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## **INFORMATION BULLETIN No. 147**

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### **MARITIME LABOUR CONVENTION 2006 (MLC 2006) SEAFARER RECRUITMENT AND PLACEMENT SERVICES**

#### **Guidance and Instructions for Bahamas Recognised Organisations, Bahamas Approved Nautical Inspectors, Ship Owners, Managers, Masters, Seafarers and Seafarers Recruitment & Placement Service Providers**

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#### **1. Purpose**

- 1.1. The Maritime Labour Convention, 2006 (MLC 2006) requires that any seafarer recruitment and placement service conforms with the standards of the Code of MLC 2006.
- 1.2. This Bulletin outlines the Bahamas requirements in relation to the operation of private seafarer recruitment and placement services in The Bahamas and provides guidance for Shipowners and Companies to ascertain that:
  - i. a seafarer recruitment and placement service conforms with the requirements of MLC 2006,
  - ii. where they have established a recruitment and replacement service, the service is in compliance the MLC 2006 requirements.
- 1.3. This Bulletin shall be read in conjunction with Bahamas Merchant (Maritime Labour Convention) Regulation 2012 and *BMA Information Bulletins nos. 3,127 and 142*.

#### **2. Application**

- 2.1. The seafarers' recruitment and placement services requirements are applicable to all ships registered with The Bahamas and to all seafarers, except where expressly provided otherwise in *BMA Information Bulletin no. 127*.

### 3. Definitions

- 3.1. The following definitions apply for the purposes of this Bulletin:
- i. *Seafarer Recruitment and Placement service (SRPS)* is any person, Company or other body engaged in the recruitment of seafarers on behalf of shipowners or the placement of seafarers with shipowners,
  - ii. *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 MLC 2006, regardless of whether any other organisation or persons fulfil certain of the duties or responsibilities on behalf of the shipowner,
  - iii. "*Company*" is the entity, designated under SOLAS 1974, as amended, Chapter IX/1.2 which assumes the duties and responsibilities imposed by International Safety Management (ISM) Code or, where ISM is not applicable, the entity who has accepted responsibility for the assignment of seafarers for service onboard Bahamian registered ships in accordance with the provisions of STCW Regulation I/14,
  - iv. "*Ship*" is any vessel or unit registered with the Bahamas in accordance with the Bahamas Merchant Shipping Act,
  - v. "*Master*" shall be deemed to be the person designated by the Company as having overall responsibility for the ship.

### 4. General Requirements

- 4.1. Any SRPS operating in The Bahamas must be registered with the Ministry of Labour.
- 4.2. No SRPS shall use any means, mechanisms or lists intended to prevent or deter seafarers from gaining employment for which they are qualified.
- 4.3. The SRPS shall make sure, as far as practicable, that the shipowner has the means to protect seafarers from being stranded in a foreign port.
- 4.4. The SRPS shall have a procedure to examine and respond to any complaint concerning their activities and advise the Director of Labour of any unresolved complaint.

- 4.5. The SRPS shall establish 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
- 4.6. The SRPS should have procedures to:
- i. ensure that the seafarer is not subject to exploitation with regards to offer of engagement on particular ship or by particular companies,
  - ii. prevent the opportunities for exploitation of seafarers arising from the issue of joining advances or their financial transactions between the shipowner and the seafarer which are handled by the SRPS.

## **5. Charges and Fees**

- 5.1. The SRPS shall not charge the seafarer directly or indirectly any fees or other charges, in whole or in part, for seafarer recruitment or placement or for providing employment to seafarers other than:
- .i) the cost of the seafarer obtaining a national statutory medical certificate,
  - .ii) the national seafarer's book,
  - .iii) a passport or other similar personal travel documents, excluding the cost of visas,
  - .iv) any training required for a particular post.
- 5.2. The SRPS should have transparent information on the costs, if any, that the seafarer will incur during the recruitment process and these costs should be clearly publicized. There should be a documented statement that there are no charges for the fees noted in 5.1 above.
- 5.3. The SPRS should have procedures to ensure that request for information or advice by families of seafarers while the seafarers are at sea are dealt with promptly, sympathetically and at no cost.

## **6. Records**

- 6.1 The SRPS shall maintain an up-to-date register of the ships for which it provides seafarers. This register may be maintained in an electronic format but shall be available for inspection by duly authorised officials.

- 6.2 The SRPS should 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. The records should include but 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
- 6.3 The SRPS should maintain a record of any complaints concerning their activities.

## **7. Seafarer Employment Agreement**

- 7.1. The SRPS shall inform the seafarer of their rights and duties under their employment agreements prior to or in the process of engagement and that proper arrangement are made for seafarers to examine their employment agreements before and after they are signed and for them to receive a copy of the agreement. Any seafarer employment agreement (*see BMA Information Bulletin no. 142*) shall contain at least the following particulars:
- i. the seafarer's full name, date of birth or age, and birthplace,
  - ii. the shipowner's name and address,
  - iii. the place where and date when the seafarers' employment agreement is entered into,
  - iv. the capacity in which the seafarer is to be employed,
  - v. the amount of the seafarer's wages or, where applicable, the formula used for calculating it,
  - vi. the amount of paid annual leave, or where applicable, the formula used for calculating it,
  - vii. the termination of the agreement and the conditions thereof, including:
    - if the agreement is for an indefinite period, the conditions entitling either party to terminate it, as well as the required notice period which shall not be less for the shipowner than for the seafarer,
    - if the agreement is for a definite period, the date fixed for its expiry,

- if the agreement is for a voyage, the port of destination and the time which has to expire after arrival before the seafarer should be discharged.
- viii. the health, medical care and social security protection benefits to be provided to the seafarer by the shipowner,
  - ix. the seafarer's entitlement to repatriation,
  - x. reference to the collective bargaining agreement, if applicable; and
  - xi. the number of hours of work for the corresponding wage and any additional allowances
- 7.2. The SRPS should advise the seafarer of the following:
- i. the documentation (e.g. medical examinations, training certifications, etc) or other requirements for the seafarer to gain employment,
  - ii. any particular conditions applicable to the job for which they are engaged,
  - iii. the particular shipowner's policies relating to employment
- 7.3. The SRPS should have a process for verifying that labour conditions on ships where seafarers are placed are in conformity with the applicable collective bargaining agreements concluded between a shipowner and a representative seafarers' organisation
- 7.4. The SRPS should have a policy statement and should be able to demonstrate that seafarers are only supplied to shipowners that offer terms and conditions of employment to seafarers which comply with applicable laws or regulations or collective agreement.

## **8. Seafarers qualification and documents**

- 8.1. The SRPS shall verify that seafarers recruited or placed by them are qualified and hold the documents necessary for the job concerned, and that the seafarers' employment agreements are in accordance with applicable laws and regulations and any collective bargaining agreement that forms part of the employment agreement. All required certificates and or documents, including training, competency, proficiency, shall be valid and the seafarer shall have a valid medical certificate issued by a qualified medical practitioner.
- 8.2. The SRPS shall ensure that no person under 16 is engaged for employment onboard a ship

## 9. Verification of Compliance

- 9.1. Shipowners and Companies who use seafarer and recruitment services in The Bahamas or in a country that is party to MLC 2006 shall ensure that the SRPS has a document verifying compliance with the standards of MLC 2006 Standard A1.4 and authorization to operate as a SRPS. The shipowner shall maintain a copy of the SRPS document of compliance and authorization.
- 9.2. Shipowners and Companies who use a SRPS based in a country which is not party to MLC 2006 or where a country which is party to MLC 2006 but does not issue a document verifying compliance with MLC 2006 shall to the maximum extent possible and where practicable ensure that the service satisfy the requirements of Section 4 - 8 of this Bulletin. Documentary evidence of the procedures and outcome of this process, including provisions for periodical audit to ensure continued compliance, should be maintained by the shipowner. The BMA will accept a Document of Compliance (attesting compliance with the MLC 2006 Standard A1.4) that has been issued by a Bahamas Recognized Organization (RO) (see *BMA Information Bulletin 3*) subject to provision for periodical audits by the RO to ensure continued compliance.
- 9.3.1 The Bahamas Department of Labour may be contacted ([labour@bahamas.gov.bs](mailto:labour@bahamas.gov.bs)) for details of any SRPS operating in The Bahamas or if there are any complaints of a SRPS operating in the Bahamas.
- 9.3.2 Complaints or concerns of a SRPS operating in another country should be directed to the national Administration within that country. The BMA may assist in this process.
- 9.4.1 Any SRPS which has been authorised to act on behalf of the Owner or Manager of a Bahamian registered ship and/or submit electronic application for seafarers using the Bahamas Online Registration Information System (BORIS) will be required to provide documentary evidence of compliance with the MLC 2006 provisions for SRPS. The documentary evidence maybe a document verifying compliance with the standards of MLC 2006 Standard A1.4 and authorization to operate as a SRPS issued by either the Government/Administration of a country that has ratified MLC 2006 or a Bahamas RO.

9.4.2 The documentary evidence of compliance with the MLC 2006 provisions for SRPS will be required to be provided to the BMA no later than 31 December 2014.

## **10 Revision History**

Rev.0 (31 August 2012) – First issue

Rev.1 (19 April 2013) – Second issue. Revision to Section 9.2; general editorials