

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

THIRTEENTH CONGRESS
First Regular Session

House Bill No. 4350



Introduced by Representative IMEE R. MARCOS

EXPLANATORY NOTE

The Philippines is regarded as the "manning capital of the world". Filipino seafarers have established a reputation as seafarers who are at par or even more competent and reliable compared with seafarers from any other country in the world.

Given the volume of Filipino overseas seafarers and their considerable annual dollar earnings (about \$1.5 billion annually) which help sustain the country's economy and growth, the need to come up with a definite policy legislation that will foster the benefits, rights and protection of seafarers has become more pressing.

While there have been attempts to address the plight of Filipino overseas seafarers in labor and social legislation, legislative efforts have never really been devoted and focused exclusively to promoting and protecting their interest.

This bill compliments this particular sector's working conditions and requirements by identifying their basic rights, and the labor standards, benefits and government services they are entitled to. In particular, this bill aims to ensure that Filipino overseas seafarers remain globally competitive in the technology-dependent maritime industry by requiring strict compliance with the mandate of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (as amended). This in effect, will likewise ensure their continued employability.

The bill likewise addresses the social welfare, repatriation and reintegration concerns of returning or unemployed seafarers by prescribing their benefits along with the government services or programs that can be made available to them.

Overseas seafarers are constantly exposed to extreme working conditions; as such, it is important that adequate health, social and disability benefits be afforded to them. Recognizing the importance of insuring their social security benefits, the bill seeks to impose minimum standards to promote humane working conditions and social security.

The provisions on illegal recruitment under existing laws are primarily made applicable to land based overseas workers. Overseas seafarers are not exempt from unscrupulous recruiters and, as such, it is essential to specifically extend the protection to this sector. The bill aims to fill this void through the corresponding Title on illegal recruitment.

The economic contribution of the Filipino overseas seafarers is too significant to be disregarded. It is therefore essential that this key legislation directly addressing the specific requirements of this distinct sector of overseas workers be passed in order to avert the possible decline and eventual loss of employment opportunities for the numerous Filipinos who belong to this sector in the face of growing threats from our competitors.

In view of the foregoing, the passage of this bill is earnestly sought.

Imee R. Marcos
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Representative
2nd District, Ilocos Norte

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AN ACT TO ESTABLISH A HIGHER STANDARD OF PROMOTION AND
PROTECTION OF THE RIGHTS AND WELFARE OF FILIPINO OVERSEAS
SEAFARERS AND FOR OTHER PURPOSES

*Be it enacted by the Senate and the House of Representatives of the Philippines
in Congress assembled:*

SECTION 1. Short Title-This act shall be known as the "Overseas
Seafarers Act."

I. GENERAL PROVISIONS

SECTION 2. Declaration of Policy-

- (a) It is the policy of the State to afford protection to Filipino overseas and their families, promote their interest and safeguard their welfare;
- (b) The State through the agencies concerned shall the best terms and conditions of employment for Filipino overseas seafarers and ensure compliance therewith;
- (c) The State recognizes the interest of Filipino seafarers and their families, the urgent need to improve and realign compensation and benefits for seafarers in order to keep them at par with prevailing international standards and those provided under collective bargaining agreements;
- (d) The state shall promote and improve the social and economic status of Filipino seafarers, their living and working conditions, their terms of employment and career prospects, and attract and retain in the manning industry more seafarers with proper competency, qualification and skill.

II. SCOPE

SECTION 3. Applicability – All rights and benefits granted under this Act shall, except as may otherwise be provided herein, apply to overseas seafarers as defined in this Act.

III. DEFINITION OF TERMS

SECTION 4. Definitions – For purposes of this Act:

- (a) "Departure" refers to the actual departure from the point of hire of the seafarer through air, sea or land travel transport to join his vessel in a Philippine or foreign port.
- (b) "Master" refers to any person having command and charge of the vessel except pilots.
- (c) "Manning Agency" refers to any person, partnership or corporation duly licensed under Philippine laws to recruit seafarers to work on board ships navigating the foreign seas, or on foreign maritime mobile units and for other maritime activities.
- (d) "Overseas Seafarer" refers to any person who fulfills the conditions to be employed or engaged as part of the crew or complement of the ship navigating the foreign seas other than a government ship used for military or non-commercial purposes. This term includes seafarers serving on foreign maritime mobile offshore units who perform functions similar to those constituting a crew complement, fisherman and cruise ship personnel.
- (e) "Principal" or employer refers to any person, partnership or corporation registered and duly authorized to engage in overseas shipping activities engaging Filipino seafarers.
- (f) "Point of Hire" refers to the place indicated in the contract of employment, which shall be the basis for determining commencement and termination of contract.
- (g) "Philippine Port" refers to any Philippine airport or seaport.
- (h) "Recruitment and Placement Service" means any person, company, institution, agency or other organization, in the public or the private sector, which is engaged in recruiting seafarers on behalf of employers or placing seafarers with employers.
- (i) "Ship owner" means the owner of the ship or any other organization or person, such as the manager, agent, or bare boat charterer, who has assumed the responsibility for operation of the ship from the ship owner and who on assuming such responsibilities has agreed to take over all the attendant duties and responsibilities.
- (j) "STCW" refers to the international Convention on Standards of Training, Certification and Watchkeeping for Seafarers, as amended.
- (k) "Vessel" includes any ship or boat of any nature whatsoever, ordinarily engaged in maritime navigation other than a government ship used for military or non-commercial purposes.

IV. RECRUITMENT AND PLACEMENT

SECTION 5. Recruitment and Placement Policies- All persons, companies, institutions, manning agencies or organizations engaged in private recruitment and placement services shall:

- (a) Ensure that no placement fees or other charges for recruitment or for providing employment to seafarers are borne directly or indirectly, in whole or part, by the seafarer, for this purpose, costs of the personal travel document and Seaman's Book shall not be deemed to be "fees or other charges for recruitment".
- (b) Determine whether and under which conditions recruitment and placement services may place or recruit seafarers for overseas deployment;
- (c) Specify, 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 recruitment and placement services including the collection, storage, combination and communication of such data to third parties;
- (d) Refrain from using means, mechanisms or lists intended to prevent or deter seafarers from gaining employment.

SECTION 6. Duties of Recruitment and Placement Services – It shall be incumbent upon recruitment and placement services to ensure that:

- (a) Any seafarer recruited or placed by them is qualified and holds the documents necessary for the job concerned;
- (b) Contracts of employment and articles of agreement are in accordance with the standard terms and conditions governing the employment of Filipino seafarers on-board ocean-going vessels as prescribed by the concerned agency of the Department of Labor and Employment (DOLE) and International Convention on Standards of Training, Certification and Watchkeeping;
- (c) Seafarers are informed of their rights and duties under their contracts of employment and the articles of agreement prior to or in the process of engagement;
- (d) Proper arrangements are made for seafarers to examine their contracts of employment and the articles of agreement before and after they are signed and for them to receive a copy of the contract of employment;
- (e) Adopt and implement measures which guarantee, as far as practicable, that the employer has the means to protect seafarers from being stranded in a foreign port;
- (f) Maintain a register of all seafarers recruited or placed through them and ensure that the same is available for inspection by the national competent authority.

SECTION 7. Deployment – The government, through the designated DOLE agency, in the interest of protecting the welfare and safety of overseas

seafarers shall formulate policies on deployment and, may at anytime, issue deployment advisories.

SECTION 8. Qualifications – To be considered eligible for overseas employment, a seafarer must:

- (a) Be a Filipino citizen;
- (b) Be at least 18 years old;
- (c) Be of good moral character;
- (d) Meet the standards of medical fitness, particularly with good eyesight and hearing as certified by a government accredited medical institution conducting physical and medical examination for seafarers;
- (e) Possess the qualifications and certifications prescribed by the DOLE agency concerned as well as the requirement of the STCW as amended;
- (f) Hold a valid passport/seaman's service record book;
- (g) Be registered with and duly certified by the DOLE agency concerned as eligible for overseas employment.

V. ILLEGAL RECRUITMENT

SECTION 9. Illegal Recruitment – For purposes of this Act, illegal recruitment shall mean any act of canvassing, enlisting, contracting, transporting, utilizing, hiring, or procuring seafarers and includes referring, contract services, promising or advertising for employment abroad, whether for profit or not, when undertaken by a non-licensee or non-licensee or non-holder who, in any manner, offers or promises for a fee employment abroad to two or more persons shall be deemed engaged. It shall likewise include the following acts, whether committed by any person, whether a non-licensee, non-holder, licensee or holder of authority:

- (a) To charge or accept directly or indirectly any amount greater than that specified in the schedule of allowable fees prescribed by the DOLE agency concerned, or to make a seafarer pay any amount greater than that actually received by him as loan or advance;
- (b) To furnish or publish any false notice or information or document in relation to recruitment or employment;
- (c) To give any false notice, testimony, information or document or commit any act of misrepresentation for the purpose of securing a license or authority under the Labor Code;
- (d) To induce or attempt to induce a seafarer already employed to quit his employment in order to offer him another unless the transfer is designated to liberate a seafarer from oppressive terms and conditions of employment;
- (e) To influence or attempt any person or entity not to employ any seafarer who has not applied for employment through his agency;
- (f) To engage in the recruitment or placement of seafarers in jobs harmful to public health or morality or to the dignity of the Republic of the Philippines;

- (g) To obstruct or attempt to obstruct inspection by the Secretary of Labor and Employment or by his duly authorized representative;
- (h) To fail to submit reports on the status of employment, placement vacancies, remittance of foreign exchange earnings, separation from jobs, departures and such other matters or information as may be required by the Secretary of Labor and Employment;
- (i) To substitute or alter to the prejudice of this seafarer, employment contracts approved and verified by the DOLE agency concerned from the time of actual signing thereof by the parties up to and including the period of the expiration of the same without the approval of the Department of Labor and Employment;
- (j) For an officer or agent of a recruitment, manning or placement agency to become an officer or member of the board of any corporation engaged in travel agency or to be engaged directly or indirectly in the management of a travel agency;
- (k) To withhold or deny travel documents from those authorized under the Labor Code and its implementing rules and regulations;
- (l) Failure to actually deploy without valid reason as determined by the DOLE agency concerned; and
- (m) Failure to reimburse expenses incurred by the seafarer in connection with his documentation and processing for purposes of deployment, in cases where the deployment does not actually take place without the seafarer's fault. Illegal recruitment when committed by a syndicate or in large scale shall be considered an offense involving economic sabotage.

Illegal recruitment is deemed committed by a syndicate if carried out by a group of three (3) or more persons conspiring or confederating with one another. It is deemed committed in large scale if committed against three (3) or more persons individually or as a group.

The persons criminally liable for the above offenses are the principals, accomplices and accessories. In case of judicial persons, the officers having control, management or direction of their business shall be liable.

SECTION 10. Penalties –

- (a) Any person found guilty of illegal recruitment shall suffer the penalty of imprisonment or not less than Two Hundred thousand pesos (P20,000.00) nor more than Five Hundred thousand pesos (P500,000.00)
- (b) The penalty of life imprisonment and a fine of not less than Five Hundred thousand pesos (500,000.00) nor more than One million (P1,000,000.00) shall be imposed if illegal recruitment constitutes economic sabotage as defined herein: Provided, however, That the maximum penalty shall be imposed if the person illegally recruited is less than eighteen (18) years of age or committed by a non-holder of authority.

SECTION 11. Prohibition on Officials and Employees – it shall be unlawful for any official or employee of the DOLE agency concerned, or other

government agencies involved in the implementation of this Act, or their relatives within the fourth civil degree of consanguinity or affinity, to engage, directly or indirectly in the business of recruiting overseas seafarers as defined in this Act. The penalties provided in the immediate preceding paragraph shall be imposed upon them.

SECTION 12. Venue – A criminal action arising from the illegal recruitment as defined herein shall be filed with the Regional Trial Court of the province or city where the offense was committed or where the offended party actually resides at the time of the commission of the offense: Provided, That the court where the criminal action is first shall acquire jurisdiction to the exclusion of the other courts: Provided, however, first the aforestated provisions shall also apply to those criminal actions that have already been filed in court at the time of effectivity of this Act.

SECTION 13. Money Claim – Notwithstanding any provision of law to the contrary, the Labor Arbiters of the National Labor Relations Commission (NLRC) shall have the original and exclusive jurisdiction to hear and decide, within ninety (90) calendar days after the filing of the complaint, the claims arising out of an employer-employee relationship or by virtue of any law or contract involving Filipino overseas seafarers including claims for actual, moral, exemplary and other forms of damages.

The liability of the principal/employer and the recruitment, manning or placement for any and all claims under this section shall be joint and several. This provision shall be incorporated in the contract for overseas employment and shall be a condition precedent for its approval. The performance bond to be filed by the recruitment, manning or placement agency, as provided by law, shall be answerable for all money claims or damages that may be awarded to the seafarers. If the recruitment, manning or placement agency is a juridical being, the corporate officers and directors and partners as the case may be, shall themselves be jointly and solidarity liable with the corporation or partnership for the aforesaid claims and damages.

Such liabilities shall continue during the entire period or duration of the employment contract and shall not be affected by any substitution, amendment or modification made locally or in foreign country of the said contract. Any compromise/amicable settlement or voluntary agreement on money claims inclusive of damages under this section shall be paid upon the approval of the settlement by the appropriate authority.

In case of termination of overseas employment without just, valid or authorized cause as defined by law or contract, the seafarer shall be entitled to the full reimbursement of his placement fee with interest at twelve percent (12%) per annum, plus his salaries for the unexpected term, whichever is less.

Noncompliance with the mandatory period for resolutions of cases provided under this section subject the responsible officials to any or all of the following penalties:

- (a) The salary of such official who fails to renders his decision or resolution within the prescribed period shall be, or caused to be, withheld until the said official complies therewith;
- (b) Suspension for not more than ninety (90) days; or
- (c) Dismissal from the service with qualification to hold any appointive public office for five (5) years.

Provided, however, that the penalties herein provided shall be without prejudice to any liability which any such official may have incurred under other existing laws or rules and regulations as a consequence of violating the provisions of this paragraph.

SECTION 14. Mandatory Periods for filing of Illegal Recruitment Cases – The Preliminary investigations cases under this Act shall be terminated within a period of thirty (30) calendar days from the date of their filing. Where the preliminary investigation is conducted by a prosecution officer and *prima facie* case is established, the corresponding information shall be filed in court within twenty-four (24) hours from the termination of the investigation. If the preliminary investigation is conducted by a judge and a *prima facie* case is found to exist, the corresponding information shall be filed by the proper prosecution officer within forty-eight (48) hours from the date of receipt of the records of the case.

SECTION 15. Perspective periods – Illegal recruitment cases under this Act shall prescribe five (5) years after the commission of the prohibited act: Provided, however, That illegal recruitment cases involving economic sabotage as defined herein shall prescribe in twenty (20) years after the commission of the prohibited act.

SECTION 16. Free Legal Assistance – Preferential Entitlement Under the Witness Protection Program – A mechanism for free legal assistance for victims of illegal recruitment shall be established within the DOLE including its regional offices. Such mechanism must include coordination and cooperation with the Department of Justice, the Integrated Bar of the Philippines, and other non-government organizations and volunteer groups.

The provisions of Republic Act No. 6981 to the contrary notwithstanding, any person who is a victim of illegal recruitment shall be entitled to the Witness Protection Program provided thereunder.

VI. CONDITIONS OF EMPLOYMENT AND SOCIAL WELFARE BENEFITS

The Employment Agreement

SECTION 17. Employment Agreement – The employer shall provide for a written employment agreement being drawn up with the seafarers concerning ship work. The agreement shall contain the terms and conditions stipulated in the standard employment contract drawn up by the DOLE agency concerned, in particular the seafarer's period of employment which includes the commencement and duration of the seafarer's contract; seafarer's right to free passage and his service records; provision on rest periods; calculation and payment of the seafarer's wages and remittances; accounting of wages; limitations on wages deductions; saved wages; seafarer's place of discharge and notice of termination ; and port of departure.

Health and Safety

SECTION 18. Prevention of Health Hazards – Work on board the vessel must be so organized and executed that the seafarer's life, health and welfare is well and appropriately looked after. When a seafarer is assigned to work, due regard shall be paid to his qualifications to undertake the work on a safe and sound basis. Provisions shall be made to ensure that the seafarer is informed of the hazards inherent in the work, and that he is given the proper guidance and adequate practice necessary to avoid such hazards.

SECTION 19. Sanitary Conditions – Measures should be undertaken to control hygiene, accommodation and cleanliness on board. The master shall ensure that the crew is provided a good and sufficient diet. He should also guarantee that the crew receives the necessary vaccination or inoculation as required by the circumstances or the laws of any country within the territorial jurisdiction of which the vessel may enter.

SECTION 20. Medical Examination and Medical Service – A seafarer engaged to perform services on board a ship shall produce a medical certificate to the effect that he is not suffering from any illness or physical or mental defect rendering him unfit for service or which cannot constitute a danger to other persons on board. Any member of the crew may also be required to submit to a medical examination if the master has reason to believe that such examination is necessary to monitor and maintain the health and environmental conditions on board the vessel. The ship owner shall shoulder the expenses for the medical examination and services referred to in this section.

SECTION 21. Protection from Sexual Harassment – It shall be the duty of the master and the employer to prevent or deter the commission of sexual harassment and to provide procedures for the resolution, settlement or prosecution of acts of sexual harassment. Sexual harassment is committed by an employer, employee, supervisor, agent of the employer, or any other person who, having authority, influence or moral ascendancy over another in a work environment, demands, requests or otherwise requires any sexual favor from

another, regardless of whether the demand, request or requirement is accepted by the subject of the said act.

SECTION 22. Facilities for Women Seafarers – The Employer shall insure the safety and health of women seafarers by providing adequate quarters and facilities. Medical services for women related conditions shall likewise be made available when necessary.

SECTION 23. Discrimination Against Pregnancy – It shall be unlawful for an employer to require as a condition for employment or continuation of employment that a women seafarer shall not get pregnant during term of employment. A pregnant seafarer shall be entitled to apply for leave of absence immediately upon discovery of pregnancy or assigned to other suitable work.

SECTION 24. Requirement for Ship Safety and Seaworthiness – Every ship owner shall develop, implement and maintain a safety management system (SMS) in all ships in accordance with international maritime law, standards and conventions.

The SMS shall include the following minimum functional requirements:

- (a) A safety and environment protection policy;
- (b) Instruction and procedures to ensure safe operation of ships and protection of the environment in compliance with relevant international and flag state legislation;
- (c) Defined levels of authority and lines of communication between and among shore and shipboard personnel;
- (d) Procedures to ensure that the ship is maintained in the conformity with relevant rules and regulations;
- (e) Procedures to identify and promote the reliability of equipment and technical systems to prevent sudden operational failure. Which may result in hazardous situations;
- (f) Measures for the regular testing of stand-by arrangements and equipments or technical systems that are not in continuous use;
- (g) Procedures for reporting accidents and violations or non-compliance of this Section; and
- (h) Procedures to prepare for and respond to emergency situations.

If more than half of the crew makes a complaint to the master regarding any violation of, deficiency or non-compliance with the foregoing paragraph and such violation, deficiency or non-compliance poses a danger to persons, property or the environment after taking into account the size and type of the ship and the length and nature of the voyage, or if the chief engineer or first mate makes a similar complaint; the master shall take steps to ensure that the ship will not sail unless and until such violation, deficiency or non-compliance is corrected to the extent that the danger has been removed, without prejudice to other applicable provisions of relevant international laws, standards and conventions.

SECTION 25. Short Manning – Where a vessel's complement falls short of the minimum manning requirements, for whatever reasons the wages saved thereby shall be distributed evenly among the members of the reduced complement, or where applicable, as maybe provided for in a collective bargaining agreement.

SECTION 26. War and Warlike Operation Allowance – If at the time of the signing of the contract, an area is declared a war or war-risk trading area and the seafarer binds himself in writing to sail into that area, the agreement shall be properly appended to the contract for verification and approval by the DOLE agency concerned. The Seafarer shall comply with the agreement or shall bear his cost of repatriation when he opts not to sail into war or war-risk trading area.

The seafarer when sailing within war-risk trading area shall be entitled to such premium pay as the recognized competent authority may determine.

Social Security and Disability Benefits

SECTION 27. Care of the Sick and Injured – In case of illness or injury during the term of employment, the master shall arrange for the seafarer to receive proper nursing care on board or ashore, including medical attention, medicines and maintenance.

The sick or injured seafarer shall continue to receive his wages during the time he is under contract.

If the work related injury or illness requires medical and/or dental treatment in a foreign port, the employer shall be liable for the full cost of such medical, serious dental, surgical and hospital treatment as well as board and lodging until the seafarer is declared fit to work or to be repatriated.

SECTION 28. Care for Repatriated Seafarer – If after repatriation, the seafarer still requires medical attention arising from said work related injury or illness, he shall be also provided at cost to the employer until such time he is declared fit or degree of his disability has been established by the employer-designated physician.

SECTION 29. Disability – In case of work related total or partial disability of the seafarer during the term of employment caused by either injury or illness the seafarer shall be compensated in accordance with the schedule of benefits prescribed by the DOLE agency concerned.

Computation of his benefits arising from an illness or disease shall be governed by the rates and the rules of compensation applicable at the time the illness or disease was contracted.

No compensation shall be payable with respect to any injury, incapability, disability or death of the seafarer resulting from his willful or criminal act: Provided however, That the employer can prove that such injury, incapability, disability, disability or death is directly attributable to the seafarer.

When requested, the employer shall furnish the seafarer a copy of all pertinent medical reports or records at no cost to the seafarer.

SECTION 30. Compensation and Benefits for Death – In case of work-related death of the seafarer during the terms of his employment, the employer shall pay his beneficiaries the corresponding death benefits. The benefits shall be separate and distinct from and shall be in addition to whatever benefits the seafarer is entitled to under Philippine laws and regulations, Social; Security System, Overseas Workers Welfare Administration and Pag-ibig, if applicable.

SECTION 31. Employer's Liability in case of Death – When the seafarer dies in result of work related injury or illness during the term of employment, the employers liability are as follows :

- (a) The employer shall pay the deceased's beneficiary all outstanding obligations due the seafarer under his contract.
- (b) The employer shall notify the next of kin and make arrangement for burial or for the repatriation of the coffin. The master shall also inform the nearest Philippine Embassy of Foreign service of the death. The remains and personal effects of the seafarer shall be transported to the Philippines at employer's expense except if the death occurred in a port where local government laws or regulations do not permit the transport of such remains. In case death occurs at sea, the disposition of the remains shall be handled or dealt with in accordance with the masters best judgment. In all cases, the employer/master shall communicate with the manning agency to advise for disposition of the seafarers remains; and
- (c) The employer shall pay the seafarers burial expenses.

SECTION 32. Payment of Benefits – The employer shall ensure expeditious arrangements for the payment of death or personal injury benefits provided in this title. The employer shall likewise arrange for adequate insurance coverage.

Prompt payment of the seafarers claim shall be ensured by the employer and all valid contractual claims shall be promptly paid in full. The employer and all its insurers should not persuade seafarers to accept payments less than the amount of benefits they are entitled to. The seafarer or his family shall not be precluded from demanding for the full amount he is entitled to despite the execution of a waiver or quit.

VII. DISCIPLINARY AND DISPUTE SETTLEMENT PROCEDURE

SECTION 33. Duties of the Employer/Master –

- (a) To faithfully comply with the stipulated terms and conditions of the employment contract, particularly the prompt payment of wages, remittance of allotment and the expeditious settlement of valid claims of the seafarer; and
- (b) to make operational on board the vessel the grievance machinery provided in this contract and ensure its free access at all times by the seafarer.

SECTION 34. Duties of the Seafarer –

- (a) To faithfully comply with and observe the terms and conditions of his contract, violations of which shall be subject to disciplinary action;
- (b) To treat and cargo with proper care and carry out his duties as a whole with due responsibility;
- (c) To comply with company rules, regulations, and policies consistent with the rules and regulations issued by the DOLE;
- (d) To conduct himself in an orderly and respectful manner towards passengers and shippers stevedores, port authorities and other persons official business with the ship. Each shall treat his her colleagues on board with due consideration; and
- (e) To observe the grievance procedure outlined in this act.

SECTION 35. Disciplinary Procedures - The master shall furnish erring seafarers with a written notice containing the grounds for the charges. The date, time and place for a formal investigation of the charges against the seafarer concerned shall likewise be indicated in said notice.

The Master or his authorized representative shall conduct the investigation or hearing giving the seafarer the opportunity to explain or defend himself against the charges. An entry on the investigation shall be made in the ship's logbook. If after the investigation or hearing, the Master is convinced that imposition of a penalty is justified, the Master shall issue a written notice of penalty and the reasons therefore to the seafarer, with copies furnished to the manning agency which deployed said seafarer.

The aggrieved seafarer may appeal in writing within a period of five (5) days based from the date the master rendered decision to a grievance resolution committee composed of one (1) representative from the rating to be chosen by the concerned seafarer, one (1) representative from the officers level to be chosen by the Master, and one (1) neutral party to be agreed on by the concerned seafarer and shipmaster.

The grievance resolution committee shall review the appeal within a period of no more than fifteen (15) based from the date of appeal. Execution of judgment is deemed suspended upon filing of the appeal.

SECTION 36. Grievance Machinery –

(a) If the seafarer considers himself aggrieved, he shall make his complaint in accordance with the following procedures:

1. The seafarer shall first approach the head of the Department in which he is assigned to explain his grievance.
2. The seafarer shall make his grievance in writing and in an orderly manner and should choose a time when his complaint or grievance can be properly heard.
3. The department head shall seek to resolve the complaint or grievance and, where solution is not possible to his level, refer the complaint or grievance to the master who shall handle the case personally.
4. If the seafarer is not satisfied with the decision of the Master, he may appeal following the Procedure on Disciplinary, and Dispute Settlement under Sec. 35. Par. 3 – Disciplinary Procedures.
5. The grievance resolution committee shall seek to address and resolve the grievance within the period of fifteen (15) based upon receipt of written appeal.
6. If no satisfactory result is achieved, the seafarer concerned may appeal to the management of the company or with The Philippine Labor Attaché or consular officer overseas or to be paid within four (4) months from the approval of the settlement by the appropriate authority.

In case of termination of overseas employment without just, valid or authorized cause as defined by law or contract, the seafarer shall be entitled to his or her salary for the unexpired portion of his employment contract.

7. If after the grievance procedure the master finds that the seafarer violated the terms of his contract or has committed breach of discipline, the Master shall discipline the seafarer or, if warranted, terminate his employment.
8. The seafarer may also seek the assistance of the highest-ranking Filipino seafarer on board.

b) When availed of by the seafarer, the grievance procedure and all actions or decisions agreed upon shall be properly documented for the protection and interest of both parties.

Such finding as may be to activate and implement the above grievance machinery shall be provided by the DOLE in the GAA the subsequent year of this laws enactment.

SECTION 37. Dispute settlement – All disputes involving seafarers are subject to the grievance machinery procedure stated in this Act and prior

recourse thereto is a pre-condition to actions that may be brought by the seafarers or the company before the NLRC and the concerned DOLE agency over any disciplinary action or case, involving or arising out violations of recruitment laws, rules and regulations involving employers, principals, contracting partners and Filipino seafarers; or to the exclusive and original jurisdiction of the voluntary arbitrators or panel of arbitrators appointed from the accredited voluntary arbitrators of the National Coalition and Mediation Board (NCMB) of the DOLE, or as may be prescribed by the collective bargaining agreement, if any; or to the courts.

No other action, case, dispute or controversy involving terms and conditions of employment of seafarers and matters arising from employer-employee relations, shall be filed or instituted directly in court or any government office or agency for arbitration or adjudication, unless a certification is presented to the effect that the grievance has been the subject of the grievance machinery procedure provided in this Act for possible mediation or conciliation and that no conciliation or settlement has been reached, or unless the settlement has been repudiated by the parties thereto.

Any award or grant in the disposition made by said agencies in accordance with this Act shall be deemed as satisfaction of all monetary claims of the complainant seafarer including those arising from quasi-delict.

SECTION 38. Voluntary Arbitration – Pursuant to the constitutional mandate on the preferential use of voluntary modes of dispute settlement, the DOLE agency concerned shall adopt procedural guidelines in the conduct of voluntary arbitration proceedings in voluntary arbitration cases involving the maritime sector, and promote the use of voluntary arbitration among the seafarers and the various sectors of the maritime industry.

SECTION 39. Liability for Claims – The liability of the principal/employer and the manning agency for any claims made by an overseas seafarer under this Title shall be joint and several.

SECTION 40. Prescription – Recognizing the peculiar nature of overseas shipboard employment, all monetary claims arising from the seafarer's contract shall be made within three (3) years from the date of the seafarer's return to the point of hire.

VIII. POST EMPLOYMENT AND REPATRIATION

SECTION 41. Termination of Employment – The employment of the seafarer shall cease when the seafarer completes his period of contractual service aboard the vessel, signs-off from the vessel and arrives at the point of hire.

The employment of the seafarers is also terminated when the seafarer arrives the point of hire for any of the following reasons:

- (a) When the seafarers signs-off and disembarks for medical reasons;
- (b) When the seafarers signs-off due to shipwreck, ship's sale, lay-up of vessel, discontinuance of voyage or change of vessel;
- (c) When the seafarer voluntarily resigns and signs-off prior to expiration of contract;
- (d) When the seafarer is discharged for just cause

A seafarer certificate shall confirm the pregnancy if requested by the employer.

SECTION 42. Termination by the Seafarer –

- (a) A seafarer may terminate the employer-employee relationship based on the following just causes:

- 1) The ship is not in a seaworthy condition;
- 2) The principal changes;
- 3) The vessel is sold;
- 4) The vessel is shipwrecked;
- 5) The seafarer has been ill-treated on board and the master has failed to protect him when requested to do so;
- 6) Where the voyage is discontinued or substantially altered;
- 7) After the seafarer starts on board it appears that the ship risks being seized by an belligerent power or exposed to war damage, or that such risk has increased considerably;
- 8) After the seafarer starts onboard it appears that a violent epidemic disease has broken out in the port for which the ship is bound.

- (b) In cases mentioned in paragraph (a) subparagraph 6-8 hereof, the seafarer may take his departure with immediate effect if the voyage has not commenced, or otherwise at the ship's first port call after has become aware of the situation.

SECTION 43. Transfer – A seafarer may not be transferred at any port to any vessel owned or operated, manned or managed by the same employer without the seafarer's consent. Upon such transfer, the position of the seafarer and the rate of his wages and terms of services shall no in no way be inferior and the total period of employment shall not exceed that originally agreed upon. Any form of transfer shall be documented and reported by the manning agencies of the DOLE agency concerned.

Repatriation

SECTION 44. Repatriation – The repatriation of the seafarer and the transport of his personal effects shall be primary responsibility of the manning agency which recruited or deployed the seafarer. All costs attendant to

repatriation shall be borne by or charged to the manning agency concerned and/or its principal. The expenses of repatriation shall include the transportation charges, the accommodation and the food of the seafarer during the journey. They shall also include the maintenance of the seafarer up to the time fixed for his departure. However, in case where the termination of employment is due solely to the fault of the worker, the principal/employer or manning agency shall not in any manner be responsible for the repatriation of the former and/or his personal effects.

SECTION 45. Emergency Repatriation – The DOLE in coordination with appropriate government and international agencies, particularly DFA, and OWWA, shall undertake the repatriation of seafarer in cases of war, epidemic, disaster or calamities, natural or man-made, and other similar events without prejudice to reimbursement by the responsible principal or manning agency. However, in cases where the principal or manning agency cannot be identified, all costs attendant to repatriation of the seaman shall be borne by the emergency repatriation.

SECTION 46. Repatriation of Underage Seafarers – Upon discovery or being informed of the presence of a seafarer whose actual age falls below the minimum age requirement prescribed by Philippine law, the concerned Philippine foreign service officer shall without delay repatriate said seafarer and advise the Department of Foreign Affairs and the Department of Labor and Employment as soon as possible of such discovery and other relevant information.

For the purpose of this Act, underage seafarers would mean those who are below eighteen (18) years old.

SECTION 47. Post-Employment Benefits – In addition to whatever benefits they are entitled to under the Social Security System and the Overseas Workers Welfare Administration, if applicable, retiring seafarers covered by collective bargaining agreements shall be entitled to such post-employment benefits as may be provided respective agreements. Unorganized seafarers on the other hand may, upon notice to their manning agencies and principals, authorize the deduction of a specified percentage of their monthly wages to from part of the seafarers self-contributed post-employment fund. The amount to be deducted shall be placed in an account in the name of the contributing seafarer.

IX. REINTEGRATION/RE-PLACEMENT SERVICES

SECTION 48. Retraining and Re-integration – Returning or employed seafarers may avail of the livelihood development/retaining programs and replacement services offered by the concerned agencies, including OWWA, TESDA, Technical and Livelihood Resource Center, and the Cooperative Development Authority.

These agencies shall formulate skills upgrading or retraining curricula to meet the needs of returning or unemployed seafarers. The participation of the maritime industry, in particular the local port and shipping industry, and maritime educational institutions, shall likewise be solicited by the DOLE devising the appropriate retraining and local job placement programs for unemployed seafarers.

SECTION 49. Scholarship Program – Qualified overseas seafarers or their immediate descendants, who intend to pursue science and technology related courses, may through the concerned DOLE agency apply for scholarships under the Congressional Migrant Workers Scholarship Program which shall benefit deserving overseas seafarers and/or their immediate descendants below twenty-one (21) years of age, who intend to pursue courses or training primarily in the fields of science and technology.

The DOLE, in coordination with the CHED, shall establish a similar program for domestic seafarers within a period of three (3) years from the enactment of this Act.

X. FINAL PROVISIONS

SECTION 50. Enforcement – The DOLE and its designated agencies shall be charged with carrying out the provisions of this Act. Together they shall within ninety (90) days after the effectivity of this Act formulate its rules and regulations.

SECTION 51. Separability Clause – If any provisions of this Act be declared unconstitutional, the remaining provisions shall continue to be in force.

SECTION 52. Repealing Clause – Any Law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule or regulation contrary to, or inconsistent with, the provisions of this Act, is hereby repealed, modified or amended accordingly.

SECTION 53. Effectivity Clause – Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule of regulation contrary to, or inconsistent with, the provisions of this Act, is hereby repealed, modified or amended accordingly.

Approved,