

International Labour Organization

**Guidelines for flag State
inspections under the Maritime
Labour Convention, 2006**

International Labour Office Geneva

Guidelines for flag State inspections under the MLC, 2006

- Check documentary evidence (from a shipowner or, if relevant to the position concerned, a national authority or otherwise) confirming that seafarers have any qualifications that may be required under national law for those performing other duties on board ship (for example, ships' cooks – see below, Regulation 3.2).
- Check for evidence confirming that all seafarers have successfully completed training for personal safety on board ship.
- Check a copy of the appropriate training material that is available to the crew.
- Confirm training through interviews, in private, with a representative number of seafarers.

Examples of deficiencies

- Seafarer's qualifications not in accordance with the SMD.
- Seafarer working on the ship who is not trained or certified or otherwise qualified to perform required duties.
- Certificates or endorsements are not up to date or have expired.
- Seafarer working on the ship who has not successfully completed personal safety training.

Regulation 1.4 – Recruitment and placement

Standard A1.4; Guideline B1.4

* **Inspected and certified**

** **Review DMLC, Part II**

Basic requirements

- **Where a shipowner has used a private seafarer recruitment and placement service,* it must be licensed or certified or regulated in accordance with the MLC, 2006.**

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- Seafarers shall not be charged for use of these services.
- Shipowners using services based in States not party to the MLC, 2006, must ensure, as far as practicable, that these services meet the requirements of the MLC, 2006 (Standard A1.4, paragraph 9).**

* If private seafarer recruitment and placement services are operating in their territory, flag States are responsible for establishing an effective inspection and monitoring system with respect to those services (Regulation 5.3; Standard A5.3, paragraph 1).

** Flag States are responsible for ensuring that shipowners have a proper system for verifying that the recruitment and placement services conform to the national requirements implementing Standard A1.4 if they use recruitment and placement services based in States not party to the MLC, 2006. This responsibility may be fulfilled by continuously monitoring shipowners' compliance with those requirements, by monitoring recruitment and placement services in relevant non-MLC countries through a quality management system, and by providing information on the extent to which services in such countries have been found to meet the requirements of Standard A1.4.

How to check the basic requirements

- Check the national web sites of the competent authority regarding the licensing or regulation of seafarer recruitment and placement services (manning agencies).
- Check documentation or other information to allow the inspector to ascertain the following:
 1. Direct engagement
Seafarers were recruited and engaged by the shipowner. If this is the case, this fact should be noted and no further action is necessary.
 2. Recruited through a public service
Seafarers were engaged through a public seafarer recruitment and placement service in either the flag State or in

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another State to which the MLC, 2006, applies. If this is the case, this should be noted and no further action is necessary.

3. **Recruited through a private service (or a service operated by a seafarers' organization) in a country that has ratified the MLC, 2006**
 - A. If the seafarers were engaged through a private seafarer recruitment and placement service in the flag State, check for documentary evidence confirming that the service concerned is operating in accordance with the national laws or regulations or other measures implementing the MLC, 2006, requirements. Where the supervision of such services is entrusted to another national authority in the flag State, a statement by that authority that the service has been found to be operating in accordance with the relevant law is sufficient for this purpose.
 - B. **If the seafarers were engaged through a private seafarer recruitment and placement service in another State that has ratified the MLC, 2006, no action need be taken unless the inspector has received a clear indication that basic rights have been violated (such as charging seafarers for use of services).**
4. Recruited through a service that is based in a country that has not ratified the MLC, 2006
If the seafarers were engaged through a seafarer recruitment and placement service based in a country that has not ratified the MLC, 2006, check documentation showing that the shipowner has, as far as practicable, verified through a proper system that the service is operated consistently with the MLC, 2006. This system may, for

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example, take account of information collected by the flag State, as well as any audits or certifications concerning the quality of services operating in countries that have not ratified the MLC, 2006. Other evidence which shipowners could provide might be checklists against the MLC requirements or an RO audit of a recruitment and placement service based in a country that has not ratified the MLC, 2006.

- Check, through interviews, in private, with a representative number of seafarers, that they have not paid a fee or other charge to a recruitment or placement service and have been informed of their rights and duties.
- Check, through interviews, in private, with a representative number of seafarers, that the recruitment and placement service used does not operate a blacklist.

Examples of deficiencies

- No documentary evidence available to indicate that the service or agency is operated in accordance with the MLC, 2006.
- A seafarer who was recruited through a private seafarer recruitment and placement service that was not licensed or certified or regulated in accordance with the MLC, 2006, or whose licence or certificate or any other similar document is no longer valid.
- Use of a recruitment and placement service requiring the seafarer to pay a fee or otherwise making a charge for employment services (if this is a possibility then it should also be reported to the competent authority in the State where the service is based).
- A seafarer working on board who was recruited by a recruitment and placement service operating in a country that has not

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ratified the MLC, 2006, in cases where the shipowner cannot support its conclusion of consistency with the MLC, 2006.

Regulation 2.1 – Seafarers’ employment agreements

Standard A2.1; Guideline B2.1

*** Inspected and certified**

**** Review DMLC, Part II**

Basic requirements

- All seafarers must have a copy of their seafarers’ employment agreement (SEA) signed by both the seafarer and the shipowner or shipowner’s representative (or, where they are not employees, other evidence of contractual or similar arrangements).
- A SEA must, at a minimum, contain the matters set out in Standard A2.1, paragraph 4(a)–(k) of the MLC, 2006 (Standard A2.1, paragraph 4).
- Seafarers must also be given a document containing a record of their employment on the ship (such as a discharge book) (Standard A2.1, paragraph 1(e)).
- Where a collective bargaining agreement forms all or part of the SEA, the agreement must be on board the ship with relevant provisions in English (except for ships engaged only in domestic voyages) (Standard A2.1, paragraph 2).

How to check the basic requirements

- Check a copy of the SEA and any applicable collective bargaining agreements for seafarers and, at a minimum, a standard form of the SEA (in English) for the ship.
- Check, where possible, given the timing of the inspection relative to employment period, possession by seafarers of a record