



**REPUBLIC OF
THE MARSHALL ISLANDS**

**OFFICE OF THE
MARITIME ADMINISTRATOR**

Marine Notice

No. 7-045-1

12/09

TO: ALL SHIPOWNERS, OPERATORS, MASTERS AND OFFICERS OF MERCHANT SHIPS, AND RECOGNIZED ORGANIZATIONS

SUBJECT: Demonstrating Compliance of Seafarer Recruitment and Placement Services.

Reference: Maritime Labour Convention, 2006 (MLC, 2006), Regulation 1.4.3

PURPOSE:

The Republic of the Marshall Islands ratified the Maritime Labour Convention, 2006 (the Convention) on 25 September 2007. The Convention requires each Member State to address the use of seafarer recruitment and placement services (RPS) by shipowners and operators to man vessels that fly its flag. The purpose of this Notice is to implement Convention Regulation 1.4.3 which was developed to ensure seafarer access to efficient and well-regulated recruitment and placement systems in countries and territories that are not a party to the Convention.

APPLICABILITY:

This Notice applies to all shipowners and operators of Marshall Islands flag commercial ships, except those engaged in fishing.

REQUIREMENTS:

- 1.0** A shipowner or operator of a Marshall Islands flag vessel that uses seafarer RPS in countries or territories in which the Convention has **not** been ratified, must ensure, as far as practicable, that those services conform to the requirements established by the Convention.
- 1.1** The term “*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.
- 2.0** A shipowner or operator using seafarer RPS in non-Convention countries or territories may demonstrate compliance with this Convention requirement by utilizing the RPS that meets the standards contained in Appendix 1 of this Notice as verified by a third-party audit.
- 2.1** A shipowner/operator must maintain a copy of the seafarer RPS certification ashore in company records.

Appendix 1

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 Convention 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 personal travel documents, not including, however, the cost of visas, which shall be borne by the shipowner.

- .1 The RPS should issue a statement from its top management that it does not charge the seafarer any fees for these services.
- .2 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.

- .1 The RPS 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 its recruitment and placement system. These records should include, but should not be limited to:
 - the seafarers' qualifications;
 - record of employment;
 - personal data relevant to employment; and
 - medical data relevant to employment.
- .2 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.

- .3 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 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:

- .1 The seafarer's full name, date of birth or age, and birthplace;
- .2 The shipowner's name and address;
- .3 The place where and date when the seafarer's employment agreement is entered into;
- .4 The capacity in which the seafarer is to be employed;
- .5 The amount of the seafarer's wages or, where applicable, the formula used for calculating them;
- .6 The amount of paid annual leave or, where applicable, the formula used for calculating it;
- .7 The termination of the agreement and the conditions thereof, including;
 - 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);

- if the agreement has been made for a definite period, the date fixed for the termination of the agreement; and
 - 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.
- .8 The health and social security protection benefits to be provided to the seafarer by the shipowner;
- .9 The seafarer's entitlement to repatriation;
- .10 Reference to a collective bargaining agreement, if applicable; and
- .11 Any 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 ship. 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 the competent authority 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 Marshall Islands Maritime Administration of any unresolved complaint.

11 Compensation for Monetary Loss

The RPS must establish a system of protection 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 Convention until it is satisfied that standards equivalent to those contained in the Convention are being applied.

13 Prevention of Exploitation

The RPS must have procedures in place to:

- .1 ensure that seafarers are not subject to exploitation with regard to the offer of engagement on a particular ship or by particular companies; and
- .2 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.