or tow lines or anchoring equipment;
 - vi. Rigging;

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- vii. Work aloft or on deck in heavy weather;
 - viii. Nightwatch duties;
 - ix. Servicing of electrical equipment
 - x. Exposure to potentially harmful materials, or harmful physical agents such as dangerous toxic substances and ionizing radiations; when making a determination of which activities are hazardous, a shipowner/operator also should consider hazardous materials codes on a vessel-specific basis, as applicable;
 - xi. The cleaning of catering machinery; and
 - xii. The handling or taking charge of ship's boats.
- f) Night work of seafarers under the age of 18 is prohibited subject to the paragraph below. For the purposes of this provision, the term "night" is the period of time between 9 PM (2100) to 6 AM (0600).
- g) An exception regarding night work may be made by the Commonwealth of Dominica Maritime Administration in the following situations:
- i. When the effective training of the seafarers concerned, in accordance with established programmes and schedules, would be impaired; or
 - ii. When the specific nature of the duty or recognized training programme requires that seafarers under the age of 18 perform duties at night and the Commonwealth of Dominica determines that the work will not be detrimental to their health or well-being.
- h) No seafarer under the age of 18 shall be employed or engaged or work as a ship's cook.

2. Medical Certificate

- a) Seafarers shall hold a valid medical certificate attesting that they are medically fit to perform the duties that they are to carry out at sea. The medical certificate must have been issued prior to commencing work on a ship.

- b) A valid medical certificate issued to a seafarer in accordance with the requirements of the STCW Convention will be considered as meeting the requirements of paragraph (a) above.
- c) The Dominica Maritime Administration has prescribed the nature of the medical examination and certificate (See CDMP-3033a).
- d) A medical certificate:
 - i. Must be issued by a duly qualified medical practitioner or, in the case of a certificate issued solely concerning eyesight, by a person recognized by the Commonwealth of Dominica as qualified to issue such a certificate. In order to be recognized, practitioners must enjoy full professional independence in exercising their medical judgment in undertaking medical examination procedures;
 - ii. Must state that:
 - a. The hearing and sight of the seafarer, and the colour vision in the case of a seafarer to be employed in capacities where fitness for the work to be performed is liable to be affected by defective colour vision, are all satisfactory; and
 - b. The seafarer is not suffering from any medical condition likely to be aggravated by service at sea or render the seafarer unfit for such service as to endanger the health of other persons on board.
- e) Seafarers that have been refused a certificate or have had a limitation imposed on their ability to work, in particular with respect to time, field of work or trading area, have the right to a further examination by another independent medical practitioner or by an independent referee.
- f) Unless a shorter period is required by reason of the specific duties to be performed by the seafarer or is required under the STCW Convention:
 - i. A medical certificate shall be valid for a maximum period of two years unless the seafarer is under the age of 18, in which case the maximum period of validity shall be one year;
 - ii. A certification of colour vision shall be valid for a maximum period of

six years.

- g) In urgent cases Dominica Maritime Administration may permit a seafarer to work without a valid medical certificate until the next port of call where the seafarer can obtain a medical certificate from a qualified medical practitioner, provided that:
 - i. The period of validity of such permission does not exceed three months; and
 - ii. The seafarer concerned is in possession of an expired medical certificate of recent date that has been expired for a period not exceeding 6 months.
- h) If the period of validity of a certificate expires in the course of a voyage, the certificate shall continue in force until the next port of call where the seafarer can obtain a medical certificate from a qualified medical practitioner, provided that the period shall not exceed three months.
- i) Medical certificates for seafarers working on ships ordinarily engaged on international voyages must, as a minimum, be provided in English.

3. Training and Qualifications

- a) Seafarers must be trained or certified as competent or otherwise qualified to perform their duties.
- b) All seafarers must have successfully completed training for personal safety on board the ship.
- c) Training and certification in accordance with the STCW Convention or other mandatory instruments adopted by the International Maritime Organization shall be considered as meeting the requirements of paragraph (a).

4. Recruitment and Placement

- a) All shipowners/operators are required to ensure that:
 - i. All public and/or private seafarer recruitment and placement services located in a State that is party to the Maritime Labour Convention have demonstrated compliance with the provisions of the Convention.
 - ii. Any private seafarer recruitment and placement service operating in a

State that is not party to the Convention conforms to the requirements of the convention as far as practicable. Seafarer recruitment and placement services in non-party States shall demonstrate compliance to the shipowner/operator by completing a third-party audit verifying compliance with the standards annexed to this Policy Letter (Appendix A).

- b) The Dominica Maritime Administration shall closely supervise all seafarer recruitment and placement services working on behalf of Dominica shipowners/operators.
- c) The Dominica Maritime Administration shall ensure that adequate machinery and procedures exist for the investigation, if necessary, of complaints concerning the activities of seafarer recruitment and placement services, involving, as appropriate, representatives of shipowners and seafarers.
- d) The Commonwealth of Dominica Maritime Administration shall, in so far as practicable, advise nationals of Dominica on the possible problems of signing on a ship that flies the flag of a State which has not ratified the Convention, until it is satisfied that standards equivalent to those fixed by the Convention are being applied.
- e) A shipowner that makes use of a service based in a country that has not ratified the Maritime Labour Convention, 2006 must provide information to Dominica Maritime Administration regarding the regulation of the service to ensure that it is operated in conformity with the standards required by the Dominica Maritime Administration as guided in paragraphs a) and b) above.
- f) Private seafarer recruitment and placement services must be operated in accordance with the following requirements:
 - i. Any means, mechanisms or lists intended to prevent or deter seafarers from gaining employment for which they are qualified are prohibited;
 - ii. No fees or other charges for seafarer recruitment or placement or for providing employment to seafarers may be borne directly or indirectly, in whole or in part, by the seafarer, other than the cost of the seafarer obtaining a national statutory medical certificate, the national seafarer's book and a passport or other similar personal travel documents, not including, however, the cost of visas, which must be borne by the shipowner;
 - iii. An up-to-date register of all seafarers recruited or placed through them,

must be maintained and available for inspection by Dominica Maritime Administration; in particular, information regarding medical examinations, seafarers' identity documents and such other items as may be required for the seafarer to gain employment; the services must maintain, 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 shall include but not be limited to:

1. The seafarer's qualifications;
 2. Record of employment;
 3. Personal data relevant to employment; and
 4. Medical data relevant to employment.
- iv. Seafarers must be informed of their rights and duties under their employment agreements prior to or in the process of engagement and proper arrangements must be made for the seafarer to examine their employment agreements before and after they are signed and for them to receive a copy of the agreements;
- v. Services must ensure that seafarers are advised of any particular conditions applicable to the job for which they are to be engaged and of the particular shipowner's policies relating to their employment;
- vi. Seafarers recruited or placed must be qualified and hold the documents necessary for the job concerned, and the seafarers' employment agreements must be in accordance with the applicable laws and regulations and any collective bargaining agreement that forms part of the employment agreement;
- vii. The services must have procedures:
- a. To 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;
 - b. To verify that labour conditions on ships where seafarers are placed are in conformity with applicable collective bargaining agreements concluded between a shipowner and a representative seafarers' organization; and

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- c. To supply seafarers, as a matter of policy, only to shipowners that offer terms and conditions of employment to seafarers who comply with the applicable laws or regulations or collective agreements.
 - viii. The services must make sure as far as practicable that shipowners have means to protect seafarers from being stranded in a foreign port;
 - ix. The services must maintain up-to-date lists of the ships for which they provide seafarers, ensuring that there is a means by which the service can be contacted in an emergency at all hours;
 - x. Procedures must be in place to ensure that requests for information or advice by families of seafarers while the seafarers are at sea are dealt with promptly and sympathetically and at no cost;
 - xi. The services must examine and respond to any complaint concerning their activities and advise the Commonwealth of Dominica Maritime Administration of any unresolved complaint;
 - xii. The services must have procedures which are in accordance with the principles of natural justice for dealing with cases of incompetence or indiscipline consistent with national laws and practice and, where applicable, with collective agreements;
 - xiii. The services must assume obligations to ensure the proper fulfillment by shipowners of the terms of their employment agreements concluded with seafarers, including establishing a system of protection, by way of insurance or an equivalent appropriate measure, to compensate seafarers for monetary loss that they may incur as a result of the failure of a recruitment and placement service or the relevant shipowner under the seafarers' employment agreement to meet its obligations to them.
 - xiv. In the case of any public seafarer recruitment and placement service, the Dominica Maritime Administration shall consider;
 - a. Taking the necessary measures to promote effective cooperation among seafarer recruitment and placement services, whether public or private;
 - b. The needs of the maritime industry at both the national and international levels, when developing training programmes for seafarers that form part of the ship's crew that is responsible for

the ship's safe navigation and pollution prevention operations, with the participation of shipowners, seafarers and the relevant training institutions;

- c. Making suitable arrangements for the cooperation of representative shipowners' and seafarers' organizations in the organization and operation of the public seafarer recruitment and placement services, where they exist;
- d. Determining, with due regard to the right to privacy and the need to protect confidentiality, the conditions under which seafarers' personal data may be processed by seafarer recruitment and placement services, including the collection, storage, combination, and communication of such data to third parties;
- e. Maintaining an arrangement for the collection and analysis of all relevant information on the maritime labour market, including the current and prospective supply of seafarers that work as crew classified by age, sex, rank, and qualifications, and the industry's requirements, the collection of data on age or sex being admissible only for statistical purposes or if used in the framework of a programme to prevent discrimination based on age or sex;
- f. Ensuring that the staff responsible for the supervision of public and private seafarer recruitment and placement services for ship's crew with responsibility for the ship's safe navigation and pollution prevention operations have had adequate training, including approved sea-service experience, and have relevant knowledge of the maritime industry, including the relevant maritime international instruments on training, certification and labour standards;
- g. Prescribing operational standards and adopting codes of conduct and ethical practices for seafarer recruitment and placement services;
- h. Exercising supervision of the licensing or certification system on the basis of a system of quality standards.

Required Action by Owners/Operators

1. Shipowners and operators are instructed to review CDP 800 *Dominica Maritime Labour Compliance* to ensure that all provisions of CDP 800 are implemented specifically relating to the topics of this Policy Letter.

Required Action by Seafarers

1. Seafarers are invited to review CDP 800 to ensure that they are fully compliant with the requirements of the instrument and that they are aware of their rights and obligations.

Required Action by Recruitment and Placement Organizations

1. Recruitment and placement organizations are required to ensure that compliance with the Maritime Labour Convention, 2006 or with Annex A of this Policy Letter are demonstrated to interested parties, such as shipowners and operators where applicable.
2. Recruitment and placements organizations are also responsible for meeting the requirements of the Maritime Labour Convention, 2006 or CDP 800 through Annex A with respect to the services offered to seafarers and/or shipowners/operators.

Any questions can be directed to (as applicable):

Technical Department

Tel: + 1 508 992 7170

e-mail: technical@dominica-registry.com

Mariner Licensing and Certification

Tel: + 1 508 992 7170

e-mail: mariner@dominica-registry.com

seafarercomplaints@dominica-registry.com

Inspection Department

Tel: + 1 508 992 7170

e-mail: inspection@dominica-registry.com

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Appendix A

Standards to be Applied by Shipowners/Operators When Using Seafarer Recruitment and Placement Services Based in Non-Maritime Labour Convention, 2006 (Convention) Countries or Territories

Shipowners who use seafarer recruitment and placement services (RPS) based in countries or territories in which the Maritime Labour Convention, 2006 does not apply must ensure, as far as practicable, that those services meet the requirements provided below.

1. General

The RPS may not use means, mechanisms or lists intended to prevent or deter seafarers from gaining employment for which they are qualified.

2. Fees

The RPS may not charge the seafarer directly or indirectly, in whole or in part, any fees or other charges for seafarer recruitment or placement or for providing employment to seafarers, other than the cost of the seafarer obtaining a national statutory medical certificate, the national seafarer's book and a passport or other similar person travel documents, not including, however, the cost of visas, which shall be borne by the shipowner.

- a. The RPS should issue a statement from its top management that it does not charge the seafarer any fees for these services.

- b. The RPS should clearly publicize costs, if any, which the seafarer will be expected to bear in the recruitment process.

3. Data Register

The RPS should maintain an up-to-date register, available for inspection, of seafarers recruited or placed.

- a. The RPS should maintain, with due regard to the right to privacy and the need to protect the confidentiality, full and complete records of the seafarers covered by its recruitment and placement system. These records should include, but should not be limited to:
 - i. The seafarers' qualifications;
 - ii. Record of employment;
 - iii. Personal data relevant to employment; and
 - iv. Medical data relevant to employment.
- b. The RPS should ensure that requests for information or advice by families of seafarers while the seafarers are at sea are dealt with promptly and sympathetically and at no cost.
- c. The RPS should maintain up-to-date lists of the ships for which they provide seafarers and ensure that there is a means by which the agency can be contacted in an emergency at all hours.

4. Age Limit

The RPS must prohibit the engagement of seafarers or work on board a ship of any person under the age of 16 and of any person under the age of 18 for engagement or work as a ship's cook.

5. Seafarer Rights and Duties

The RPS must inform seafarers of their rights and duties under their employment agreements before signing. This should include advising the seafarers of any particular conditions applicable to the job for which they are to be engaged and of the particular shipowner's policies relating to their employment.

6. Employment Agreements

Seafarer employment agreements must be in accordance with applicable laws and regulations and any collective bargaining agreement that forms part of the employment agreement.

The RPS must verify that labour conditions on ships where seafarers are placed are in conformity with applicable collective bargaining agreements concluded between a shipowner and a representative seafarers' organization, and, as a matter of policy, supply seafarers only to shipowners that offer terms and conditions of employment to seafarers which comply with applicable laws or regulations or collective agreements.

Employment agreements, at a minimum, must contain the following:

- a. The seafarer's full name, date of birth or age, and birthplace;
- b. The shipowner's name and address;
- c. The place where and date when the seafarer's employment agreement is entered into;
- d. The capacity in which the seafarer is to be employed;
- e. The amount of the seafarer's wages or, where applicable, the formula used for calculating them;
- f. The amount of paid annual leave, or where applicable, the formula used for calculating it;
- g. The termination of the agreement and the conditions thereof, including:
 - a) If the agreement has been made for an indefinite period, the conditions entitling either party to terminate the agreement, as well as the required notice period (which shall not be less for the shipowner than for the seafarer);
 - b) If the agreement has been made for a definite period, the date fixed for the termination of the agreement; and
 - c) If the agreement has been made for a voyage, the port of destination and the time period for discharge of the seafarer after completion of the voyage.
- h. The health and social security protection benefits to be provided to the seafarer by the shipowner;

- i. The seafarer's entitlement to repatriation;
- j. Reference to a collective bargaining agreement, if applicable; and
- k. And other particulars which national law may require.

The RPS must make proper arrangements for seafarers to examine their employment agreements before and after they are signed. Seafarers must be provided with a signed copy of the agreement.

7. Qualifications

The RPS shall not recruit or place seafarers to work on a ship unless they are trained or certified as competent or otherwise found qualified to perform their duties and have successfully completed training for personal safety on board ships. Seafarers must hold the documents necessary for the job concerned.

8. Medical Certificate

Prior to beginning work on a ship, seafarers must hold a valid medical certificate attesting that they are medically fit to perform the duties they are to carry out at sea.

The medical certificate must be issued by a duly qualified medical practitioner or, in the case of a certificate solely concerning eyesight, by a person recognized by Dominica Maritime Administration as qualified to issue such a certificate. Practitioners must enjoy full professional independence in exercising their medical judgment in undertaking medical examination procedures.

9. Shipowners' Means

The RPS must, as far as practicable, ensure that the shipowner has the means to protect seafarers from being stranded in a foreign port.

10. Complaints

The RPS must examine and respond to any complaint concerning their activities and advise the Dominica Maritime Administration of any unresolved complaint.

11. Compensation for Monetary Loss

The RPS must establish a system of protections by way of insurance or other equivalent appropriate measures to compensate seafarers for monetary loss that they may incur as a result of the failure of the agency or the relevant shipowner under the seafarer's employment agreement to meet its obligations to the seafarer.

12. Advice Regarding Employment on Non-Convention Ships

The RPS must, in so far as practicable, advise seafarers on the possible problems of signing on a ship that flies the flag of a State which has not ratified the Maritime Labour Convention, 2006 until it is satisfied that standards equivalent to those contained in the Maritime Labour Convention are being applied.

13. Prevention of Exploitation

The RPS must have procedures in place to:

- a. Ensure that seafarers are not subject to exploitation with regard to the offer of engagement on a particular ship or by particular companies; and
- b. Prevent the opportunities for exploitation of seafarers arising from the issue of joining advances or any other financial transaction between the shipowner and the seafarers which are handled by the RPS.

14. Seafarer Documents

The RPS shall, as far as practicable, ensure that all mandatory certificates and documents submitted for employment are up-to-date, have not been fraudulently obtained and that employment references are verified.