

Merchant Shipping (Maritime Labour Convention) (Seafarer Recruitment and Placement Services) Regulations 2014

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No. S 178

MERCHANT SHIPPING (MARITIME LABOUR CONVENTION) ACT 2014 (ACT 6 OF 2014)

MERCHANT SHIPPING (MARITIME LABOUR CONVENTION) (SEAFARER RECRUITMENT AND PLACEMENT SERVICES) REGULATIONS 2014

In exercise of the powers conferred by section 82 of the Merchant Shipping (Maritime Labour Convention) Act 2014, the Maritime and Port Authority of Singapore, with the approval of the Minister for Transport, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Merchant Shipping (Maritime Labour Convention) (Seafarer Recruitment and Placement Services) Regulations 2014 and shall come into operation on 1st April 2014.

Definitions

2. In these Regulations, unless the context otherwise requires —

“certificate of authorisation” means the certificate of authorisation to operate a seafarer recruitment and placement service in Singapore which is issued by the Director under regulation 4(2);

“register” means the register referred to in regulation 8 of seafarers recruited or placed.

Application

3. These Regulations shall apply to —

- (a) every seafarer recruitment and placement service operated in, or provided from, Singapore; and
- (b) every shipowner of a Singapore ship ordinarily engaged in commercial activities, including such a shipowner who engages seafarer recruitment and placement services operated in, or provided from, a country outside Singapore.

Approval from Director

4.—(1) A person may apply in such manner as may be determined by the Director for authorisation by the Director under section 12(1) of the Act to operate a seafarer recruitment and placement service in Singapore.

(2) If the Director is satisfied that the applicant is a fit and proper person to operate a seafarer recruitment and placement service, the Director shall, upon payment of the prescribed fee, issue a certificate of authorisation to him.

(3) Subject to paragraph (4), the certificate of authorisation shall be valid for such period as may be specified in the certificate, but that must not exceed 3 years.

(4) If a seafarer recruitment and placement service holds a licence granted under the Employment Agencies Act (Cap. 92), the certificate of authorisation shall also expire on the date of expiry of that licence.

Preventing or deterring seafarer employment

5. A seafarer recruitment and placement service shall not use any means, mechanism or list in order to prevent or deter a seafarer from gaining employment for which he is qualified.

Fees and costs of seafarer recruitment and placement services

6.—(1) No fee or other charge for seafarer recruitment or placement or for providing employment shall be borne, directly or indirectly, by a seafarer, except for the costs of obtaining the following:

- (a) the seafarer's national statutory medical certificate;
- (b) the national seafarer's book; and
- (c) the seafarer's passport or other similar personal travel document but not including the cost of visas, which shall be borne by the shipowner.

(2) A seafarer recruitment and placement service shall publish any costs which a seafarer will be expected to bear in the recruitment process.

Minimum age

7. A seafarer recruitment and placement service shall not engage any person —
- (a) below 16 years of age to be employed in any capacity on board a ship; or
 - (b) below 18 years of age to be employed as a ship's cook.

Maintenance of register

8.—(1) A seafarer recruitment and placement service shall establish and maintain an up-to-date register, available for inspection, by a surveyor of ships or any person duly authorised by the Director, of seafarers recruited or placed.

- (2) The register shall include, but not be limited to, the seafarers' —
- (a) qualifications;
 - (b) record of employment;
 - (c) personal data relevant to employment; and
 - (d) medical data relevant to employment,

and shall contain full and complete records of all seafarers to whom the seafarer recruitment and placement service has provided any recruitment and placement services.

(3) The register may be kept in electronic form, provided that the information so recorded is capable of being reproduced in legible form.

(4) The register shall be maintained with due regard to the right to privacy and the need to protect confidentiality.

(5) The register shall be kept for at least one year from the date of creation and at least one year after the date on which the seafarer recruitment and placement service last provides services to any applicant.

(6) A seafarer recruitment and placement service shall 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.

(7) A seafarer recruitment and placement service shall maintain up-to-date lists of the ships for which they provide seafarers and ensure that there is a means by which the seafarer recruitment and placement service can be contacted in an emergency at all hours.

Seafarer's employment agreement

9.—(1) A seafarer recruitment and placement service shall ensure that a seafarer is

informed of his rights and duties under the seafarer's employment agreement prior to or in the process of engagement.

(2) A seafarer recruitment and placement service shall ensure that arrangements are made for a seafarer to examine the seafarer's employment agreement before and after it is signed by the seafarer.

(3) A seafarer recruitment and placement service shall ensure that arrangements are made for a seafarer to receive a copy of the seafarer's employment agreement after it is signed by the seafarer.

(4) A seafarer recruitment and placement service shall ensure that a seafarer is advised of any particular conditions applicable to the job for which he is to be engaged and of the particular shipowner's policies in relation to his employment.

Seafarer qualifications

10.—(1) A seafarer recruitment and placement service shall not recruit or place a seafarer to work on a ship unless confirmation has been obtained on all of the following:

- (a) the identity of the seafarer;
- (b) the seafarer has the experience, training, qualifications and any authorisation the shipowner considers necessary, or which are required by law or by any professional body, to work in the position which the shipowner seeks to fill;
- (c) the seafarer is willing to work in the position which the shipowner seeks to fill;
- (d) the seafarer's employment agreement is in accordance with applicable laws and regulations and any collective agreement that forms part of the employment agreement.

(2) A seafarer recruitment and placement service shall have procedures 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.

Seafarers stranded in foreign ports

11. A seafarer recruitment and placement service shall ensure, as far as practicable, that the shipowner has the means to protect seafarers from being stranded in a foreign port, in accordance with the Act.

Exploitation of seafarers

12.—(1) A seafarer recruitment and placement service shall have procedures to ensure that seafarers are not subject to exploitation by the seafarer recruitment and placement service or their personnel with regard to the offer of engagement on particular ships or by particular companies.

(2) A seafarer recruitment and placement service shall have procedures to prevent 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 seafarer recruitment and placement service.

Complaints

13. A seafarer recruitment and placement service shall examine and respond to any complaint concerning their services and advise the Director of any unresolved complaint.

Dealing with incompetence or indiscipline

14. A seafarer recruitment and placement service shall have procedures, which are in accordance with the principles of natural justice, for dealing with cases of incompetence or indiscipline of seafarers that were recruited or placed by the seafarer recruitment and placement service, that are consistent with Singapore's laws and practices, and where applicable, with collective agreements.

Compensation scheme

15. A seafarer recruitment and placement service 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 seafarer's employment agreement to meet its obligations to them.

Foreign seafarer recruitment and placement services

16. A shipowner shall ensure that if he uses a seafarer recruitment and placement service located in a state or territory which has acceded to or ratified the Convention, that seafarer recruitment and placement service is authorised or licensed by the relevant authority in that state or territory.

Suspension or withdrawal of certificate of authorisation

17. Where the Director is satisfied that a seafarer recruitment and placement service has failed to comply with any provision of the Act or these Regulations, the Director may, after giving an opportunity to make representations in writing, suspend or withdraw the certificate of authorisation.

Penalties

18. Any person who contravenes regulation 5, 6(1) or (2), 7, 8(1), (4), (5) or (7), 9(1), (2), (3) or (4), 10(1), 15 or 16 shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000.

Made this 12th day of March 2014.

LUCIEN WONG
Chairman,
Maritime and Port Authority of Singapore.

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