

**Seacurus urges more certainty from flag states on yachting agency responsibilities under MLC 2006**

Specialist marine insurance intermediary Seacurus has called for more flag states to establish a process of compulsory registration for all providers of Seafarer Recruitment and Placement Service (SPRS) in the yachting sector.

Thomas Brown, managing director of Seacurus, says, “More countries need to follow the initiatives shown by the likes of the UK MCA and France, with the latter making company registration compulsory for SRPSs in the yachting sector. The measures introduced by the French authorities, for example, provide positive clarification for all seafarers placed on board yachts by French yachting agencies. They stipulate that any Yacht Crew Agency (YCA) which operates on French soil under any auspices, and which performs any role at all in introducing a seafarer to employment on a vessel, falls under the requirement to register on the list of yachting SRPSs established in France. But, even then, there do appear to be some grey areas in the national regulations which are leading to confusion in the yachting sector.”

The Professional Yachting Association (PYA) recently issued a statement emphasising that there has been ongoing confusion about the status of Yacht Crew Agencies (YCA) under the Maritime Labour Convention 2006 (MLC), which came into effect in August 2013. PYA says the causes of the confusion have been differences between flag states in interpreting the terms ‘recruitment and placement’, differences between flag states in integrating MLC with pre-existing legislation regarding employment services, and inconsistency among YCA themselves when operating in the territories of different flag states, especially where one such territory may be a non-ratifying state.

According to PYA, YCA operating in France need only to guarantee the verification process of the appropriate certification for any position offered on board. They do not need to include any provision for unpaid salaries.

Thomas Brown says, “The French government has established a process of compulsory registration for all yachting SPRSs conducting their business from a French territory. We can only assume that the registration process takes a robust view of the financial wherewithal of the applicant agency, and that the government inspector responsible for the approval of the application would have to be satisfied that the said agency was of sufficient financial standing to assume the liability for any personal financial losses incurred by seafarers they place on board yachts, in accordance with MLC Regulation 1.4 covering Recruitment and Placement. But some YCA may find it difficult to provide confirmation of the financial standing needed to satisfy the authorities.

“Meanwhile, there would appear to be no compulsory requirement for French yachting agencies to demonstrate that they have a system of protection, by way of insurance or equivalent appropriate measure in place as envisaged by MLC Standard A.1.4.5(c) (vi). Compliance with this regulation would seem to be achieved by agencies demonstrating to an inspector that they are on the new French registry.

“So while the French authorities are to be congratulated for introducing a degree of certainty into their regulation of YCAs and their MLC responsibilities, the fact remains that liability under MLC Standard A.1.4.5(c) (vi) does not disappear simply because the SRPS has satisfied the French regulations. The SRPS still has an exposure to indemnify its seafarers’ financial losses in accordance with the MLC standard, and this is where appropriate insurance cover is invaluable. Such cover is available both to SRPSs operating in domiciles where it is required by the relevant regulatory body. It is also available to agencies in countries such as France that would like to take out the cover voluntarily as either a balance-sheet protection in the event that they have to respond in the event of a yacht owner’s contractual default giving rise to a personal financial loss for a seafarer they have placed at sea, or if needed to enhance the company’s credit rating when applying to become a registered company.

“It was clear from the second meeting of the ILO Special Tripartite Committee meeting held in Geneva in February this year that many flag states are having difficulty in interpreting the requirements placed upon them in respect of MLC Standard A.1.4.5(c) (vi). It is time for greater clarity of the kind shown by the UK and France, but also for greater awareness of the value of MLC insurance coverage which responds in the event of a yacht owners’ contractual default.”

- Seacurus Ltd is an FCA-regulated insurance intermediary, founded in 2004, specialising in bespoke revenue protection cover for the maritime industry. It is a market leader in the design and implementation of solutions to protect companies from unforecasted balance-sheet impacts, including credit default, charter party cancellations, hijackings and voyage disruptions caused by political events. Seacurus established the first delegated underwriting binding authority for marine kidnap insurance and is an approved Lloyd’s Coverholder. [www.seacurus.com](http://www.seacurus.com)

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