

INFORMATION BULLETIN No.206

MLC 2006 SEAFARERS RECRUITMENT AND PLACEMENT AGENTS

Guidance and Instructions for Barbados Recognised Organisations, Barbados Approved Nautical Inspectors, Ship Owners, Managers, Masters, Seafarers, Recruitment & Placement Services and Authorised Manning Agents

1. Purpose

1.1. The Maritime Labour Convention, 2006 (MLC 2006) requires that any seafarer recruitment and placement service conforms to the standards of the Code of MLC 2006.

1.2 This Bulletin outlines the Barbados requirements in relation to the operation of private seafarer recruitment and placement services in Barbados and provides guidance for Ship-owners and Companies to ascertain that:

- i. a seafarer recruitment and placement service conforms to the requirements of MLC 2006,
- ii. where they have established a recruitment and placement service, the service is in compliance with the MLC 2006 requirements.

1.3 This Bulletin shall be read in conjunction with BMSR Bulletin no. 203.

2. Application

2.1. The seafarers' recruitment and placement services requirements are applicable to all ships registered with Barbados and to all seafarers.

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 ship-owners or the placement of seafarers with ship-owners,
- ii. Ship-owner 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 ship-owners in accordance with MLC 2006, regardless of whether any other organisation or persons fulfil certain of the duties or responsibilities on behalf of the ship-owner,
- iii. "Company" is the entity, designated under SOLAS 1974, as amended, Chapter IX/1.2 which assumes the duties and responsibilities imposed by the International Safety Management (ISM) Code or, where ISM is not applicable, the entity which has accepted responsibility for the assignment of seafarers for service onboard Barbados registered ships in accordance with the provisions of STCW Regulation I/14,
- iv. "Ship" is any vessel or unit registered with Barbados,

- v. “Master” shall be deemed to be the person designated by the Company as having overall responsibility for the ship.
- vi. “Seafarer” is any person who is employed or engaged or works in any capacity on board a ship to which this Convention applies.

4. General Requirements

- 4.1. Shipowners must only use seafarer recruitment and placement services, certified by ratifying countries OR recruitment and placement services that can demonstrate conformity to the MLC requirements for recruitment and placement
- 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 ship-owner 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 ship-owner 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 a 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 ship-owner 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 requests 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 arrangements 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 (Barbados Bulletin no. 203) shall contain at least the following particulars:

- i. the seafarer's full name, date of birth or age, and birthplace,
- ii. the ship-owner's name and address,
- iii. the place and date 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:
- viii. the seafarer's entitlement to repatriation,
- ix. reference to the collective bargaining agreement, if applicable; and
- x. 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 ship-owner'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 ship-owner 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 ship-owners that offer terms and conditions of employment to seafarers which comply with applicable laws or regulations or collective agreements.

8. Seafarers' qualification and documents

8.1. The SPRS 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 Barbados registered ship.

9. Verification of Compliance

9.1. Ship-owners and Companies who use seafarer and recruitment services in Barbados 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 ship-owner shall maintain a copy of the SRPS document of compliance and authorisation.

9.2. Ship-owners and Companies who use a SRPS based in a country which is not party to MLC 2006 or which is party to MLC 2006 but does not issue a document verifying compliance with MLC 2006 shall to the maximum extent possible, where practicable, ensure that the services satisfies the requirements of Section 4-8 of this Bulletin. Documentary evidence of the procedures and outcome of this process should be maintained by the ship-owner. BMSR will accept a Document of Compliance (attesting compliance with the MLC 2006 Standard A1.4) that has been issued by a Barbados Recognized Organization subject to provision for periodical audits by the RO to ensure continued compliance.

9.3.1 While it will become possible for The Barbados Department of Labour to be contacted for details of any SRPS operating in Barbados it will be necessary to make enquires through BMSR initially.

9.3.2 Complaints or concerns of a SRPS operating in another country should be directed to the national Administration within that country. BMSR may assist in this process.

9.3.3 Any SRPS which has been authorised to act on behalf of the Owner or Manager of a Barbados registered ship will be required to provide documentary evidence of compliance with the MLC 2006 provisions for SRPS. The documentary evidence may be a document verifying compliance with the MLC 2006 Standard A1.4 and authorisation to operate as a SRPS issued by either the Government/Administration of a country that has ratified MLC 2006 or a Barbados RO.

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

27 June 2013