



South African Maritime Safety Authority

Ref: SM6/5/2/1

Date: 21 January 2016

Marine Notice No. 6 of 2016

Accreditation of Seafarer Recruitment and Placement Agencies

TO RECRUITMENT AND PLACEMENT AGENCIES, SHIP OPERATORS, SEAFARERS, MARITIME TRAINING INSTITUTIONS AND PRINCIPAL OFFICERS

Marine Notice No. 19 of 2013 is cancelled.

Summary

This Marine Notice serves to notify the industry of South Africa's of the implementation of the Maritime Labour Convention into South African Legislation and contains a Checklist of requirements for Seafarer Recruitment and Placement Services (SRPS) to be accredited.

1. South Africa ratified the Maritime Labour Convention on 21 June 2013.
2. The Convention entered into force on 20 August 2013.
3. Standard A1.4.2 of the Maritime Labour Convention requires that seafarer recruitment and placement services "shall be operated only in Conformity with a standardized system of licensing or certification or other form of regulation"
4. Seafarer Recruitment and Placement Agencies are therefore required to be accredited by SAMS for the supply of seafarers placed on vessels where the flag state has ratified the Convention.
5. SAMS will audit, with the purpose of issuing a certificate of accreditation, in terms of the Maritime Labour Convention, agencies that are required by the flag state and the ship-owner to demonstrate compliance with the Convention.
6. SAMS is awaiting promulgation of the Merchant Shipping (Seafarer Recruitment and Placement) Regulations before a Certificate of Accreditation can be issued in terms of these regulations.
7. To assist agencies to prepare for the audit, the checklist to be used is attached as an annex. The checklist is generic in that it caters for the issue of a certificate of accreditation in terms of the Convention and South African Legislation, as promulgated.

21 January 2016

SM6/5/2/1

Issued by and obtainable from:
The South African Maritime Safety Authority
146 Lunnon Road
Hillcrest, Pretoria

PO Box 13186
Hatfield 0028

Tel: +27 12 307 3006

Fax: +27 12 307 3086

E-mail: marinenotices@samsa.org.za

Web Site : www.samsa.org.za

*Are you aware of what
SAMSA regulations
require of you?*

The Merchant Shipping (Seafarer Recruitment and Placement) Regulations require that “no person may operate recruitment and placement services unless that person holds a certificate of accreditation issued by the Authority” and “the authorised representative of a ship must ensure that no person is recruited or placed for work by a seafarer recruitment or placement service unless the service holds a certificate of accreditation issued by the Authority”.

To assist the recruitment agencies, the following checklist has been compiled for your guidance.

THE SURVEYOR WILL REQUEST A COMPLETED FORM FROM THE RECRUITMENT AND PLACEMENT AGENCY BEFORE AUDITING FOR ACCREDITATION

Representative Declaration

I, the responsible person of the recruitment and placement agency,
_____ have read and completed the
checklist in preparation for the accreditation of the recruitment and placement
agency.

Name.....

Position.....

Signature.....

Date.....

The following table is to be completed by the applicant.

REFERENCE TO MERCHANT SHIPPING (SEAFARER RECRUITMENT and PLACEMENT) REGULATIONS, 2015 AND/OR LOCAL SOUTH AFRICAN LEGISLATION	REFERENCE TO THE MARITIME LABOUR CONVENTIO N, 2006	THE FOLLOWING DOCUMENTATION MUST BE PROVIDED BY THE APPLICANT OR THEIR EXISTENCE VERIFIED, WHEN REQUESTED BY SAMSA	SUCCESSFULL Y EXAMINED	ADDITIONAL INFORMATION RELATED TO THE INSPECTION
<p>5 (1) (a)</p>	<p>1.4.3</p>	<p>Verify the Name and Physical Address of the Seafarer Recruitment and Placement Service (“SRPS”). A copy of the Company Structure (organogram) should also be provided to SAMSA during the audit.</p>	<p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> N/A</p>	<p style="text-align: center;">REMARKS</p> <hr/> <hr/> <hr/>

5 (1) (b)	1.4.3	Verify the Name of each placement agent with a brief description of the agent's relevant expertise.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	<p style="text-align: center;">REMARKS</p> <hr/> <hr/> <hr/>
5 (1) (c)	A1.4.3 (d)	Verify the details of any quality assurance system applicable to the activities of the SRPS.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	<p style="text-align: center;">REMARKS</p> <hr/> <hr/> <hr/>
5 (2) (a) – (f)	A1.4.6	Verify that the seafarer recruitment and placement service has the following documentation available for inspection (a) Merchant Shipping Act, 1951 as amended; (b) Merchant Shipping (Safe Manning, Training and Certification) Regulations, 2013 as amended;	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	<p style="text-align: center;">REMARKS</p> <hr/> <hr/> <hr/>

		(c) Maritime Labour Convention, 2006; (d) STCW Convention, as amended; (e) Each vessel's Maritime Labour Certificate; and (f) Declaration of Maritime Labour Compliance: Part I and II.		
5 (4) (a)	2.1	Verify that there is a contract between the SRPS and the ship-owner and that such is available for inspection. A copy of such must be provided to SAMSA.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	REMARKS <hr/> <hr/> <hr/>
5 (4) (b)	A2.1.1(a)	Verify that there is a contract between the SRPS and the seafarer and that such is available for inspection. A copy of such must be provided to SAMSA	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	REMARKS <hr/> <hr/> <hr/>

5 (4) (c)	N/A	Verify that all contracts are retained by the SRPS for a period of at least five years for audit purposes.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	<p style="text-align: center;">REMARKS</p> <hr/> <hr/> <hr/>
		RECRUITMENT AND PLACEMENT		
6	A1.4.5(b)	<p>Verify that no fees are charged directly to the seafarer for the recruitment or placement or for providing employment.</p> <p>Exception: Costs to be borne by the Seafarer may include the national seafarer's book and a passport or other similar personal travel documents.</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	<p style="text-align: center;">REMARKS</p> <hr/> <hr/> <hr/>

10	A1.4.5(b)	Verify that the shipowner is liable for the cost of any visa required by a seafarer when joining or leaving the ship and, if required, when the ship calls at a port.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	<p style="text-align: center;">REMARKS</p> <hr/> <hr/> <hr/>
7 (1) (a)	A1.4.5(c)(i) read with B1.4.2 (c)	Verify that an up to date register of all seafarers recruited or placed through the SRPS is maintained and available for inspection. This includes maintaining up to date lists of the ships for which SRPS provide seafarers and ensuring a means by which services can be contacted in an emergency at all hours.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	<p style="text-align: center;">REMARKS</p> <hr/> <hr/> <hr/>
7 (2)	A1.4.5(a)	Verify that the SRPS does not use any means to prevent or deter seafarers from gaining employment for which they are qualified for.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	<p style="text-align: center;">REMARKS</p> <hr/> <hr/> <hr/>

7 (1) (b)	A1.4.5(c)(ii)	Verify that the seafarers are informed of their rights and duties under their employment agreements prior to or in the process of engagement. Verify that proper arrangements are made for seafarers to examine their contracts before and after they are signed.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	<p style="text-align: center;">REMARKS</p> <hr/> <hr/> <hr/>
7 (1) (c)	A1.4.5 (c)(iii)	Verify that seafarers recruited or placed by the SRPS are properly qualified and hold the necessary documentation for the job concerned, and that the employment agreements are in accordance with applicable laws and regulations and any collective bargaining agreement that forms part of the employment agreement.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	<p style="text-align: center;">REMARKS</p> <hr/> <hr/> <hr/>
9 (2)	A2.1 (c)	Verify that a copy of the Seafarer Employment Agreement (“SEA”) signed by both the seafarer and the shipowner/ shipowner’s representative is given to the seafarer.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	<p style="text-align: center;">REMARKS</p> <hr/> <hr/> <hr/>

7 (1) (i)	B1.4.2 (g)	Verify that seafarers are advised of any particular conditions applicable to the job for which they are to be engaged and of the particular ship owner's policies relating to their employment.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	<p style="text-align: center;">REMARKS</p> <hr/> <hr/> <hr/>
7 (1) (j)	B1.4.2 (j)	Verify that there are procedures in place to ensure that any requests for information or advice by the families of the seafarers while the seafarers are at sea are dealt with promptly and sympathetically and at no cost.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	<p style="text-align: center;">REMARKS</p> <hr/> <hr/> <hr/>
7 (1)(k)(i)-(iv)	A4.2.1 B4.2.3 2.6.1 A1.4.5(c)(iv)	Verify that the ship owner has in place financial protection for: <ul style="list-style-type: none"> i. medical costs in the event of an accident ii. funeral and death cover including repatriation of the body iii. loss of personal belongings due to an accident to the ship iv. repatriation costs if the seafarer is stranded in any port 	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	<p style="text-align: center;">REMARKS</p> <hr/> <hr/> <hr/>

7 (1) (I)	B1.4.2 (b)	Verify that any documents submitted by the seafarer are treated with confidentiality.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	<p style="text-align: center;">REMARKS</p> <hr/> <hr/> <hr/>
9 (1)	A2.1.4	<p>Verify that all SEA's contain the following particulars:</p> <ul style="list-style-type: none"> (a) The seafarers full name, date of birth or age, and birthplace, passport number or identity number; (b) The ship owner's name and address (c) The place where and the date when the seafarers employment agreement is entered into; (d) The capacity in which the seafarer is to be employed; (e) The amount of the seafarer's wages or, where applicable, the formula used for calculating them as well as the details of overtime and other financial compensation as well as any agreed deductions from the seafarers wages; (f) The amount of paid annual leave or, where applicable, the formula used for calculating it; (g) The termination of the agreement and the conditions thereof, including: 	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	<p style="text-align: center;">REMARKS</p> <hr/> <hr/> <hr/>

		<p><i>(i) if the agreement has been made 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 ship-owner than for the seafarer;</i></p> <p><i>(ii) if the agreement has been made for a definite period, the date fixed for its expiry; and</i></p> <p><i>(iii) if the agreement had been made for a voyage, the port of destination and the time which has to expire after arrival before the seafarer should be discharged;</i></p> <p>(h) The seafarer's entitlement to repatriation;</p> <p>(i) Reference to the collective bargaining agreement, if applicable; and</p> <p>(j) Any other particulars which national law may require.</p> <p>(k) Names and contact details of next of kin</p> <p>(l) The frequency of the payment of wages which should be made at no greater than monthly intervals and in accordance with the Collective bargaining Agreement, if applicable.</p> <p>(m) Any other obligations or rights that the parties may agree to.</p> <p>(n) Details of accident and death insurance cover for the seafarer.</p>		
--	--	---	--	--

9 (1) (I)	A2.1(5)	<p>Verify that the minimum notice period for early termination of the SEA is not shorter than seven days and that the same notice period applies for both the Seafarer and the SRPS.</p> <p><i>Note: A notice period may be shorter than this minimum if such are recognised by national law or regulations or applicable collective bargaining agreements as justifying termination of the agreement at shorter notice or without notice. No penalties shall be imposed on seafarers requesting early termination based on compassionate or other urgent reasons.</i></p>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	<p style="text-align: center;">REMARKS</p> <hr/> <hr/> <hr/>
Merchant Shipping Act, 1951 as amended (Section 113)	A2.1 (e) read with Subsection 3	<p>Verify that seafarers shall be given a document containing a record of their employment on board the ship and such document shall not contain any statement as to the quality of the seafarers work or as to their wages.</p> <p><i>Note: This document should contain sufficient information, with a translation in English, to facilitate the acquisition of further work or to satisfy the sea service requirements for upgrading or promotion. A seafarer's discharge book may satisfy the requirements for this document.</i></p>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	<p style="text-align: center;">REMARKS</p> <hr/> <hr/> <hr/>

7 (1) (g)	A1.4.5(c) (vi)	Verify that a system of protection exists 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 SRPS or the relevant ship-owner under the SEA to meet its obligations to them.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	<p style="text-align: center;">REMARKS</p> <hr/> <hr/> <hr/>
7 (1) (h)	A1.4.8	Verify that the seafarer has been advised of possible problems of signing on a ship that flies the flag of a state which has not ratified the MLC, 2006 (if applicable).	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	<p style="text-align: center;">REMARKS</p> <hr/> <hr/> <hr/>

MINIMUM REQUIREMENTS FOR SEAFARERS				
Merchant Shipping Amendment Act 12 of 2015 Section 110	A1.1 (1)	Verify that no person under the minimum age of 16 years shall be employed in any capacity on board a ship. <i>Note: Special Rules apply for 'Young Persons' (see below)</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	REMARKS _____
Merchant Shipping Amendment Act 12 of 2015 Section 110/111	A1.1	Verify that seafarers under the age of 18 years are made to understand the restrictions on night work and work which is likely to jeopardize their health and safety.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	REMARKS _____

<p>Merchant Shipping (Safe Manning, Training and Certification) Regulations, 2013 Section 73(1)</p>	<p>A3.2(8)</p>	<p>Verify that no person under the age of 18 shall be employed or engaged or work as a ship's cook.</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p>	<p style="text-align: center;">REMARKS</p> <hr/> <hr/> <hr/>
<p>Merchant Shipping Act 57 of 1951 (Section 101)</p>	<p>A1.2 (1)</p>	<p>Verify that prior to beginning work on a ship, seafarers hold a valid medical certificate attesting that they are medically fit to perform the duties they are to carry out at sea.</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p>	<p style="text-align: center;">REMARKS</p> <hr/> <hr/> <hr/>
<p>STCW 1978, as amended A-I/9(8)</p>	<p>A1.2 (10)</p>	<p>Verify that the medical certificates for seafarers working on ships ordinarily engaged on international voyages must as a minimum be provided in English.</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p>	<p style="text-align: center;">REMARKS</p> <hr/> <hr/> <hr/>

<p>Merchant Shipping Act 57 of 1951 (Section 101(1))</p>	<p>A1.2 (4)</p>	<p>Verify that the medical certificate is issued by a duly qualified medical practitioner or, in the case of a certificate solely concerning eyesight, by a person recognized as being qualified to issue such a certificate.</p>	<p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> N/A</p>	<p style="text-align: center;">REMARKS</p> <hr/> <hr/> <hr/>
	<p>A1.2 (7)</p>	<p>Verify that unless a shorter period is required by reason of the specific duties to be performed by the seafarer concerned or is required under STCW:</p> <p>(a) A medical certificate shall be valid for a maximum period of 12 months including if the seafarer is under the age of 18.</p> <p>(b) A certification of colour vision shall be valid for a maximum period of six years.</p>	<p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> N/A</p>	<p style="text-align: center;">REMARKS</p> <hr/> <hr/> <hr/>

		REPATRIATION		
7 (1) (d)	A2.5(2)	<p>Verify that the ship owner has the means to repatriate seafarers which shall include the following:</p> <ul style="list-style-type: none"> - circumstances in which seafarers are entitled to repatriation; - maximum duration of service periods on board following which a seafarer is entitled to repatriation - such period to be less than 12 months; - precise entitlements for repatriation including those related to destination of repatriation, mode of transport, items of expenses to be covered and other arrangements to be made by the shipowner. 	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	REMARKS
Merchant Shipping Act 57 of 1951 Section 114	A2.5 (3)	<p>Verify if SRPS prohibits shipowners from requiring that seafarers make an advance payment towards the cost of repatriation at the beginning of their employment.</p> <p>Verify if SRPS prohibits shipowners from recovering the cost of repatriation from the seafarer's wages or other entitlements except where the seafarer has been found to be in serious default of their employment agreements.</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	REMARKS

		COMPLAINT PROCEDURES		
<p>Merchant Shipping Amendment Act 12 of 2015 Section 158A</p>	<p>A5.1.5</p>	<p>Verify that in addition to a copy of the SEA, all seafarers shall be provided with a copy of the on- board compliant procedures applicable on the ship.</p> <p>The on-board complaint procedure should contain, as a minimum:</p> <ul style="list-style-type: none"> - Fair, effective and expeditious handling of seafarer complaints alleging breaches of seafarer’s rights; - There should be safeguards in place to prevent and penalize any kind of victimization of a seafarer for filing a complaint. - The procedures shall seek to resolve any seafarer complaints at the lowest level possible, however, seafarers shall have a right to complain directly to the Master and if necessary recourse to the appropriate external authorities. - Procedures shall include the right of the seafarer to be accompanied or represented during the complaints procedure. <p><i>Note: The above shall include contact information for SAMSA in the flag state and</i></p>	<p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> N/A</p>	<p style="text-align: center;">REMARKS</p> <hr/> <hr/> <hr/>

		<i>where different in the seafarers country of residence and the name of a person or persons on board the ship who can, on a confidential basis, provide seafarers with impartial advice on their complaint and otherwise assist them in following the complaint procedures available to them on board the ship.</i>		
7 (1) (e)	A1.4 (7)	Verify that adequate machinery and procedures exist for the investigation, examination and response, if necessary, of complaints from seafarers concerning the activities of SRPS involving as appropriate representative of ship-owner and seafarers.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	<p style="text-align: center;">REMARKS</p> <hr/> <hr/> <hr/>
7 (1) (f)	A1.4.5 (c) (v) & A1.4.5 (c) (v)	<p>Verify that records of all complaints from seafarers that are received concerning on board working or living conditions are forwarded to SAMSA.</p> <p>Verify that the SRPS has procedures to examine and respond to any complaint concerning the activities of the SRPS and advise SAMSA of any unresolved complaint.</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	<p style="text-align: center;">REMARKS</p> <hr/> <hr/> <hr/>

SRPS AUDIT REMARKS SUMMARY:

Deficiencies identified as Non – Conformities in terms of the MLC, 2006

REFERENCE TO AUDIT ITEM	DEFICIENCIES IDENTIFIED AS NON CONFORMITIES

NOTE: ANY DEFICIENCIES LISTED IN THE ABOVE BLOCK NEED TO BE CORRECTED PRIOR TO ISSUANCE OF THE SAMSA SRPS APPROVAL CERTIFICATE

NOTES/ REMARKS/ OBSERVATIONS FOR THE IMPROVEMENT OF THE SRPS:

FOR OFFICE PURPOSES:

AUDIT DONE BY: _____ **(PRINT NAME)**

DATE: _____

AUDIT APPROVED: **YES / NO** **(CIRCLE ONE)**

SIGNED: _____