

THE GOVERNMENT

No. 29/2017/ND-CP

THE SOCIALIST REPUBLIC OF VIETNAM

Independence - Freedom - Happiness

Hanoi, March 20, 2017

DECREE

**ON CONDITIONS FOR SEAFARER'S TRAINING FACILITIES AND SEAFARER'S
RECRUITMENT AND PLACEMENT SERVICE PROVIDERS**

Pursuant to the Law on Government organization dated June 19, 2015;

Pursuant to Vietnam Maritime Code dated November 25, 2015;

Pursuant to the Labor Code dated June 18, 2012;

Pursuant to International Convention on Standards for Training, Certification and Watchkeeping for Seafarers 1978, amended in 2010;

Pursuant to Maritime Labour Convention, 2006;

At the request of the Minister of Transport;

The Government promulgates a Decree on conditions for seafarer's training facilities and seafarer's recruitment and placement service providers.

Chapter I

GENERAL PROVISIONS

Article 1. Scope

This Decree deals with conditions for seafarer's training facilities and seafarer's recruitment and placement service providers, including: Conditions for seafarer's training facilities, issuance of Certification of eligibility for seafarer's training and Certificate of endorsement for seafarer recruitment and placement service providers.

Article 2. Regulated entities

This Decree applies to seafarer's training facilities; seafarer recruitment and placement service providers and other organizations and individuals in connection with seafarer's training, recruitment and placement service in Vietnam.

Article 3. Interpretation of terms

For the purposes of this Decree, these terms below shall be construed as follows:

1. STCW Convention means the abbreviated name of International Convention on Standards for Training, Certification and Watchkeeping for Seafarers 1978, amended in 2010 to which Vietnam is a signatory.
2. MLC 2006 means the abbreviated name of Maritime Labour Convention, 2006 to which Vietnam is a signatory.
3. Seafarer's training facility (hereinafter referred to as training facility) mean a facility which provides training for seafarers in accordance with STCW Convention and obtaining a certificate of eligibility for seafarer's training as prescribed in this Decree.
4. Certification of eligibility for seafarer's training (hereinafter referred to as Certification) means a document issued by the Minister of Transport to facilities eligible for providing seafarers with training.
5. Seafarer recruitment and placement service provider means an enterprise which is issued with a certificate of endorsement for seafarer recruitment and placement service provider in the form of labor supply or outsourcing, or guest worker program as prescribed by law.
6. Certificate of endorsement for seafarer recruitment and placement service provider (hereinafter referred to as Certificate) means a document issued by Director of Vietnam Maritime Administration to a seafarer recruitment and placement service provider to certify its endorsement for seafarer recruitment and placement service in accordance with MLC 2006.
7. Certification bodies include the Vietnam Register, Vietnamese organizations or foreign organizations authorized to operate in the area of conformity certification as prescribed by Vietnam's law.

Chapter II

CONDITIONS FOR SEAFARER'S TRAINING FACILITIES

Article 4. Conditions for training facilities and equipment

1. Training facilities and equipment shall meet the purposes and scope of training of each seafarer training program and comply with National Technical Regulation issued by the Minister of Transport.
2. A certification of quality management system in accordance with ISO 9001 is issued by a certification body.
3. An electronic database of management of seafarer's certificates for the searching purpose is available in accordance with STCW Convention.

Article 5. Conditions for lecturers and instructors

1. The staff of lecturers and instructors must have good moral qualities, clear backgrounds and good health according to professional requirements.
2. A theoretical lecturer must obtain at least a bachelor's degree in any of majors consistent with subjects or majors as assigned, or obtain a pedagogical certificate as prescribed by law.
3. A practical lecturer or instructor must obtain at least a main instructor certificate issued by International Maritime Organization (IMO) or an organization recognized by IMO in accordance with STCW Convention for particular type of training program as prescribed by the Minister of Transport.
4. A training facility must have sufficient lecturers and instructors that meet number requirement of each training program as prescribed by the Minister of Transport, in which at least 50% of tenured lecturers and instructors are available for each training program.
5. Maximum student-lecturer/instructor ratio is 25.

Article 6. Conditions for training programs

Sufficient training programs and materials are available as prescribed by the Minister of Transport.

Article 7. Issuance of Certification

1. The Minister of Transport shall issue Certifications as prescribed in this Decree.
2. A training facility shall submit an application to the Ministry of Transport, directly or in any form deemed appropriate. An application includes:
 - a) An application form using form No. 1 prescribed in the Appendix issued together with;
 - b) A certified true copy or a copy enclosed with original for collation of the establishment decision or a permit for establishment;
 - c) Written representations on eligibility for training service using form No. 02 prescribed in the Appendix issued herewith.
3. The Ministry of Transport shall receive the application; in case of unsatisfied application, the Ministry of Transport shall, within 3 working days from the date of receipt, provide the training facility with written guidelines for completing the application as prescribed in this Decree. In case of a satisfactory application, the Ministry of Transport shall, within 15 working days from the date of receipt, undertake a verification visit and then issue a Certification using form No. 03 prescribed in Appendix issued herewith. If the application is rejected, it shall provide explanation in writing.

Article 8. Reissuance of Certification

1. A Certification shall be re-issued in case of loss, damage, or any change of the training facility.
2. A training facility shall send an application for reissuance of the Certification to the Ministry of Transport directly or in any form deemed appropriate, stating reasons for reissuance and evidence for the change of the training facility (if any). Within 3 working days from the date of receipt, the Ministry of Transport shall reissue a Certification; in case of refusal, it shall provide explanation in writing.
3. When reissuing a Certification, the Ministry of Transport shall state in the new Certification the replacement of the old Certification and make it public on its website.

Article 9. Mandatory suspension of seafarer's training

1. A training facility shall have its seafarer's training service suspended in any of the following cases:
 - a) It fails to keep satisfying one of the conditions for training facilities prescribed in this Decree;
 - b) Other cases as prescribed by law.
2. The Minister of Transport shall issue a decision on mandatory suspension. A decision on mandatory suspension must specify reasons, measures for ensuring benefits and interests of lecturers, instructors, students, and employees in the training facility and make it public on its website.
3. When the mandatory suspension expires, if the violations resulting in the suspension are eliminated, the Minister of Transport shall permit the training facility in writing to resume its operation.

Article 10. Revocation of Certification

1. A training facility shall have its Certification revoked in any of the following cases:
 - a) It has operation terminated as prescribed by law or upon its request;
 - b) It falsifies information deliberately when applying for issuance of the Certification;
 - c) It does not provide any seafarer's training course within 18 months from the date on which the Certification is issued;
 - d) It fails to eliminate the violations resulting in the suspension upon the expiration of suspension period;

dd) Other cases as prescribed by law.

2. The Minister of Transport issues a decision on revocation of Certification and makes it public on its website and sends it to relevant agencies for management.

3. The training facility must have its seafarer's training service terminated according to the decision on revocation of Certification issued by the Minister of Transport.

Article 11. Evaluation of seafarer's training facilities

The Ministry of Transport shall direct Vietnam Maritime Administration to:

1. take charge and cooperate with seafarer's training facilities in conducting internal evaluation of seafarer's training service as prescribed by law annually.

2. Conduct independent evaluation of seafarer's training facilities in accordance with STCW Convention every 5 years.

Chapter III

ISSUANCE OF CERTIFICATE OF ENDORSMENT FOR SEAFARER RECRUITMENT AND PLACEMENT SERVICE PROVIDERS

Article 12. Eligible providers to be issued with Certificates

A Certificate shall be issued to a seafarer recruitment and placement service provider which is licensed by competent authority to operate in seafarer recruitment and placement service in the form of labor supply or outsourcing, or guest worker program as prescribed by law.

Article 13. Procedures for issuing Certificate

1. A seafarer recruitment and placement service provider shall submit an application directly or in any form deemed appropriate to Vietnam Maritime Administration. An application includes:

a) An application form using form No. 4 prescribed in the Appendix issued together with;

b) A certified true copy or a copy enclosed with original for collation of the license to offer guest worker program or the license to supply or outsource seafarers in the form of labor supply or outsourcing, or guest worker program as prescribed by law;

c) A certified true copy or a copy enclosed with original for collation of the certification of quality management system in accordance with ISO 9001 and paragraph 1.4 of MLC 2006 on seafarer recruitment and placement service.

2. Vietnam Maritime Administration shall receive the application; in case of unsatisfactory application, Vietnam Maritime Administration shall, within 3 working days from the date of

receipt, provide the seafarer recruitment and placement service provider with guidelines for completing the application as prescribed in this Decree. In case of a satisfactory application, the Vietnam Maritime Administration shall, within 03 working days from the date of receipt, issue a Certification using form No. 05 prescribed in Appendix issued herewith. If the application is rejected, it shall provide explanation in writing.

3. Vietnam Maritime Administration shall make the issuance of Certificate public on the website of Vietnam Maritime Administration.

Article 14. Reissuance of Certificate

1. A Certificate shall be reissued in case of expiration, loss, damage, or any change of the seafarer recruitment and placement service provider.

2. The seafarer recruitment and placement service provider shall submit an application for reissuance of the Certificate directly or in any form deemed appropriate, stating reasons for reissuance and evidence for the change of the provider (if any). Within 3 working days from the date of receipt, the Vietnam Maritime Administration shall reissue a Certification; in case of refusal, it shall provide explanation in writing.

3. When reissuing a Certificate, the Vietnam Maritime Administration shall state in the new Certification the replacement of the old Certification and make it public on its website.

Article 15. Revocation of Certificate

1. A Certificate shall be revoked in any of the following cases:

a) A seafarer recruitment and placement service provider is not reissued with a Certificate, not granted with an extension or has its Certificate revoked.

b) Other cases as prescribed by law.

2. Director of Vietnam Maritime Administration shall issue a decision on revocation of the Certificate and make it public on its website, and give notices to relevant agencies for management.

Chapter IV

IMPLEMENTATION

Article 16. Implementation

1. The Ministry of Transport shall:

a) Direct, instruct, and implement this Decree;

- b) Promulgate technical standards for training facilities;
- c) Take charge and cooperate with the Ministry of Labor, War Invalids and Social Affairs in reviewing, amending, promulgating or requesting competent authorities to promulgate regulations on management of supply or outsourcing of Vietnam's seafarers;
- d) Inspect and take actions against violations of regulations on seafarer's training, seafarer recruitment and placement service as prescribed in this Decree and other relevant regulations.

2. The Ministry of Labor, War Invalids and Social Affairs shall:

- a) Take charge and cooperate with the Ministry of Transport and relevant agencies in requesting the Prime Minister to include the seafarer as a job in the list of jobs eligible for labor outsourcing prescribed in Appendix V issued together with the Government's Decree No. 55/2013/ND-CP dated May 22, 2013 on guidelines for Clause 3 Article 54 of the Labor Code on licensing labor outsourcing, deposit, and list of jobs eligible for labor outsourcing;
- b) Provide guidelines for licensing the supply or outsourcing of Vietnam's seafarers working on foreign vessels;
- c) Cooperate with the Ministry of Transport in implementing this Decree.

3. People's Committees of provinces and central-affiliated cities shall, according to their functions, tasks, powers, cooperate with the Ministry of Transport, the Ministry of Labor, War Invalids and Social Affairs and relevant agencies in managing the seafarer training, recruitment and placement service in Vietnam.

4. Training facilities shall implement and keep satisfying the conditions prescribed in this Decree and other regulations during the training period.

5. Seafarer recruitment and placement service providers shall implement and keep satisfying the conditions prescribed in this Decree and other regulations during the recruitment and placement period.

Article 17. Entry in force

This Decree comes into force from the date on which July 1, 2017.

Article 18. Transitional regulations

Any training facility which has been permitted to provide seafarer's training service by the Ministry of Transport; any seafarer recruitment and placement service provider which has been issued with a operation license before the effective date of this Decree shall be entitled to keep its operation until the expiration specified in the permit or license. Upon expiration of such permit or license, the abovementioned training facility or provider must satisfy all conditions to enable the Certificate or Certification to be issued as prescribed in this Decree.

Article 19. Implementation

1. The Minister of Transport shall Take charge and cooperate with Ministries and relevant agencies in implementing this Decree.
2. Ministers, Heads of ministerial-level agencies, Heads of Governmental agencies, Presidents of People’s Committees of provinces and central-affiliated cities shall implement this Decree./.

**ON BEHALF OF THE GOVERNMENT
PRIME MINISTER**

Nguyen Xuan Phuc

APPENDIX

FORMS OF APPLICATIONS FOR ISSUANCE/REISSUANCE OF CERTIFICATION OF ENDORSMENT FOR SEAFARER RECRUITMENT AND PLACEMENT
(Issued together with the Government’s Decree No. 29/2017/ND-CP dated March 20, 2017)

Form	Description
Form No. 1	Application form for issuance of Certification of eligibility for seafarer’s training service.
Form No. 2	Written representations on eligibility for training service.
Form No. 3	Certification of eligibility for seafarer’s training service
Form No. 4	Application form for issuance of Certificate of endorsement for seafarer recruitment and placement service.
Form No. 5	Certificate of endorsement for seafarer recruitment and placement service.

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