



**PANAMA MARITIME AUTHORITY
GENERAL DIRECTORATE OF SEAFARER**

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MERCHANT MARINE CIRCULAR MMC-322

To: Ship-owners/Operators, Legal Representatives of Panamanian Flagged Vessels, Recognized Organizations (RO's), Panamanian Merchant Marine Consulates, Inspectorates, Authorized Offices, Regional Documentation Offices of the Panama Maritime Authority

Subject: PRIVATE SEAFARER RECRUITMENT AND PLACEMENT SERVICES

Reference: Resolution J.D. No.041-2014 of November 12, 2014

The purpose of this circular is to inform that through the Official Gazette No. No.27679 of December 12th, 2014, enters into force the Resolution J.D. No.041-2014 of November 12th, 2014; which establishes the procedure by which the Panama Maritime Authority shall recognize Agencies, that provide by Private Seafarer Recruitment and Placement Services, which operate from foreign territory, interested in recruit and place seafarers on board Panamanian flagged vessels.

In this sense, the Panama Maritime Authority is accepting applications for the authorization of the Seafarer Recruitment and Placement Agencies, to invite those interested, which meet the established requirements, in the aforementioned Resolution, present their application.

In order to assess applications for recognition as Seafarer Recruitment and Placement Agencies and to determine the compliance with the established requirements of this resolution, the General Directorate of Seafarers will carry out inspections at the premises of the seeking recognition's agencies.

The authorization granted to a Seafarer Recruitment and Placement Agencies, through a Resolution issued by the General Directorate of Seafarers will be valid for FIVE (5) YEARS.

For appropriate consultation, please see the attached Resolution J.D. No.041-2014 of November 12th, 2014, in Spanish and English version.

Attach: Requirements for Recognition as Seafarer Recruitment and Placement Agencies.
Resolution ADM No.260-2014 in Spanish.
Translation of the Resolution ADM No.260-2014.

Inquiries concerning the subject of this Circular or any request should be directed to:
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Control N°: F-RIN-04-01	Version: 05	Date: 21 January, 2013
		Page 1 of 5

RESOLUTION JD NO.041-2014

THE BOARD OF DIRECTORS OF THE PANAMA MARITIME AUTHORITY, in use of its legal faculties and

WHEREAS:

That by Law Decree No.7 of February 10, 1998, the Panama Maritime Authority is created and other provisions are issued.

That by Law No.2 of January 6, 2009, the Republic of Panama adopted the Maritime Labour Convention, 2006 (MLC, 2006).

That the Executive Decree No.86 of February 22, 2013, regulates the Maritime Labour Convention, 2006 (MLC, 2006).

That the Maritime Labour Convention, 2006, states that each Member which ratifies this Convention undertakes to give complete effect to its provisions in order to secure the right of all seafarers to decent employment.

That by Law Decree No.7 of February 10, 1998, the Panama Maritime Authority was created and the different maritime competences of the public administration were unified.

That Regulation 1.4 of the Maritime Labour Convention, 2006, indicates that Seafarer recruitment and placement services operating in a member's territory shall conform to the standards set out in the Code.

That Regulation 1.4 of the Maritime Labour Convention, 2006, establishes that Each Member shall require, that Shipowners who use seafarer recruitment and placement services that are based in countries or territories in which this Convention does not apply, ensure that those services conform to the requirements set out in the Code.

That the activities of the maritime sector are developed worldwide and that seafarers need a special protection.

That each member of the International Labour Organization (ILO), shall effectively exercise its jurisdiction and control over seafarer recruitment and placement services, if these are established in its territory, ensure that ships that fly its flag carry a maritime labour certificate and a declaration of maritime labour compliance as required by the Maritime Labour Convention.

That Seafarers are protected by provisions of other international instruments, related to international standards on ship safety, human security and quality ship management in the International Convention for the Safety of Life at Sea, 1974, as amended, the Convention on the International Regulations for Preventing Collisions at Sea, 1972, as amended, and the seafarer training and competency requirements in the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended.

That the Executive Decree No.41 of July 5, 2005, the Ministry of Labor and Labor Development of Panama, regulates the seafarer recruitment and placement private services which operates from the National Territory.

That within the functions of the Board of Directors of the Panama Maritime Authority is the adoption of administrative, scientific and technological policies that promote and ensure the competitiveness and profitability of the Maritime Sector and the development of human resources and furthermore empowers to adopt all measures deemed convenient for the organization and functioning of the Maritime Sector.

That numeral 1 and 4 of article 33 of the Law Decree No.7 of February 10, 1998, states that are functions of the General Directorate of Seafarers, the fulfillment of current legal regulations on training, certification and Watchkeeping for seafarers, in accordance with international conventions ratified by the Republic of Panama, as well as to authorize, control and supervise the enforcement of educational and training programs.

That in order to comply with to the established on the Maritime Labour Convention, 2006, of the International Labour Convention, the Panama Maritime Authority must establish parameters related to seafarer recruitment and placement services in foreign territory interested in place seafarers on board on Panamanian flagged vessels.

RESOLVES:

FIRST: To APPROVE a regulation that rules Private Seafarer Recruitment and Placement Services, which operate from foreign territory, interested in recruit and place seafarers on board Panamanian flagged vessels.

SECOND: The provision of private seafarer recruitment and placement services could be performed through an Agency of seafarer recruitment and placement at operates from foreign territory.

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Control N°: F-RIN-04-01	Version: 05	Date: 21 January, 2013
		Page 2 of 5

THIRD: The Panama Maritime Authority through the General Directorate of Seafarers will *recognize* and *authorize* those Seafarers Recruitment and Placement Agencies at foreign territory, which purpose is to provide seafarers recruitment and placement services or recruits and place a significant number of seafarers on board.

These Agencies can also, contribute in the recruitment and placement of Panamanian cadets that need to complete their training period.

FOURTH: The Seafarers Recruitment and Placement Agencies at foreign territory that aims to be recognized by the Panama Maritime Authority, through the General Directorate of Seafarers will have to present the following documentation:

1. Power of Attorney and application, through a Panamanian lawyer, addressed to the General Director of Seafarers, in which state the general information of the solicitant, address, telephone number, electronic mail, name and data of the legal representative, head office country number of international agencies, if it was the case. Certificate issued by the Public Registry of Panama or its equivalent at the State of origin, duly legalized by a Panamanian Consul or with an Apostille Stamp. This certificate shall demonstrate the existence of the corporation or entity and its legal representation, with an indication of its date of foundation or incorporation, its board of directors, officers.
2. Registry Certificate or Certificate of Incorporation, dully apostilled and translated into Spanish language, stating its validity, the Legal Representative, domicile, Board of Directors and Dignitaries, in case of been a legal entity.
3. Operating License, resolution or authorization issued by the equivalent Governmental entity of the country where the seafarer recruitment and placement agency operates, duly apostilled or authenticated by a Panamanian Consul, stating that it can operate as a Seafarer Recruitment and Placement Agency, In case of been issued in a language other than Spanish, it must be dully translated.
4. Certified check payable to Panama Maritime Authority, in the amount of a THOUSAND DOLLARS (USD1,000.00), as fee for documental evaluation of the application of Seafarers Recruitment and Placement Agencies at foreign territory.
5. Copy of the Quality System Certificate and the Manual of Procedures of the applicant, in electronic format implemented to perform seafarer recruitment and placement services.

FIFTH: Once the documentation referred in Article Fourth of the present Resolution is received, the General Directorate of Seafarers, through the Maritime Labour Affairs Department, will evaluate the application in order to verify if complies with the established requirements and will set a date to perform an inspection of the seafarer recruitment and placement Agency facilities.

SIXTH: If the documentation presented, is deficient, incomplete or missing, will be requested to the legal representative to rectify the missing or deficiency for a term not exceeding three (3) calendar months. Upon expiration of this term, the lapsing of the instance will be produced and the process will not be reopened within the year that follows the execution date of the Resolution that declares it.

SEVENTH: The applications for recognition of Private Seafarer Recruitment and Placement Services that operates in foreign territory will be assessed for the Evaluation Commission of Seafarers Recruitment and Placement Agencies will be composed by the following members:

1. The deputy-director of the General Directorate of Seafarers or a designed government official, who will preside.
2. The Chief of the Maritime Legal Affairs Department, or a designated government official.
3. The Chief of the Control and Enforcement Unit or a designated government official.
4. A Representative of the Legal Office of the Panama Maritime Authority.
5. A Technician designated by the Merchant Marine General Directorate.

EIGHT: The functions of the Evaluation Commission of the Seafarers Recruitment and Placement Agencies will be the following:

1. To evaluate the applications of recognition of the Seafarer Recruitment and Placement Agencies.
2. To request the General Directorate of Seafarers to carry out extraordinary inspections, in case of having signs that a Seafarers Recruitment and Placement Agencies that doesn't comply with the established provisions in this Regulation or the applicable international rule.
3. To issue recommendations to the General Director of Seafarers in a maximum term of one (1) calendar month after the ordinary or extraordinary meeting, about the result of the petitioner's application in the Evaluation Commission, and
4. To perform any other function assigned by the General Directorate of Seafarers.

NINETH: The Evaluation Commission will meet when an application file or a pending incident to analyze and the

required quorum will be a minimum of three (3) of their members. The President of the Evaluation Commission could call an extraordinary meeting, when it is necessary to analyze a topic or a file of utmost importance.

TENTH

The Seafarers Recruitment and Placement Agencies will be authorized through motivated Resolution issued by the General Director of Seafarers. Such authorization will have a validity of five (5) years

ELEVENTH:

The Seafarers Recruitment and Placement Agencies that operates in foreign territory and have been authorized by the Panama Maritime Authority will have to:

1. Guarantee the principle of equality in access to employment;
2. Maintain a normalized system of license or certification;
3. Adopt protection and promotion measures of seafarer's employments rights;
4. Guarantee the seafarers placement and recruitment services is free;
5. May not delegate in third parties authorized functions;
6. Provide services regularly, continuously and uniformly;
7. Inform wildly to the applicants in respect to offered vacancies, specifying the validity, salary, position to be occupied and job's conditions, which will be set out in the respective employment agreement;
8. 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;
9. Create a mechanism 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.
10. Inform the Panama Maritime Authority, about any change made in the company, related to address, telephone numbers, fax, electronic mail, legal representative and any other necessary information to maintain an actualized registry;
11. Communicate the Panama Maritime Authority, when for any reason is decided to not continue providing the Seafarers Recruitment and Placement Agencies in foreign territory;
12. Preserve and maintain the facilities in adequate conditions;
13. Permit the verification in situ, supervision and surveillance by the Panama Maritime Authority, to verify the facilities, the documentary evidence and operational practices that ascertain the Seafarers Recruitment and Placement Agencies comply with national and international latest regulations;
14. Submit monthly to the Panama Maritime Authority, an statistic inform of seafarers employed on board a Panamanian flagged ship, with the Shipowners' and/or ship's operator general data.

TWELFTH:

The Seafarers Recruitment and Placement Agencies will became subject of supervision of the Panama Maritime Authority, through the General Directorate of seafarers, which will perform in situ inspections, in order to verify the documentary evidence that prove that the Seafarers Recruitment and Placement Agencies comply with national and international latest regulations. Such in situ inspections will be performed by officials of the General Directorate of Seafarers, which shall be fully aware of the latest national and international regulations about seafarers' recruitment and placement and maritime labour.

THIRTIETH:

At the in situ inspections, to the Seafarers Recruitment and Placement Agencies the following elements will be verified:

1. Medical examinations, seafarers' identity documents and such other items as may be required for the seafarer to gain employment;
2. Maintaining, 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 should include at least the following information:
 - the seafarers' qualifications;
 - record of employment;
 - personal data relevant to employment; and
 - medical data relevant to employment;
3. Maintaining up-to-date lists of the ships for which the Seafarers Recruitment and Placement Agencies provide seafarers and ensuring that there is a means by which the services can be contacted in an emergency at all hours;
4. Procedures to ensure that seafarers are not subject to exploitation by the Seafarers Recruitment and Placement Agencies or their personnel with regard to the offer of engagement on particular ships or by particular companies;
5. Procedures to prevent the opportunities for exploitation of seafarers arising from the issue of joining advances or any other financial transaction between the Shipowners and the seafarers which are handled by the seafarer recruitment and placement services;

6. The need to make known the expenses, if there any, that seafarers must defray for the recruitment process.
7. The need to keep vigil that seafarers are kept informed about any special condition applicable to the job to which they are going to be hired, the same way as the particular politics adopted by Shipowners related to the job.
8. The adoption of procedures to ensure, in the most feasibly way, that all mandatory certificates and documents presented to get the job are updated and have not been obtained fraudulently and professional references have been verified.
9. The adoption of procedures to ensure that information or advisory solicitudes presented by the family of seafarers who are navigating are attended the fastest, with comprehension and without any costs.
10. The verification that labor conditions on vessels in which these services accommodate seafarers are in accordance with collective conventions applicable established between Shipowners and a representative organization of seafarers and the principle that the placement of seafarers will only take place if the Shipowners offer s employment conditions adjusted to the legislation or collective conventions applicable.

FOURTEENTH: The expenses of the government officials of General Directorate of Seafarers that perform inspections in place will be assumed by the Seafarers Recruitment and Placement Agencies, operating in national territory and that have requested the recognition of the Panama Maritime Authority. The expenses that have to be assumed are:

1. Air tickets of the Panama Maritime Authority government officials that will perform the correspondent inspections.
2. The diems of the government officials of the Panama Maritime Authority , which have to be in accordance with the State Budget Law of the Republic of Panama in force.

The government officials that perform the inspections in place must remit a report to the General Directorate of Seafarers, with copy to the members of the Evaluating Commission of the Seafarers Recruitment and Placement Agencies.

FIFTEENTH: The Seafarers Recruitment and Placement Agencies operating outside the national territory and that do not comply with the established in the present Resolution and the Maritime Labor Convention, 2006 will be sanctioned in the following way:

1. Temporal suspension of authorization and recognition up to thirty (30) days, for non-compliance of the numerals one (1), two (2), three (3), five (5), six (6), seven (7), eight (8), nine (9), ten (10), eleven (11), twelve (12), thirteen (13) and fourteen (14) of article eleventh of the present Resolution.
2. The cancellation of the recognition for the non-compliance of the established in literal 4 of article eleventh o the present Resolution or the temporary suspension in more than three (3) opportunities and authorization and recognition of the Seafarers Recruitment and Placement Agencies.

SIXTEENTH: ADOPT, the Service Guide for Recruiting and Placement of Seafarer in conformity with the Maritime Labor Convention, 2006, Rule1.4.3.

SEVENTEENTH: The General Directorate of Seafarer can issue the necessary rules for the implementation and execution of the Resolution through the circulars.

EIGHTEENTH: The present Resolution will entry in force once it is published in the Official Gazette

LEGAL BASIS: Decree Law No. 7 of February 10, 1998
 Law No. 57 of August 6, 2008
 Law No. 2 of January 6, 2009
 Decree Executive No. 86 of February 22, 2013
 Law No. 38 of July 31, 2000

COMMUNICATED, PUBLISHED AND ENFORCED

Given on Panama, on the twelve (12) day of the month November of the year two thousand fourteen (2014).

Signed
 THE PRESIDENT
ALVARO ANTONIO ALEMAN HEALY
 PRESIDENTIAL MINISTRY

Signed
 THE SECRETARY
JORGE BARAKAT PITY
 ADMINISTRATOR – PANAMA MARITIME AUTHORITY

IN THE EVENT OF ANY CONFLICT BETWEEN THE ENGLISH AND SPANISH VERSIONS, THE SPANISH VERSION PUBLISHED ON THE OFFICIAL GAZETTE OF THE REPUBLIC OF PANAMA, SHALL PREVAIL.

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		<i>Page 5 of 5</i>