

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

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First Regular Session

H. B. No. 566

Introduced by HONORABLE JUAN EDGARDO "SONNY" M. ANGARA

EXPLANATORY NOTE

Filipino seafarers account for 20 percent, or approximately 240,000 seamen, of the world's total merchant fleet of over 1.2 million. Figures from the Philippine Overseas Employment Administration (POEA) show that the deployment of Filipino seafarers reached 330,424 in 2009 which according to the report of the Bangko Sentral ng Pilipinas accounts for a total remittance of about 3.4 Billion US Dollars, or 20% of the total foreign remittances in the same year.

The current general perception is that existing labor laws and social legislation, particularly Republic Act No. 8042, otherwise known as the Overseas Filipinos and Migrant Workers' Act of 1995, are insufficient to address the fundamental needs of the Filipino seafarers. The sector of Filipino seafarers particularly observes that special laws must be crafted explicitly for the benefit of the Filipino seafarers as their circumstances are unique from either the mainstream of so-called OFWs or of the rest of the labor force. Apparently, RA 8042 has no specific provision directed at seafarers except in the stipulation of general principles. Seafaring as an employment classification is not even included in the definition of said law. While RA 8042 caters mostly to the land-based workers, the rules in deploying sea-based OFWs, as they are substantially different from the rules governing the deployment of land-based OFWs, must acknowledge the internationally recognized instruments, such as those of the ILO and International Maritime Organization (IMO) specially those that concern illegal recruitment and disciplinary measures for manning agencies. These are not given emphasis in Republic Act 8042.

In this bill, therefore, a comprehensive protection measure for the Filipino seafarers is proposed. Several references were considered in the crafting of this bill. Foremost of these are about twenty (20) legislative measures on seafaring which were filed during the past Congresses. Provisions deemed beneficial to Filipino seafarers were lifted and incorporated from the draft. Some of the aforesaid bills are entirely new proposals while others are simply

amendments of existing laws, rules and regulations affecting the interest and rights of the seafaring sector.

Several provisions from existing laws are also included in the proposed bill for emphasis. These laws include the Philippine Labor Code, Republic Act No. 8042 (Overseas Filipinos and Migrant Workers' Act of 1995), the POEA Standard Employment Contract. International Convention on the STCW '78, as amended, 36 ILO Conventions relevant to the concerns and well-being of seafarers,⁴ of which were ratified by the Philippines, and the different laws creating and re-structuring the different government agencies relevant to the interest and welfare of Filipino seafarers. The Revised Rules of Court was also considered in relation to the jurisdiction and venue of illegal recruitment cases and money claims. Reference were also made to laws creating the government agencies enumerated in herein this Magna Carta for the purpose of enhancing their mandate and functions to provide better service and protection to seafarers.



JUAN EDGARDO "SONNY" M. ANGARA
Representative
Lone District, Province of Aurora

Introduced by Honorable JUAN EDGARDO "SONNY" M. ANGARA

AN ACT
INSTITUTING THE MAGNA CARTA OF FILIPINO SEAFARERS

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

CHAPTER I

GENERAL PROVISIONS

SECTION. 1. Short Title. This Act shall be known as the "*Magna Carta of Filipino Seafarers.*"

SEC. 2. Declaration of Policies. [a] It is hereby declared the policy of the State:

- a) To recognize the rights, contributions and unique role of Filipino seafarers, as well as their vulnerabilities, and afford them full protection before, during and after their employment;
- b) **TO ADOPT ALL LAWS, RULES AND REGULATIONS FOR THE BENEFIT AND SAFETY OF SEAFARERS THAT HAVE BEEN AGREED UPON IN INTERNATIONAL CONVENTIONS ESPECIALLY, BUT NOT LIMITED TO, THE CONSOLIDATED MARITIME LABOR CONVENTION WHICH WAS APPROVED BY THE INTERNATIONAL LABOR ORGANIZATION IN 2006, AS PART OF THE LAW OF THE LAND BY EXERTING ALL EFFORTS TO ENSURE THE RATIFICATION OF THE PERTINENT CONVENTIONS OR PROVISIONS THEREOF AND BY ENACTING APPROPRIATE LAWS;**
- c) To maintain and progressively develop a pool of competent and world class domestic and international seafarers of all grades and ratings through a system of education and training and of accreditation and licensing; AND
- d) To establish mechanisms for the enhancement of administrative, adjudicative, social as well as welfare services for them and their families.

Toward these ends, the State shall endeavor to improve the Filipino seafarers' working conditions, terms of employment, career prospects and provide them opportunities to harness their potentials to the fullest. The State shall further work to uplift the socio-economic well-being of their respective families.

SEC. 3. Applicability. All rights and benefits granted under this Act shall, except as may otherwise be provided herein, apply to the Filipino seafarers as defined herein. **ALL RIGHTS, PRIVILEGES AND BENEFITS PREVIOUSLY ENJOYED BY FILIPINO SEAFARERS BEFORE THE EFFECTIVITY OF THIS ACT, ESPECIALLY BUT NOT LIMITED TO, THOSE SET FORTH IN REPUBLIC ACT NO. 8042, SHALL CONTINUE TO BE RECOGNIZED AND SHALL NOT BE DIMINISHED AFTER THE EFFECTIVITY OF THIS ACT.**

SEC. 4. Definitions. For purposes of this Act, the following terms shall have the following definitions:

- a) **["Authority" refers to the document issued by the DOLE authorizing any person or entity to engage in the recruitment and placement of seafarers or OFWs;]**
- b) **"CDA" refers to the Cooperative Development Authority[.] ;**
- c) **"Commission on Higher Education (CHED)" refers to the government agency created pursuant to Republic Act No. 7722;**
- d) **"Department of Education (Dep-Ed)" refers to the government agency created pursuant to Executive Order No. 117 (30 January 1987), as amended by Republic Acts 7722, 7796, and 9155 (11 August 2001);**
- e) **"Department of Foreign Affairs (DFA)" refers to the government agency created pursuant to Republic Act No. 7157;**
- f) **"Department of Labor and Employment (DOLE)" refers to the government agency created pursuant to Executive Order No. 292;**
- g) **"DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS (DOTC)" REFERS TO THE GOVERNMENT AGENCY CREATED PURSUANT TO EXECUTIVE ORDER NOS. 125 AND 125-A SERIES OF 1987;**
- h) **"Departure" refers to the actual departure from the point of hire of a Filipino seafarer through air, sea or land travel transport to join his vessel in a Philippine or foreign port;**
- i) **"ILO" refers to the International Labour Organization;**
- j) **"IMO" refers to the International Maritime Organization;**
- k) **"Informal Blacklisting" refers to the unlawful practice of MANNING OR CREWING AGENCIES OR recruitment and placement services [agencies], or companies to directly or indirectly prevent or deter seafarers, without valid cause from gaining productive employment, whether the job applicant is for employment or reemployment;**
- l) **"License" refers to the document issued by the DOLE authorizing any person or entity to operate a manning agency;**
- m) **"Manning or Crewing Agencies" OR "RECRUITMENT AND PLACEMENT SERVICES" shall refer to any person, company, institution, agency or other organization in the public or private sector, which is engaged in recruiting seafarers on behalf of the employers or placing seafarers with employers;**
- n) **"Maritime Industry" refers to all enterprises engaged in the business of managing and / or operating shipping lines, management of ports, stevedoring arrastre, customs brokerage and cargo surveys; of ship brokering / chartering, designing, constructing, manufacturing, acquiring, operating, supplying, repairing and / or maintaining vessels, or component parts thereof; of shipyards and dry-docks; of providing maritime services such as ship supplies, ship manning and training, maritime consultancy, ship repairs, machine shops, shipping agencies, freight forwarding and similar enterprises;**
- o) **"Maritime Industry Authority (MARINA)" refers to the government agency created pursuant to Presidential Decree 474;**

- p) **"Maritime Training Council"** refers to the government agency created pursuant to Letter of Instruction 1404;
- q) **"Master"** refers to a seafarer who has the command and is in-charge of the vessel being the representative the vessel's owner;
- r) **"MLC 2006"** REFERS TO THE CONSOLIDATED MARITIME LABOR CONVENTION APPROVED BY THE ILO IN 2006;
- s) **"NATIONAL MARITIME POLYTECHNIC"** REFERS TO THE ONLY GOVERNMENT-OWNED MARITIME TRAINING CENTER IN THE COUNTRY CREATED PURSUANT TO P.D. 1369 AND MANDATED TO CONDUCT TRAINING TO FILIPINO SEAFARERS AND MARITIME RESEARCH;
- t) **"NSO"** refers to the National Statistics Office;
- u) **"Officers"** refers to seafarers other than the Master who is designated by national law or regulation as an officer or is serving in that capacity, such as the 3rd mate, 2nd mate, chief mate, **[master mariner in the ship's deck,]** the marine engineer officers in the engine, and other special officers needed in the vessel;
- v) **"Overseas Workers Welfare Administration (OWWA)"** refers to the government agency created pursuant to Executive Order No. 126;
- w) **"Philippine Coast Guard (PCG)"** refers to the government agency created pursuant to Republic Act No. 5173;
- x) **"Philippine Overseas Employment [Agency] ADMINISTRATION (POEA)"** refers to the government agency created pursuant to Executive Order No. 797, as amended by Executive Order No. 247;
- y) **"Philippine Port"** refers to any POINT OF HIRE WHICH MAY EITHER BE A Philippine airport or seaport;
- z) **"PHILIPPINE PORTS AUTHORITY (PPA)"** REFERS TO THE GOVERNMENT CORPORATION CREATED PURSUANT TO PRESIDENTIAL DECREE NO. 505 DATED JULY 11, 1974 AS AMENDED BY, AMONG OTHERS, EXECUTIVE ORDER NO. 159 SERIES OF 1987;
- aa) **"PRC"** refers to the Professional Regulation Commission;
- bb) **"Philippine Seafarer One Stop Processing Center (PSOC)"** refers to the facility center which houses all relevant offices / agencies involved in providing services to seafarers in one roof, created under Administrative Order No. 56 on 24 January 2003;
- cc) **"Philippine Shipping Companies"** refers to entities registered and licensed under the laws of the Philippines to engage in the business of overseas and/[of] **OR** domestic water transportation;
- dd) **"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;
- ee) **"Principal"** or **"Employer"** refers to any person, partnership or corporation registered and duly authorized **TO EMPLOY FILIPINO SEAFARERS IN ITS OVERSEAS SHIPPING ACTIVITIES** [to engage in overseas shipping activities engaging Filipino seafarers];
- ff) **"Rating"** refers to any member of the crew other than the Master or the Officer, who is considered as ordinary seaman, able seaman, boatswain or bosun in the

deck; the wiper, motorman, fitters and such other special ratings needed on board the vessel;

- gg) **"Recruitment and Placement"** refers to any act of canvassing, enlisting, contracting, transporting, utilizing, hiring or procuring workers, and include referrals, contact services, promising or advertising employment, locally or abroad, whether for profit or not [:] ; **[Provided, That any person or entity, which in any manner, offers or promises employment for a fee to two (2) or more persons shall be deemed engaged in recruitment and placement.]**
- hh) **"Seafarer or Filipino Seafarer"** refers to any **FILIPINO [person]** who fulfills the conditions to be employed or engaged **[as part of the crew or complement of the] OR TO WORK ON BOARD A ship OR VESSEL AS DEFINED HEREIN [navigating the domestic and international waters] OTHER** than a government ship used for military or non-commercial purposes. **THE TWO (2) KINDS OF SEAFARER OR FILIPINO SEAFARER ARE:**
 - ii) **"Domestic Seafarer"** refers to a **FILIPINO** seafarer on board **A PHILIPPINE-REGISTERED** ship or vessel **NOT ENGAGED IN INTERNATIONAL VOYAGES [plying inter-island water or waters within Philippine territory];**
 - jj) **"[Overseas Filipino Seafarer or] Overseas Seafarer"** refers to **[any] FILIPINO SEAFARERS [person who fulfills the conditions to be] employed or engaged OR WORKING IN ANY CAPACITY ON BOARD A SHIP ENGAGED IN INTERNATIONAL VOYAGES [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 CRUISE SHIP PERSONNEL AND seafarers serving on foreign maritime mobile offshore units who perform functions similar to those constituting a crew or fisherman];**
- kk) **"Shipowner"** refers to the **COMPANY OR** owner of the ship or any other organization or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for operation and management of the ship from the ship owner, and who, on assuming such responsibilities, has agreed to take over all the attendant duties and responsibilities of a ship owner;
- ll) **"STCW 1978 [95]"** refers to the International Convention on Standards of Training, Certification and Watch-keeping for Seafarers, 1978 AS AMENDED IN [of] 1995;
- mm) **"Vessel OR SHIP"** includes any ship or boat of any nature whatsoever, ordinarily engaged in maritime navigation, **INCLUDING MOBILE OFFSHORE UNITS CAPABLE OF NAVIGATING UNDER ITS OWN POWER;**
- nn) **"Technical Education and Skills Development Authority"** refers to the government agency created pursuant to Republic Act No. 7796;
- oo) **"TLRC"** refers to the Technical and Livelihood Resource Center; and
- pp) **"WHO" REFERS TO THE WORLD HEALTH ORGANIZATION.**

CHAPTER II

FILIPINO SEAFARER'S RIGHTS

SEC. 5. RIGHT [Access] to Educational Advancement and Training AT REASONABLE AND AFFORDABLE COSTS. The State shall ensure Filipino seafarers, whether plying the domestic or international waters, access to educational advancement and training at reasonable and affordable costs.

Toward this end, the State shall:

- a) Regulate the operation of all educational , **TRAINING** and review institutions offering courses related to seafaring; **AND**
- b) Pursue grant programs such as scholarships, subsidies, loan assistance and other measures that will harness the skills of Filipino seafarers toward greater competitiveness to new demands in the industry. [**; and**]
- c) [**Ensure that requirements on training and upgrading as mandated by manning and crewing agencies for employment, reemployment or promotion purposes shall take into account the seafarers' right to spend quality time with his family.**]

SEC. 6. RIGHT [Access] to Relevant Information. The State shall ensure that manning or crewing agencies shall provide Filipino seafarers with adequate and relevant information to make them understand their rights, benefits, obligations, conditions and realities attending to their profession, and laws and regulations of countries covered by their sojourn.

Toward this end, manning or crewing agencies, and other organizations responsible for the recruitment and employment of Filipino seafarers, whether plying the domestic or international waters, shall be mandated to make every contract of employment, the computation and manner by which salaries are remitted to their allottees, and the specific privileges and benefits available in the contract of employment accessible to their recruits or clientele.

ALL SEAFARERS SHALL HAVE ACCESS TO AN EFFICIENT, ADEQUATE AND ACCOUNTABLE SYSTEM FOR FINDING EMPLOYMENT ON BOARD SHIP WITHOUT CHARGE TO THE SEAFARER.

SEC. 7. Right to Humane Conditions of Work and Right to Just Compensation. The State shall guarantee Filipino seafarers the right to humane conditions of work, **THE RIGHT TO A SAFE AND SECURE WORKPLACE THAT COMPLIES WITH SAFETY STANDARDS, THE RIGHT TO DECENT WORKING AND LIVING CONDITIONS ON BOARD SHIP, THE RIGHT TO HEALTH PROTECTION, MEDICAL CARE, WELFARE MEASURES AND OTHER FORMS OF SOCIAL PROTECTION, THE RIGHT TO FAIR TERMS OF EMPLOYMENT** and the right to standard salary [**compensatory**] **COMMENSURATE** to their rank, hours of work and other relevant basis for wage computation, minimum number of working hours, rest day, vacation pay, and "end-of-contract " pay in accordance with the agreement of the parties concerned and with existing domestic and international law.

SEC. 8. Rights to Self-organization, to engage in Collective Bargaining and to participate in democratic exercises. The State shall ensure Filipino seafarers of their right to self-organization, to collective bargaining and to participate in the deliberation of issues and in the formulation of policies that affect them, including the guarantee of representation in governing boards or appointment in government instrumentalities, to include, but not limited to the CHED, TESDA, PRC, POEA, OWWA, MARINA.

SEC. 9. Right to Legal Representation. Filipino seafarers who are victims of illegal recruitment, illegal dismissal or suspension and other forms of violation of contracts shall have the right to free legal assistance and protection at government expense. Courts, administrative agencies, and other tribunals should ensure a speedy and impartial disposition of their cases.

Every seafarer accused of committing any offense in violation of any provision of his or her contract has the right to due process, an impartial tribunal and administrative body, and an expeditious payment of damages and liability in cases where the judgment is favorable to the Filipino seafarer.

SEC. 10. *RIGHT TO REPATRIATION.* SEAFARERS HAVE A RIGHT TO BE REPATRIATED AT NO COST TO THEMSELVES IN THE CIRCUMSTANCES AND UNDER THE CONDITIONS SPECIFIED IN THE IMPLEMENTING RULES AND REGULATIONS OF THIS ACT.

SEC. 11. *RIGHT AGAINST DISCRIMINATION AND OTHER RIGHTS AND PRIVILEGES.* EQUAL REMUNERATION FOR WORK OF EQUAL VALUE SHALL APPLY TO ALL SEAFARERS EMPLOYED ON THE SAME SHIP WITHOUT DISCRIMINATION BASED UPON RACE, COLOR, SEX, RELIGION, POLITICAL OPINION, NATIONAL EXTRACTION OR SOCIAL ORIGIN. ALL OTHER RIGHTS AND PRIVILEGES OF SEAFARERS RECOGNIZED OR GRANTED UNDER THE MLC 2006, AND OTHER SUBSEQUENT CONVENTIONS WITH EVEN BETTER RIGHTS AND PRIVILEGES FOR SEAFARERS WHICH MAY BE APPROVED BY THE INTERNATIONAL LABOR ORGANIZATION, THE UNITED NATIONS OR OTHER INTERNATIONAL BODIES IN THE FUTURE, SHALL BE ENJOYED BY FILIPINO SEAFARERS.

SEC. 12. *RIGHT TO SPEEDY PROCESSING OF ALL DOCUMENTS AND CLAIMS.* THE PROCESSING OF ALL DOCUMENTS NEEDED BY, AND CLAIMS OF, FILIPINO SEAFARERS SHALL BE SPEEDY AND NOT SUBJECT TO ANY UNREASONABLE DELAY.

SEC. 13. *RIGHT TO CONSULTATION ON ALL MATTERS AFFECTING SEAFARERS.* SEAFARERS AND ALL SEAFARERS' ORGANIZATIONS SHALL BE CONSULTED BY THE GOVERNMENT BEFORE ADOPTING ANY POLICY, LAW, EXECUTIVE ISSUANCE, RULE OR REGULATION THAT MAY DIRECTLY OR INDIRECTLY AFFECT THEM AND/OR THEIR FAMILIES AND BENEFICIARIES.

SEC. 14. *RIGHT AGAINST BEING CHARGED AND/OR TREATED AS A CRIMINAL SUSPECT IN ACCIDENT AND/OR POLLUTION CASES.* NO CRIMINAL CASE SHALL BE FILED VERSUS A SEAFARER AND NO SEAFARER SHALL BE TREATED AS A CRIMINAL SUSPECT IN ACCIDENT AND/OR POLLUTION CASES UNLESS THERE IS A PRIMA FACIE EVIDENCE THAT THE SAID ACCIDENT AND/OR THE CAUSE OF THE POLLUTION IS DIRECTLY THE RESULT OF THE DELIBERATE CRIMINAL DEED OF THE SEAFARER CONCERNED.

SEC. 15. *RIGHT TO COMMUNICATION.* THE RIGHT OF THE SEAFARER TO COMMUNICATE SHALL NOT BE VIOLATED IN ANY WAY SUBJECT TO REASONABLE RESTRICTIONS THAT SHALL BE STATED IN HIS EMPLOYMENT CONTRACT WHICH SHALL BE CLEARLY EXPLAINED TO HIM BEFORE HE SIGNS THE SAID CONTRACT.

SEC. 16. *RIGHT OF SEAFARERS, SEAFARER-APPLICANTS, SEAFARER-TRAINEES, CADETS, INTERNS AND SIMILAR PERSONS AGAINST EXPLOITATION, ANY KIND OF PHYSICAL HARM, HAZING, SEXUAL HARRASSMENT, VIRTUAL PEONAGE, SLAVERY, DRUDGERY, INVOLUNTARY, UNPAID AND/OR UNDERPAID SERVITUDE.* THE RIGHT OF SEAFARERS, SEAFARER-APPLICANTS, SEAFARER-TRAINEES, CADETS, INTERNS AND SIMILAR PERSONS AGAINST EXPLOITATION, ANY KIND OF PHYSICAL HARM, HAZING, SEXUAL HARRASSMENT, VIRTUAL PEONAGE, SLAVERY, DRUDGERY, INVOLUNTARY, UNPAID AND/OR UNDERPAID SERVITUDE SHALL BE GUARANTEED BY THE STATE. TOWARDS THIS END, THE PRACTICE OF SUBJECTING THE SAID PERSONS TO INVOLUNTARY, UNPAID AND/OR UNDERPAID WORK OR SERVITUDE AND/OR VIRTUAL PEONAGE, SLAVERY AND DRUDGERY SHALL HENCEFORTH BE STOPPED AND ANY WORK OR SERVITUDE OF THE SAID PERSONS SHALL HENCEFORTH BE WITH FAIR AND REASONABLE PAY/REMUNERATION AND WITH PROPER OBSERVATION/IMPLEMENTATION OF EXISTING LABOR LAWS, RULES AND REGULATIONS. ANY KIND OF EXPLOITATION, PHYSICAL HARM, HAZING AND/OR SEXUAL HARRASSMENT AGAINST THE SAID PERSONS SHALL LIKEWISE BE STRICTLY PROHIBITED. (See Sec. 73 hereof)

SEC. 17. *OTHER RIGHTS.* ALL OTHER RIGHTS ENJOYED BY OVERSEAS FILIPINO WORKERS AND FILIPINO WORKERS EMPLOYED IN THE PHILIPPINES AND OTHER RIGHTS ENJOYED BY ALL WORKERS AS RECOGNIZED BY THE INTERNATIONAL LABOR ORGANIZATION, UNITED NATIONS AND OTHER

INTERNATIONAL BODIES THAT ARE APPLICABLE TO FILIPINO SEAFARERS SHALL LIKEWISE BE ENJOYED BY ALL FILIPINO SEAFARERS.

CHAPTER III

PHILIPPINE SEAFARER ONE STOP PROCESSING CENTER

SEC. 18. *Philippine Seafarer One Stop Processing Center (PSOC).* The PSOC, as established under Administrative Order No. 56, has been tasked to operationalize and make available to the public, an integrated document processing center for the seafarers and the general public to conduct official transactions.

PSOC shall have the services of the following government offices:

- a) Overseas Workers Welfare Administration (OWWA);
- b) Commission on Higher Education (CHED);
- c) Professional Regulation Commission (PRC);
- d) Technical Education and Skills Development Authority (TESDA);
- e) Maritime Industry Authority (MARINA);
- f) National Telecommunications Office (NTC);
- g) Maritime Training Council (MTC);
- h) Department of Foreign Affairs (DFA);
- i) National Bureau of Investigation (NBI);
- j) Social Security System (SSS);
- k) Pag-IBIG Fund;
- l) Philippine Coast Guard (PCG);
- m) **PHILIPPINE OVERSEAS EMPLOYMENT ADMINISTRATION;**
- n) National Statistics Office (NSO); and
- o) Such other government offices that the Secretary of DOLE may deem necessary.

SEC. 19. *Rationalizing Government Systems and Procedures.* The government offices enumerated under Section [9] 18 hereof shall, within three (3) months from the effectivity of this Act, and in consultation with seafarers' organizations, recruitment agency associations, and non-government organizations concerned, rationalize and streamline policies, rules, and procedures governing the documentation, licensing, certification, recruitment, hiring and deployment of seafarers and the OFWs, in general.

Said offices, through the PSOC, shall enforce the streamlining of policies and procedures involved in overseas employment with the view of cutting the time required for documentary processing, simplifying licensing and certification procedures, and facilitating the extension of welfare and support services to their respective clients.

These streamlining efforts shall focus on, among others:

- a) Simplification of systems and procedures and reduction of documentary requirements;
- b) Implementation of the full disclosure policy;
- c) Formulation and implementation of a system of registration of seafarers and other OFWs, the registration, accreditation, and licensing of private manning or crewing agencies, and all other related regulatory function;
- d) Elimination of unnecessary and duplicative requirements that go beyond the requirements as defined in the STCW '95, as amended;
- e) Formulation of a regulated employment standard setting by prescribing minimum provisions of the employment contract, in conformity with labor standard under Philippine laws and regulations;
- f) **[Regulation placement fee policy;]**

- g) Formulation of rules that ensure speedy disposition of illegal recruitment cases; **[and]**
- h) Development and implementation of an effective information program, in coordination with manning or crewing agencies for the purpose of informing the seafarers of their rights, obligations, benefits, and option attending to specific situations that they may face in the course of their employment[.] ; **AND**
- i) **FORMULATION OF RULES THAT SHALL FURTHER ENSURE THE IMPLEMENTATION OF THE LAW ON THE EXEMPTION FROM ANY TAX OF ALL THE REMITTANCES INTO THE COUNTRY OF SEAFARERS EMPLOYED OVERSEAS AND THE PROTECTION OF SAID SEAFARERS FROM VAGUE, UNNECESSARY AND/OR EXORBITANT REMITTANCE FEES AND CHARGES AND LIKEWISE RULES THAT SHALL ENSURE THAT THE RATE OF CURRENCY EXCHANGE, UNLESS OTHERWISE PROVIDED, SHALL, IN ACCORDANCE WITH LAWS OR REGULATIONS, BE AT THE PREVAILING MARKET RATE OR THE OFFICIAL PUBLISHED RATE AND NOT UNFAVORABLE TO THE SEAFARER.**

CHAPTER IV

MANDATORY REQUIREMENTS FOR FILIPINO SEAFARERS

SEC. 20. *Mandatory Minimum Requirements.* To be eligible for employment, a seafarer must:

- a) Be a Filipino Citizen;
- b) Be at least, eighteen (18) years old, except as may be determined by the Secretary of Labor and Employment **AND SUBJECT TO THE PROVISIONS OF THE LAST THREE PARAGRAPHS OF THIS SECTION;**
- c) Be fit for duty as certified by the government-accredited institution authorized to conduct physical and medical examination for overseas employment **WITHOUT VIOLATING THE BASIC RIGHT OF A SEAFARER OR SEAFARER-APPLICANT TO CHOOSE THE GOVERNMENT-ACCREDITED CLINIC THAT WILL PERFORM THE SAID PHYSICAL, MEDICAL, OPTICAL AND/OR DENTAL EXAMINATION, PROVIDED, THAT SEAFARERS WHO HAVE BEEN REFUSED A CERTIFICATE OR HAVE HAD A LIMITATION IMPOSED ON THEIR ABILITY TO WORK, IN PARTICULAR WITH RESPECT TO TIME, FIELD OF WORK OR TRADING AREA, SHALL BE GIVEN THE OPPORTUNITY TO HAVE A FURTHER EXAMINATION BY ANOTHER INDEPENDENT MEDICAL PRACTITIONER OR BY AN INDEPENDENT MEDICAL REFEREE DULY CERTIFIED AS SUCH BY THE SECRETARY OF LABOR AND EMPLOYMENT, AND PROVIDED FURTHER, 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 1978 AS AMENDED IN 1995, A MEDICAL CERTIFICATE SHALL BE VALID FOR A MAXIMUM PERIOD OF TWO (2) YEARS UNLESS THE SEAFARER IS UNDER THE AGE OF EIGHTEEN (18), IN WHICH CASE THE MAXIMUM PERIOD OF VALIDITY SHALL BE ONE (1) YEAR AND A CERTIFICATION OF COLOR VISION SHALL BE VALID FOR A MAXIMUM PERIOD OF SIX (6) YEARS, AND PROVIDED FINALLY, THAT A MEDICAL CERTIFICATE ISSUED IN ACCORDANCE WITH THE REQUIREMENTS OF STCW 1978 AS AMENDED IN 1995 SHALL BE ACCEPTED BY THE MANNING OR CREWING AGENCIES AND THAT THE GOVERNMENT-ACCREDITED CLINICS, MANNING OR CREWING AGENCIES, MEDICAL PRACTITIONERS, EXAMINERS, SHIPOWNERS, SEAFARERS' REPRESENTATIVES AND ALL OTHER PERSONS CONCERNED WITH THE CONDUCT OF MEDICAL FITNESS EXAMINATIONS OF SEAFARER**

CANDIDATES AND SERVING SEAFARERS SHOULD FOLLOW THE ILO/WHO GUIDELINES FOR CONDUCTING PRE-SEA AND PERIODIC MEDICAL FITNESS EXAMINATIONS FOR SEAFARERS, INCLUDING ANY SUBSEQUENT VERSIONS, AND ANY OTHER APPLICABLE INTERNATIONAL GUIDELINES PUBLISHED BY THE INTERNATIONAL LABOR ORGANIZATION, THE INTERNATIONAL MARITIME ORGANIZATION OR THE WORLD HEALTH ORGANIZATION;

- d) Meet the qualification and certification requirements prescribed by the DOLE [agency concerned] and the standard requirements under the STCW 1978, as amended, and other international [instruments] LABOR ORGANIZATION-prescribed relevant standards;
- e) BE Registered with and duly certified by the DOLE [agency concerned] as eligible for overseas employment if [serving on ocean going vessels] EMPLOYED OVERSEAS, and as eligible for local employment if serving on board domestic or inter-island vessels; and
- f) COMPLY WITH Other qualification requirements as may be prescribed by the DOLE in keeping with international demands.

PERSONS UNDER THE AGE OF EIGHTEEN (18) YEARS SHALL NOT BE EMPLOYED OR WORK ON VESSELS, OTHER THAN VESSELS UPON WHICH ONLY MEMBERS OF THE SAME FAMILY ARE EMPLOYED BUT THIS SHALL NOT APPLY TO WORK DONE BY CHILDREN ON SCHOOL-SHIPS OR TRAINING-SHIPS, PROVIDED THAT SUCH WORK IS APPROVED AND SUPERVISED BY THE SECRETARY OF LABOR AND EMPLOYMENT. IN ORDER TO FACILITATE THE ENFORCEMENT OF THIS PROVISION, EVERY SHIPMASTER SHALL BE REQUIRED TO KEEP A REGISTER OF ALL PERSONS UNDER THE AGE OF EIGHTEEN (18) YEARS EMPLOYED ON BOARD HIS VESSEL, OR A LIST OF THEM IN THE ARTICLES OF AGREEMENT, AND OF THE DATES OF THEIR BIRTHS.

NIGHT WORK OF SEAFARERS UNDER THE AGE OF EIGHTEEN (18) SHALL BE PROHIBITED. FOR THE PURPOSES OF THIS STANDARD, NIGHT SHALL BE DEFINED IN ACCORDANCE WITH NATIONAL LAW AND PRACTICE. IT SHALL COVER A PERIOD OF AT LEAST NINE HOURS STARTING NO LATER THAN MIDNIGHT AND ENDING NO EARLIER THAN 5 A.M. AN EXCEPTION TO STRICT COMPLIANCE WITH THE NIGHT WORK RESTRICTION MAY BE MADE BY THE SECRETARY OF LABOR AND EMPLOYMENT WHEN: (A) THE EFFECTIVE TRAINING OF THE SEAFARERS CONCERNED, IN ACCORDANCE WITH ESTABLISHED PROGRAMMES AND SCHEDULES, WOULD BE IMPAIRED; OR (B) THE SPECIFIC NATURE OF THE DUTY OR A RECOGNIZED TRAINING PROGRAMME REQUIRES THAT THE SEAFARERS COVERED BY THE EXCEPTION PERFORM DUTIES AT NIGHT AND SECRETARY OF LABOR AND EMPLOYMENT DETERMINES, AFTER CONSULTATION WITH THE SHIPOWNERS' AND SEAFARERS' ORGANIZATIONS CONCERNED, THAT THE WORK WILL NOT BE DETRIMENTAL TO THEIR HEALTH OR WELL-BEING.

THE EMPLOYMENT, ENGAGEMENT OR WORK OF SEAFARERS UNDER THE AGE OF EIGHTEEN (18) SHALL BE PROHIBITED WHERE THE WORK IS LIKELY TO JEOPARDIZE THEIR HEALTH OR SAFETY. THE TYPES OF SUCH WORK SHALL BE DETERMINED BY THIS ACT'S IMPLEMENTING RULES AND REGULATIONS OR BY THE SECRETARY OF LABOR AND EMPLOYMENT, AFTER CONSULTATION WITH THE SHIPOWNERS' AND SEAFARERS' ORGANIZATIONS CONCERNED, IN ACCORDANCE WITH RELEVANT INTERNATIONAL STANDARDS.

SEC. 21. Education. A Filipino seafarer must have, at least, successfully completed the required basic courses as provided for in the curriculum approved by the Commission on Higher Education or the TESDA. THE IMPLEMENTING RULES AND REGULATIONS OF THIS ACT SHALL SET THE EDUCATIONAL AND/OR TRAINING REQUIREMENTS FOR EACH CLASSIFICATION OF SEAFARERS.

SEC. 22. Training. A Filipino seafarer must, at least, undergo and successfully complete the required basic training proper to his/her position as set forth under the STCW '95, as amended, and under the ILO Conventions of which the Philippines is a signatory[.] , **AS PRESCRIBED BY THE COMPETENT GOVERNMENT AGENCY REGULATING MARITIME TRAINING.**

Where in-service training and assessment of competence for the Filipino seafarer is required for purposes of certification under the STCW **1978 AS AMENDED IN 1995**, the person conducting the same either on board or ashore must meet the qualifications prescribed under the aforesaid section of the STCW **1978 AS AMENDED IN 1995**.

A SEAFARER SHALL NOT BE PERMITTED TO WORK ON A SHIP UNLESS HE HAS SUCCESSFULLY COMPLETED TRAINING FOR PERSONAL SAFETY ON BOARD SHIP WITH THE APPROPRIATE CERTIFICATE THEREFOR.

SEC. 23. THE STATE SHALL ENSURE THAT REQUIREMENTS ON TRAINING AND UPGRADING AS MANDATED BY MANNING AND CREWING AGENCIES FOR EMPLOYMENT, REEMPLOYMENT OR PROMOTION PURPOSES SHALL TAKE INTO ACCOUNT THE SEAFARERS' RIGHT TO SPEND QUALITY TIME WITH HIS FAMILY. TRAININGS THAT ARE NOT SPECIFICALLY REQUIRED BY THE EMPLOYER IN ORDER FOR THE SEAFARER TO BE ABLE TO DO HIS JOB PROPERLY OR THAT ARE NOT REQUIRED BY INTERNATIONAL CONVENTIONS TO BE UNDERGONE BY ALL SEAFARERS SHALL NOT BE MADE MANDATORY TO ALL SEAFARERS. THE STATE SHALL FIRST CONSULT ALL SEAFARERS' ORGANIZATIONS BEFORE MAKING ANY TRAINING MANDATORY TO ALL SEAFARERS.

CHAPTER V

GOVERNMENT AGENCIES

SEC. 24. Role of Government Agencies. The following government agencies shall perform the following to promote the welfare and protect the rights of Filipino seafarers and, whenever practicable, all overseas Filipinos:

- a) Department of Foreign Affairs. The DFA, through its home offices or foreign posts, shall take priority action or make representation with the foreign authority concerned to protect the rights of Filipino seafarers and other overseas Filipinos and extend immediate assistance, including the repatriation of distressed or beleaguered Filipino seafarers and other overseas Filipinos, **AND TO ENCOURAGE OTHER COUNTRIES TO RATIFY THE MLC 2006 OR ENACT A LAW THAT WILL INCLUDE MOST, IF NOT ALL, THE PROVISIONS OF THE SAID CONVENTION [;] . THE DFA SHALL CONSULT THE COMPETENT AUTHORITIES OF COUNTRIES WHOSE SHIPS EMPLOY FILIPINO SEAFARERS AND/OR WHERE PORTS ARE LOCATED WHEREIN SHIPS THAT HAVE FILIPINO SEAFARERS ON BOARD ARE DOCKING WITH THE AIM OF PROVIDING AND IMPROVING SEAFARERS' WELFARE FACILITIES AND SERVICES, BOTH IN PORT AND ON BOARD SHIPS, AND OF ORGANIZING INTERNATIONAL SPORTS COMPETITIONS FOR SEAFARERS AND INTERNATIONAL SEMINARS ON THE SUBJECT OF WELFARE OF SEAFARERS AT SEA AND IN PORT. THE DFA, WITH THE ASSISTANCE AS APPROPRIATE OF INTERGOVERNMENTAL AND OTHER INTERNATIONAL ORGANIZATIONS, SHALL ENDEAVOR, IN COOPERATION WITH OTHER COUNTRIES, TO ACHIEVE THE GREATEST POSSIBLE UNIFORMITY OF ACTION FOR THE PROMOTION OF OCCUPATIONAL SAFETY AND HEALTH PROTECTION AND PREVENTION OF ACCIDENTS. FURTHERMORE, THE DFA SHALL MAKE REPRESENTATIONS IN COUNTRIES EMPLOYING FILIPINO SEAFARERS OR WHOSE SHIPS HAVE FILIPINO SEAFARERS ON BOARD WITH THE END IN VIEW OF ENSURING THAT FILIPINO SEAFARERS ARE PAID WITH AT LEAST THE MINIMUM WAGES THAT ARE IN CONFORMITY WITH INTERNATIONALLY-SET OR ACCEPTED**

STANDARDS AND THAT ANY FILIPINO SEAFARER WHO HAS ANY MONETARY CLAIM OR WHO HAS BEEN PAID AT A RATE LOWER THAN THE MINIMUM WAGE ARE ENABLED TO OBTAIN OR RECOVER, BY AN INEXPENSIVE AND EXPEDITIOUS JUDICIAL OR OTHER PROCEDURE, THE SAID CLAIM OR THE AMOUNT BY WHICH HE/SHE HAS BEEN UNDERPAID. THE DFA SHALL ALSO PROVIDE LEGAL ASSISTANCE TO FILIPINO SEAFARERS WHEREVER AND WHENEVER SUCH ASSISTANCE IS NEEDED BY THEM.

- b) Commission on Higher Education (CHED) shall ensure the promotion of quality and efficiency in maritime education through advocacy and accountability.
 - (b.1) Commission on Higher Education and the Technical Education and Skills Development Authority. The CHED and the TESDA shall ensure that the curricula for the seafarers' education and training are in consonance with the demands of global maritime industry as well as with the requirements of STCW '95, as amended.
 - (b.2) Commission on Higher Education and Maritime Training Council. The CHED, in coordination with MTC, and maritime schools and training institutions, shall be responsible for the continuous and comprehensive research, review and upgrading of the system of education, training, certification and recruitment of all maritime schools and institutions, as well as the manning or crewing agencies and regulatory commissions.
- c) Department of Labor and Employment. The DOLE shall ensure that labor and social welfare laws in foreign countries are fairly and faithfully applied to Filipino seafarers and whenever applicable, to other overseas Filipinos, including the grant of legal assistance and the referral to proper medical centers or hospitals:
 - (c.1) Maritime Training Council. The MTC shall be responsible in the formulation, adoption and enforcement of regulatory measures for the observance of both the accredited training centers and agencies and the trainees to ensure quality standards and mechanisms of training and competence of overseas Filipino seafarers, **ADHERING TO THE STANDARDS SET BY THE STCW 1978 AS AMENDED IN 1995 OR THE INTERNATIONAL CONVENTION ON STANDARDS OF TRAINING, CERTIFICATION AND WATCH-KEEPING FOR SEAFARERS OF 1978, AS AMENDED IN 1995, IN REGULAR CONSULTATION WITH THE ORGANIZATIONS OF ACCREDITED MARITIME TRAINING CENTERS;**
 - (c.2) Maritime Industry Authority. The MARINA shall be responsible in the formulation, adoption and enforcement of regulations governing the quality standards and mechanisms of training and competence of **DOMESTIC [local]** seafarers.
 - (c.3) Philippine Overseas Employment **[Agency] ADMINISTRATION**. In pursuit of promoting the well-being of the Filipino seafarers, the POEA shall:
 - a) Look into and improve on the working conditions and terms of employment of the officers and crew of vessels of Philippine registry, and of such officers and crew members who are Filipino citizens and employed by foreign vessels;
 - b) Develop an effective system of monitoring and gathering welfare concerns for purposes of determining future welfare programs, monitoring existing welfare activities and addressing current welfare issues prioritize according to urgency;

- c) Observe and conduct a comprehensive and updated system of **PRE-EMPLOYMENT AND** pre-departure orientation seminars or briefings to **SEAFARER JOB APPLICANTS**, departing seafarers and other maritime workers scheduled for deployment. It shall also undertake studies and distribute relevant materials for use in **PRE-EMPLOYMENT AND** pre-departure orientation seminars of maritime workers and other related activities. **ALL THESE SHALL BE AT NO COST TO THE SEAFARER JOB APPLICANT, THE DEPARTING SEAFARER AND OTHER MARITIME WORKERS;**
 - d) Accredite, regulate and supervise **PRE-EMPLOYMENT AND** pre-departure orientation seminars or briefings of authorized manning or crewing agencies;
 - e) Formulate and undertake programs and projects for the effective and efficient utilization of the seafarers' welfare fund;
 - f) **KEEP, ANALYZE AND PUBLISH A RECORD OR STATISTICS OF ALL OCCUPATIONAL ACCIDENTS, INJURIES AND DISEASES WHEREIN INFORMATION ON THE NUMERICAL DATA, NATURE, CAUSES AND EFFECTS OF THE SAID ACCIDENTS, INJURIES AND DISEASES, WHETHER AT SEA OR IN PORT, IS INCLUDED AND FOLLOWING THE SYSTEM OR MODEL OF RECORDING SUCH STATISTICS ESTABLISHED BY THE INTERNATIONAL LABOR ORGANIZATION;**
 - g) **UNDERTAKE RESEARCH INTO GENERAL TRENDS AND INTO SUCH HAZARDS AS ARE REVEALED BY STATISTICS IN ORDER TO PROVIDE A SOUND BASIS FOR MEASURES TO PROMOTE OCCUPATIONAL SAFETY AND HEALTH PROTECTION AND PREVENTION OF ACCIDENTS, INJURIES AND DISEASES WHICH ARE DUE TO PARTICULAR HAZARDS OF MARITIME EMPLOYMENT;**
 - h) **PROCESS AND APPROVE SEAFARERS' EMPLOYMENT CONTRACTS WHICH SHALL STRICTLY ADHERE TO THE PERTINENT PROVISIONS OF THIS ACT AND THE MLC 2006;**
 - i) **INFORMAL BLACKLISTING IS NOT COMMITTED BY ANY MANNING OR CREWING AGENCY;**
 - j) Provide services to assist maritime workers and their immediate dependents and families; and
 - k) Perform such other duties as may be essential in giving assistance to seafarers and their families.
- d) **THE PHILIPPINE COAST GUARD. THE PHILIPPINE COAST GUARD (PCG) SHALL ENSURE THAT PROVISIONS ON SEAFARERS' RIGHTS, WORKING AND LIVING CONDITIONS, DOCUMENTARY REQUIREMENTS, SAFETY, HEALTH AND SANITARY STANDARDS AND ALL OTHER PROVISIONS OF THIS ACT AND OF THE MLC 2006 ARE BEING FOLLOWED/IMPLEMENTED BY ALL SHIPS – INCLUDING FOREIGN-FLAG VESSELS, AS PART OF THE PORT STATE CONTROLLED INSPECTION THAT ARE WITHIN OR ENTERING THE PHILIPPINE TERRITORY GIVING SPECIAL ATTENTION TO SHIPS WITH AT LEAST ONE FILIPINO SEAFARER ON BOARD. THE PCG SHALL HAVE THE POWER TO PREVENT SHIPS THAT ARE FOUND TO BE IN VIOLATION OF ANY PROVISION OF THIS ACT OR THE AFOREMENTIONED CONVENTION FROM LEAVING PHILIPPINE TERRITORY AND HOLD THE SAID SHIPS IN A PHILIPPINE PORT UNTIL**

CORRECTIVE MEASURES HAVE BEEN IMPLEMENTED TO THE SATISFACTION OF THE COMPETENT AUTHORITY/AGENCY OF THE PHILIPPINE GOVERNMENT. TOWARDS THESE ENDS, THE PCG SHALL CONDUCT INSPECTIONS OF ALL SHIPS, INCLUDING FOREIGN FLAG VESSELS, THAT ARE WITHIN OR ENTERING THE PHILIPPINE TERRITORY. THE PCG SHALL TAKE THE NECESSARY MEASURES SO THAT DULY QUALIFIED TECHNICAL EXPERTS AND SPECIALISTS MAY BE CALLED UPON, AS NEEDED, TO ASSIST IN THE WORK OF INSPECTORS. DURING INSPECTIONS, THE PCG SHALL INTERVIEW AS MANY FILIPINO SEAFARERS ON BOARD THE SHIP BEING INSPECTED AS POSSIBLE IN ORDER TO ASCERTAIN THEIR WORKING CONDITIONS AND/OR GRIEVANCES, IF ANY, OBSERVE AND DETECT ANY SUB-STANDARD WORKING CONDITION AND/OR VIOLATION OF THE MLC 2006 AND/OR PHILIPPINE LAWS, RULES AND REGULATIONS AND REFER THEM TO THE NEAREST APPROPRIATE GOVERNMENT AGENCY CONCERNED WHICH SHALL IMMEDIATELY IMPLEMENT THE NECESSARY MEASURES TO ADDRESS THE SUB-STANDARD WORKING CONDITIONS, SEAFARERS' GRIEVANCES, AND VIOLATIONS OF THE MLC 2006 AND/OR PHILIPPINE LAWS, RULES AND REGULATIONS BEFORE THE SAID SHIP LEAVES THE PHILIPPINE PORT/TERRITORY. THE PCG SHALL HOLD AN OFFICIAL INQUIRY INTO ANY SERIOUS MARINE CASUALTY, LEADING TO INJURY OR LOSS OF LIFE, THAT INVOLVES SHIPS THAT ARE WITHIN OR ENTERING THE PHILIPPINE TERRITORY. THE FINAL REPORT OF AN INQUIRY SHALL BE MADE PUBLIC.

- e) THE MARITIME INDUSTRY AUTHORITY (MARINA) SHALL ESTABLISH AN EFFECTIVE SYSTEM FOR THE INSPECTION AND CERTIFICATION OF MARITIME LABOR CONDITIONS ENSURING THAT THE WORKING AND LIVING CONDITIONS FOR SEAFARERS ON SHIPS THAT FLY THE PHILIPPINE FLAG MEET, AND CONTINUE TO MEET, THE STANDARDS IN MLC 2006. THE MARINA SHALL REQUIRE ALL SHIPS THAT FLY THE PHILIPPINE FLAG TO HAVE A COPY OF THIS CONVENTION AVAILABLE ON BOARD.

SEC 25. Filipino Seafarers' Research and Resource Center. The CHED shall coordinate with the University of the Philippines School of Labor and Industrial Relations (UP SOLAIR) AND THE NATIONAL MARITIME POLYTECHNIC for the establishment of an interdisciplinary research and resource center on Filipino seafarers and maritime affairs. The center shall primarily conduct studies and researches which shall enhance the well-being and interests of Filipino seafarers and their competitiveness in the global maritime market.

CHAPTER VI

DOCUMENTATION, LICENSURE AND EXAMINATIONS

SEC. 26. Documentation. For purposes of documentation, the Filipino seafarers shall be categorized into domestic and overseas seafarers;

- a) Domestic seafarers are considered documented when they possess the following documents:
 - 1) Seafarers Identification and Record Book (SIRB) and Certificate of Competency issued by the MARINA;
 - 2) Certificate of Completion of Training of prescribed courses issued by the accredited training centers; and
 - 3) Licensure Certificate if the seafarer is a Harbor Pilot or a Major or Minor Patron.

- b) Overseas seafarers are considered documented when they possess the following documents:
 - 1) Seafarers Identification and Record Book (SIRB) and Certificate of Competency issued by the MARINA and the Seafarer's Registration Certificate (SRC) issued by the POEA;
 - 2) Certificate of Completion of Training of prescribed courses issued by the accredited training centers and the valid Certificate of Competency issued by the PRC for marine officers and the TESDA for ratings and support level crew or by the assessment center duly accredited by the MTC;
 - 3) Licensure Certificate if the seafarer is a marine officer;
 - 4) **EMPLOYMENT CONTRACTS THAT HAVE BEEN PROCESSED AND APPROVED BY THE POEA;**
 - 5) Such other documents as may be required.

SEC. 27. Licensure and Examination. The Professional Regulatory Commission (PRC) shall be the lead agency in administering licensure examinations and the issuance of such licensure certificates to seafarers in the officer level, except those categorized as Harbor Pilots and Major and Minor Patrons for local shipping which authority shall devolve to the MARINA.

The TESDA shall be the lead agency in administering examinations and the issuance of the necessary certifications to seafarers in the ratings level. The government agencies aforementioned shall formulate and undertake a systematic program of implementing government policies pertinent to the licensing of specific categories of seafarers.

The issuance of licenses and endorsement certificates to seafarers shall not require pre-conditions other than what are required under the STCW 1978, as amended and other specific laws enacted for the purpose of regulating the profession.

SEC. 28. Integrated Documentation System. The DOLE, in coordination with government agencies concerned, shall develop an Integrated Documentation System (IDS) for the purpose of integrating and systemizing the documentation of education, training licensing, and certification among Filipino seafarers. Said IDS shall contain all relevant information on the seafarer[,] including, **BUT NOT LIMITED TO**, education, training, licensure examinations and certifications taken, **DATA ON ACTIVE, INACTIVE, DISABLED, LICENSED AND UNLICENSED SEAFARERS AND THOSE WITH PENDING LABOR AND ADMINISTRATIVE CASES.** It shall be used by the seafarer in all his transactions with the government, manning or crewing agencies, and other pertinent bodies.

As such, agencies of the government concerned shall develop and implement an information system that shall connect their respective databases for the purposes of data storage, sharing, and generation pursuant to Section 20 of Republic Act No. 8042.

CHAPTER VII

RECRUITMENT AND PLACEMENT

A. The Recruitment and Placement Industry

SEC. 29. Private Sector Participation in the Recruitment and Placement of Filipino Seafarers. Pursuant to national development objectives and in order to harness and maximize the use of private sector resources and initiative in the development and implementation of a comprehensive employment program, the private sector shall participate in the recruitment and placement of Filipino seafarers, locally and overseas; *Provided*, That such recruitment and

placement procedures are consistent with the provisions stipulated under this Act and such other guidelines, rules and regulations as may be promulgated by the DOLE; **PROVIDED FURTHER, THAT NOTHING IN THIS SECTION SHALL BE DEEMED TO PREVENT THE STATE FROM MAINTAINING A FREE PUBLIC SEAFARER RECRUITMENT AND PLACEMENT SERVICE FOR SEAFARERS IN THE FRAMEWORK OF A POLICY TO MEET THE NEEDS OF SEAFARERS AND SHIPOWNERS, WHETHER THE SERVICE FORMS PART OF OR IS COORDINATED WITH A PUBLIC EMPLOYMENT SERVICE FOR ALL WORKERS AND EMPLOYERS.**

SEC. 30. Capitalization in the Recruitment and Placement Industry. Individuals or corporations, partnerships or entities applying for license or authority or renewal thereof shall be required a minimum capitalization and such other requirements as may be prescribed by the DOLE.

The same shall be obliged to pay such escrow deposits and surety bonds, in an amount and conditions as may be prescribed by the DOLE to guarantee compliance with all terms and conditions of the contract of employment and applicable laws.

Individuals or corporations, partnerships or entities applying for license or authority or renewal thereof shall be required to pay the filing and registration fees as may be prescribed by the DOLE.

SEC. 31. Non-Transferability of License. No license or authority shall be used directly or indirectly by any person other than the one in whose favor it was issued or at any place other than that stated in the license, nor may such license or authority be transferred, conveyed or assigned to any person or entity except under such guidelines as may be prescribed by the DOLE.

Any transfer of business address, appointment or designation of any agent or representative, including the establishment of additional offices anywhere shall require prior approval from the Secretary of the DOLE.

SEC. 32. Suspension and/or Cancellation of License or Authority. The Secretary of the DOLE shall have the power to suspend or cancel and in both instances impose fine any license or authority to recruit Filipino seafarers for overseas employment for violation of this Act or of other applicable provisions of laws, rules and regulations. **IN ORDER TO EFFECTIVELY EXERCISE THIS POWER, THE DOLE, THROUGH THE POEA, SHALL ESTABLISH AN EFFECTIVE INSPECTION AND MONITORING SYSTEM FOR ENFORCING THIS ACT AND ALL LAWS, ISSUANCES AND RULES AND REGULATIONS CONCERNING SEAFARERS/APPLICANTS.**

SEC. 33. Persons and Entities Prohibited from Engaging in Recruitment and Placement Industry. The following are prohibited from engaging, directly or indirectly, in recruitment and placement industry:

- a) Any official or employee of the DOLE, DFA and their attached agencies or other government agencies involved in the implementation of this act, or their relatives within the fourth civil degree of consanguinity or affinity;
- b) Persons and entities engaged in the business of travel agency or engaged in business as sales agent or airline and/or shipping companies, or their offices, directors or partners.

SEC. 34. SUPERVISION AND CONTROL BY THE DOLE. THE DOLE, THROUGH POEA, SHALL CLOSELY SUPERVISE AND CONTROL ALL SEAFARER RECRUITMENT AND PLACEMENT SERVICES. ANY LICENSES OR CERTIFICATES OR SIMILAR AUTHORIZATIONS FOR THE OPERATION OF PRIVATE SERVICES SHALL BE GRANTED OR RENEWED ONLY AFTER VERIFICATION THAT THE SEAFARER RECRUITMENT AND PLACEMENT SERVICE CONCERNED MEETS THE REQUIREMENTS OF NATIONAL LAWS AND REGULATIONS. THE POEA SHALL LIKEWISE CLEARLY PUBLICIZE COSTS, IF ANY,

WHICH THE SEAFARER WILL BE EXPECTED TO BEAR IN THE RECRUITMENT PROCESS.

SEC. 35. *HANDLING OF INVESTIGATIONS AND COMPLAINTS.* THE POEA SHALL ENSURE THAT ADEQUATE MACHINERY AND PROCEDURES EXIST FOR THE INVESTIGATION, IF NECESSARY, OF COMPLAINTS CONCERNING THE ACTIVITIES OF SEAFARER RECRUITMENT AND PLACEMENT SERVICES, INVOLVING, AS APPROPRIATE, REPRESENTATIVES OF SHIPOWNERS AND SEAFARERS.

SEC. 36. *COLLECTION AND ANALYSIS OF ALL RELEVANT INFORMATION ON THE MARITIME LABOUR MARKET.* THE POEA SHALL MAINTAIN AN ARRANGEMENT FOR THE COLLECTION AND ANALYSIS OF ALL RELEVANT INFORMATION ON THE MARITIME LABOR MARKET INCLUDING THE CURRENT AND PROSPECTIVE SUPPLY OF SEAFARERS THAT WORK AS CREW CLASSIFIED BY AGE, SEX, RANK AND QUALIFICATIONS, AND THE INDUSTRY'S REQUIREMENTS, THE COLLECTION OF DATA ON AGE OR SEX BEING ADMISSIBLE ONLY FOR STATISTICAL PURPOSES OR IF USED IN THE FRAMEWORK OF A PROGRAMME TO PREVENT DISCRIMINATION BASED ON AGE OR SEX.

SEC. 37. *COMPETENCE OF RECRUITMENT AND PLACEMENT SERVICES' SUPERVISORY STAFF.* THE POEA SHALL ENSURE THAT THE STAFF RESPONSIBLE FOR THE SUPERVISION OF PUBLIC AND PRIVATE SEAFARER RECRUITMENT AND PLACEMENT SERVICES FOR SHIP'S CREW WITH RESPONSIBILITY FOR THE SHIP'S SAFE NAVIGATION AND POLLUTION PREVENTION OPERATIONS HAVE HAD ADEQUATE TRAINING, INCLUDING APPROVED SEA-SERVICE EXPERIENCE, AND HAVE RELEVANT KNOWLEDGE OF THE MARITIME INDUSTRY, INCLUDING THE RELEVANT MARITIME INTERNATIONAL INSTRUMENTS ON TRAINING, CERTIFICATION AND LABOR STANDARDS.

SEC. 38. *PRESCRIBING OF STANDARDS FOR SEAFARER RECRUITMENT AND PLACEMENT SERVICES.* THE POEA SHALL PRESCRIBE OPERATIONAL STANDARDS AND ADOPT CODES OF CONDUCT AND ETHICAL PRACTICES FOR SEAFARER RECRUITMENT AND PLACEMENT SERVICES AND EXERCISE SUPERVISION OF THE LICENSING OR CERTIFICATION SYSTEM ON THE BASIS OF A SYSTEM OF QUALITY STANDARDS.

SEC. 39. *ADOPTION OF PROCEDURES BY POEA TO ENSURE THAT SEAFARERS ARE NOT VULNERABLE TO EXPLOITATION.* THE POEA SHALL PRESCRIBE PROCEDURES TO BE STRICTLY FOLLOWED BY MANNING OR CREWING AGENCIES THAT WILL ENSURE THAT SEAFARERS ARE NOT SUBJECT TO EXPLOITATION BY THE SEAFARER RECRUITMENT AND PLACEMENT SERVICES OR THEIR PERSONNEL WITH REGARD TO THE OFFER OF ENGAGEMENT ON PARTICULAR SHIPS OR BY PARTICULAR COMPANIES AND TO PREVENT THE OPPORTUNITIES FOR EXPLOITATION OF SEAFARERS ARISING FROM THE ISSUE OF JOINING ADVANCES OR ANY OTHER FINANCIAL TRANSACTION BETWEEN THE SHIPOWNER AND THE SEAFARERS WHICH ARE HANDLED BY THE SEAFARER RECRUITMENT AND PLACEMENT SERVICES.

B. Recruitment and Placement Policies

SEC. 40. *Recruitment and Placement Policies.* Manning or crewing agencies engaged in private recruitment and placement services shall:

- a) [Make certain that placement fees or other charges for recruitment or for providing employment to seafarers shall not be borne directly or indirectly, in whole or in part, by the seafarers other than those authorized by law.

For this purpose, the costs of the personal travel documents and Seaman's Book shall not be deemed as "fees and other charges for recruitment;"]

ENSURE THAT NO FEES OR OTHER CHARGES FOR SEAFARER RECRUITMENT OR PLACEMENT OR FOR PROVIDING EMPLOYMENT TO SEAFARERS ARE BORNE DIRECTLY OR INDIRECTLY, IN WHOLE OR IN PART, BY THE SEAFARER, OTHER THAN THE COST OF THE SEAFARER OBTAINING A NATIONAL STATUTORY MEDICAL CERTIFICATE, THE NATIONAL SEAFARER'S BOOK AND A PASSPORT OR OTHER SIMILAR PERSONAL TRAVEL DOCUMENTS, NOT INCLUDING, HOWEVER, THE COST OF VISAS, WHICH SHALL BE BORNE BY THE SHIPOWNER;

- b) Cause the reimbursement of any expenses incurred by the seafarer in connection with his/her documentation and processing for purposes of deployment, in the event where non-deployment is not the seafarer's fault **OR IN THE EVENT OF DEPLOYMENT OR NON-DEPLOYMENT IN CASES WHERE THE MANNING OR CREWING AGENCY, IN VIOLATION OF ITEM (A) ABOVE, COLLECTED ANY FEE OR CHARGE FROM THE SEAFARER WHICH IS NOT ALLOWED UNDER THIS ACT;**
- c) Ensure that the Filipino seafarers' well-being and rights shall be the primary consideration in the recruitment and placement of seafarers;
- d) Guarantee that recruitment, placement and deployment of Filipino seafarers shall not be made in jobs that are deemed inimical to their interests and to the Republic of the Philippines;
- e) Specify, with due regard to the right to privacy and the need to protect confidentiality, the conditions under which the personal data of Filipino seafarers are processed by manning or crewing agencies including the collection, storage, combination and communication of such data to third parties;
- f) Cease from furnishing or publishing any false notice or information or document in relations to recruitment and employment, including **[inducing or attempting to induce a seafarer already employed to quit his / her employment and offering another employment or]** influencing or attempting to influence, whether deliberately or unintentionally, any person or entity not to employ any seafarer or the enforcement of a waiver of quit claims to any seafarer before, during and after employment, which act shall be deemed unlawful;
- g) Cease from substituting or altering to the prejudice of the seafarer the employment contract approved and processed by the DOLE and withholding or denying travel or employment documents from applicant seafarer **[considerations other than those authorized under this Act and the implementing rules and regulations promulgated pursuant to this Act]; AND**
- h) Refrain from using means or mechanisms intended to prevent or deter seafarers from gaining employment.

SEC. 41. Duties of Manning and Crewing Agencies. It shall be incumbent upon manning and crewing agencies to ensure that:

- a) Any seafarer recruited or placed by them is qualified and is in possession of the documents necessary for the job concerned;
- b) The contract of employment and articles of agreement are in accordance with **[the standard terms and condition governing the employment of the Filipino seafarer on-board ocean-going vessel as prescribed by the concerned agency of the DOLE;] THE MLC 2006 AND APPLICABLE LAWS AND REGULATIONS AND ANY COLLECTIVE BARGAINING AGREEMENT THAT FORMS PART OF THE EMPLOYMENT AGREEMENT;**
- c) The Filipino seafarer is informed of his / her rights and duties under his / her contract of the employment and the articles of agreement prior to and in the process of engagement;

- d) Proper arrangements and opportunities are given for the Filipino seafarer to examine his / her contract of employment and the articles of agreement before and after he / she signed such pertinent documents and for him / her to receive a copy of the duly-signed contract of employment;
- e) Adequate information about the conditions attending to the situations on-board the vessel and overseas, as well as local and international laws and regulations which apply to the Filipino seafarer in the course of his/her employment or sojourn shall be provided **TO THE SEAFARER, ANY OF HIS/HER RELATIVES OR TO ANY INDIVIDUAL, NON-GOVERNMENT ORGANIZATION OR GOVERNMENT AGENCY THAT REQUESTS FOR SUCH INFORMATION; [AND]**
- f) A registry of all seafarers recruited or placed through them shall be put in place and shall be available for inspection by the competent authority[.] ;
- i) **AS FAR AS PRACTICABLE, THE SHIPOWNER HAS THE MEANS TO PROTECT SEAFARERS FROM BEING STRANDED IN A FOREIGN PORT;**
- j) **THEY SHALL EXAMINE AND RESPOND TO ANY COMPLAINT CONCERNING THEIR ACTIVITIES AND ADVISE THE COMPETENT AUTHORITY OF ANY UNRESOLVED COMPLAINT;**
- k) **THEIR OPERATIONS SHALL BE IN CONFORMITY WITH THE STANDARDIZED SYSTEM OF LICENSING OR CERTIFICATION OR OTHER FORM OF REGULATION PRESCRIBED BY THE IMPLEMENTING RULES AND REGULATIONS OF THIS ACT. THIS SYSTEM SHALL BE ESTABLISHED, MODIFIED OR CHANGED ONLY AFTER CONSULTATION WITH THE SHIPOWNERS' AND SEAFARERS' ORGANIZATIONS CONCERNED. IN THE EVENT OF DOUBT AS TO WHETHER THE CONSOLIDATED MARITIME LABOR CONVENTION APPLIES TO A PRIVATE RECRUITMENT AND PLACEMENT SERVICE, THE QUESTION SHALL BE DETERMINED BY THE SECRETARY OF LABOR AND EMPLOYMENT AFTER CONSULTATION WITH THE SHIPOWNERS' AND SEAFARERS' ORGANIZATIONS CONCERNED;**
- l) **FILIPINO SEAFARERS OR SEAFARER-APPLICANTS ARE ADVISED ON THE POSSIBLE PROBLEMS OF SIGNING ON A SHIP THAT FLIES THE FLAG OF A STATE WHICH HAS NOT RATIFIED THE MLC 2006, UNTIL IT IS SATISFIED THAT STANDARDS EQUIVALENT TO THOSE FIXED BY THE SAID CONVENTION ARE BEING APPLIED. MEASURES TAKEN TO THIS EFFECT SHALL NOT BE IN CONTRADICTION WITH THE PRINCIPLE OF FREE MOVEMENT OF WORKERS STIPULATED BY THE TREATIES TO WHICH THE TWO STATES CONCERNED MAY BE PARTIES;**
- m) **AN UP-TO-DATE LIST OF THE SHIPS FOR WHICH THE SEAFARER RECRUITMENT AND PLACEMENT SERVICES PROVIDE SEAFARERS ARE MAINTAINED AND THAT THERE IS A MEANS BY WHICH THE MANNING AND CREWING AGENCIES CAN BE CONTACTED IN AN EMERGENCY AT ALL HOURS;**
- n) **PROCEDURES TO ENSURE THAT REQUESTS FOR INFORMATION OR ADVICE BY FAMILIES OF SEAFARERS WHILE THE SEAFARERS ARE AT SEA ARE DEALT WITH PROMPTLY AND SYMPATHETICALLY AND AT NO COST;**
- o) **THE FILIPINO SEAFARERS THAT THEY RECRUIT/PLACE SERVE ONLY ON SHIPS THAT HAVE THE REQUIRED DOCUMENTS AND A SUFFICIENT NUMBER OF SEAFARERS ON BOARD TO ENSURE THAT THE SAID SHIPS ARE OPERATED SAFELY AND ARE MANNED BY CREWS THAT ARE ADEQUATE, IN TERMS OF SIZE AND QUALIFICATIONS;**

- p) INFORMAL BLACKLISTING IS NOT COMMITTED;
- q) PROCEDURES ARE ADOPTED TO VERIFY THAT VENTILATION, HEATING, SLEEPING, FOOD AND CATERING, RECREATION, MEDICAL CARE, LAUNDRY, SANITARY AND OTHER CONDITIONS AND FACILITIES ONBOARD SHIPS WHERE FILIPINO SEAFARERS ARE PLACED ARE IN CONFORMITY WITH THE MLC 2006 OR APPLICABLE COLLECTIVE BARGAINING AGREEMENTS CONCLUDED BETWEEN A SHIPOWNER AND A REPRESENTATIVE SEAFARERS' ORGANIZATION AND, AS A MATTER OF POLICY, SUPPLYING SEAFARERS ONLY TO SHIPOWNERS THAT OFFER TERMS AND CONDITIONS OF EMPLOYMENT TO SEAFARERS WHICH COMPLY WITH APPLICABLE LAWS OR REGULATIONS OR COLLECTIVE AGREEMENTS OR THE MLC 2006; AND
- r) PAYMENTS DUE TO SEAFARERS ARE MADE AT NO GREATER THAN MONTHLY INTERVALS AND IN ACCORDANCE WITH ANY APPLICABLE COLLECTIVE AGREEMENT AND THAT SEAFARERS SHALL BE GIVEN A MONTHLY ACCOUNT OF THE PAYMENTS DUE AND THE AMOUNTS PAID, INCLUDING WAGES, ADDITIONAL PAYMENTS AND THE RATE OF EXCHANGE USED WHERE PAYMENT HAS BEEN MADE IN A CURRENCY OR AT A RATE DIFFERENT FROM THE ONE AGREED TO.

SEC. 42. VIOLATION OF ANY OF THE PROVISIONS OF THE TWO IMMEDIATELY PRECEDING SECTIONS. AN ADMINISTRATIVE FINDING BY THE POEA OF ANY VIOLATION OF ANY OF THE PROVISIONS OF THE TWO IMMEDIATELY PRECEDING SECTIONS SHALL CAUSE THE MANNING OR CREWING AGENCY CONCERNED TO SUFFER THE PENALTY OF SUSPENSION OR CANCELLATION OF ITS LICENSE TO OPERATE.

C. Hiring, Deployment and Employment

SEC. 43. Hiring by Certain Employers. Members of the diplomatic corps, foreign governments and international organizations may hire Filipino seafarers; *Provided*, That the provisions of this Act and other applicable guidelines, rules and regulations are followed.

SEC. 44. Selective Deployment of Overseas Filipino Seafarers. Deployment of overseas Filipino seafarers shall be allowed only in countries where the rights of overseas Filipino seafarers are observed and protected.

Any of the following legal instruments shall be recognized as guarantee on the part of the receiving country for the protection of the rights of overseas Filipino seafarers:

- a) The receiving country has existing labor and social laws protecting the rights of overseas seafarers **AS CERTIFIED BY THE SECRETARIES OF THE DFA AND DOLE WITH THE SAID LAWS' NUMBERS, TITLES AND BRIEF DESCRIPTION STATED IN THE SAID CERTIFICATION;**
- b) It is a signatory to a multi-lateral conventionS, declarations or resolutions relating to the protection of overseas seafarers;
- c) It has a bilateral agreement or arrangement with the Philippine government protecting the rights of overseas seafarers; or
- d) It is taking positive concrete measures to protect the rights of overseas seafarers[,] , **AS CERTIFIED BY THE SECRETARIES OF THE DFA AND DOLE WITH SUCH MEASURES ENUMERATED IN DETAIL IN THE SAID CERTIFICATION.**

SEC. 45. Ban on Restrictions on Deployment. Notwithstanding the provisions of the immediately preceding section, the DOLE, in pursuit of national interest or when public welfare

so requires, may, at any time, terminate or impose such restrictions or ban on the deployment of overseas Filipino seafarers[.] , **ESPECIALLY WHEN THE SHIP WITH ONE OR SEVERAL FILIPINO SEAFARER/S ON BOARD WILL SAIL ON OR NEAR THE WATERS OF, OR DOCK ON PORTS IN, COUNTRIES WHERE THERE IS A WAR, CIVIL WAR, INSURGENCY, PIRACY, RAMPANT KIDNAPPING, SEIZING BY FORCE OF SHIPS AND/OR LAWLESSNESS GOING ON AS REPORTED BY RELIABLE INTERNATIONAL NEWS AGENCIES OR TELEVISION NETWORKS.**

SEC. 46. Prohibition Against Indiscriminate Deployment of Filipino Seafarers. The indiscriminate deployment of following Filipino seafarers shall be deemed prohibited:

- a) Those below eighteen (18) years old or such minimum age requirement as may be determined by the DOLE **CONSISTENT WITH INTERNATIONALLY-RECOGNIZED CONVENTIONS;**
- b) Those medically diagnosed to be unfit to work for the job being applied;
- c) Those technically non-qualified for overseas employment;
- d) Those whose employment contract was not processed and approved by the POEA;
- e) Any other factor which the DOLE may deem[ed] prohibited **CONSISTENT WITH INTERNATIONALLY RECOGNIZED CONVENTIONS.**

SEC. 47. Visitorial Powers of the DOLE. The Secretary of the DOLE or his/her duly designated representative may, at any time, inspect vessels and ships within Philippine jurisdiction of the accredited principal/shipowner to determine compliance with safety standards and living conditions of seafarers.

CHAPTER VIII

ILLEGAL RECRUITMENT

SEC. 48. Illegal Recruitment. For purposes of this Act, illegal recruitment shall refer to any act of canvassing, enlisting, contracting, transporting, utilizing, hiring, or procuring seafarers and includes referring, contract servicing, promising, or advertising of employment for abroad, whether for profit or not, when undertaken by a non-licensee or non-holder of authority contemplated under Article 13 (f) of Presidential Decree No 422, as amended, otherwise known as the Labor Code of the Philippines; *Provided*, That any such 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 **IN ILLEGAL RECRUITMENT.**

Illegal recruitment when committed by a syndicate or in a 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) members 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. Illegal recruitment is also deemed committed in a large scale if the financial or material consideration involved amounts to more than one hundred thousand pesos (P100,000), regardless of the number of persons involved.

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

SEC. 49. Penalties.

- a) Any person found guilty of illegal recruitment shall suffer the penalty of imprisonment of not less than six (6) years and one (1) day but not more than

twelve (12) years and a fine of not less than Two hundred thousand pesos (P200,000) nor more than Five hundred thousand pesos (P500,000).

- b) The penalty of life imprisonment and a fine of not less than Five hundred thousand pesos (P500,000) nor more than One Million pesos (P1,000,000) shall be imposed if illegal recruitment constitutes economic sabotage as defined in the preceding article: *Provided, however,* That the maximum penalty shall be imposed if the person illegally recruited is less than eighteen (18) years of age or that the act of illegal recruitment is committed by a non-licensee or non-holder of authority.

Sec. 50. 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 Filipino seafarers, as defined under this Act. The penalties provided for in the preceding paragraph shall be imposed upon them.

SEC. 51. Venue. A criminal action arising from illegal recruitment as herein defined 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 commission of the offense.

SEC. 52. Mandatory Period for Filing of Illegal Recruitment Cases. The preliminary investigation of 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 a *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 record of the case.

SEC. 53. Prescriptive Periods. Illegal recruitment cases under this Act shall prescribe in [five (5)] TEN (10) 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.

SEC. 54. Free Legal Assistance; Preferential Entitlement Under the Witness Protection Program. A mechanism for free legal assistance for victims of illegal recruitment shall be made available by the pertinent agencies of the government. Such mechanism shall include coordination and cooperation among the DOLE, DOJ, the IBP, and other non-government organizations and volunteer groups.

Notwithstanding the provisions of Republic Act No 6981 to the contrary, any person who is the a victim of illegal recruitment, or who is willing to be a witness in behalf of the government, shall be entitled to the Witness Protection Program provided thereunder.

CHAPTER IX

CONDITIONS OF EMPLOYMENT

SEC. 55. Employment Agreement. The employer shall provide for a written agreement **IN ENGLISH**, which shall be drawn up with the seafarer concerning ship work. The agreement shall contain the following:

- a) THE SEAFARER'S FULL NAME, DATE OF BIRTH, AGE AND BIRTHPLACE;
- b) THE SHIPOWNER'S NAME AND ADDRESS;
- c) THE PLACE WHERE AND DATE WHEN THE SEAFARER'S EMPLOYMENT AGREEMENT IS ENTERED INTO;

- d) The wage agreed upon, **INCLUDING OVERTIME PAY**, [its] **THEIR** method of computation and manner of payment. In no case shall the parties agree to wages lower than the basic minimum wage prescribed by appropriate government agencies, **IN CONFORMITY WITH INTERNATIONALLY-ACCEPTED STANDARDS**, at the time of engagement; [and]
- e) **THE AMOUNT OF PAID ANNUAL LEAVE OR, WHERE APPLICABLE, THE FORMULA USED FOR CALCULATING IT;**
- f) **THE TERMINATION OF THE AGREEMENT AND THE CONDITIONS THEREOF, INCLUDING: (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 SHIPOWNER THAN FOR THE SEAFARER; (ii) IF THE AGREEMENT HAS BEEN MADE FOR A DEFINITE PERIOD, THE DATE FIXED FOR ITS EXPIRY; AND (iii) IF THE AGREEMENT HAS BEEN MADE FOR A VOYAGE, THE PORT OF DESTINATION AND THE TIME WHICH HAS TO EXPIRE AFTER ARRIVAL BEFORE THE SEAFARER SHOULD BE DISCHARGED;**
- g) **THE HEALTH, SAFETY AND SOCIAL SECURITY PROTECTION BENEFITS TO BE PROVIDED TO THE SEAFARER BY THE SHIPOWNER INCLUDING A PROVISION THAT SHALL ENSURE THAT MEASURES, IN ACCORDANCE WITH THE MLC 2006, ARE IN PLACE ON THE SHIP TO PROVIDE SEAFARERS WITH A RIGHT TO MATERIAL ASSISTANCE AND SUPPORT FROM THE SHIPOWNER WITH RESPECT TO THE FINANCIAL CONSEQUENCES OF SICKNESS, INJURY OR DEATH OCCURRING WHILE THEY ARE SERVING UNDER A SEAFARERS' EMPLOYMENT AGREEMENT OR ARISING FROM THEIR EMPLOYMENT UNDER SUCH AGREEMENT WHICH SHALL NOT AFFECT ANY OTHER LEGAL REMEDIES THAT A SEAFARER MAY SEEK;**
- h) **THE SEAFARER'S ENTITLEMENT TO REPATRIATION AND A PROVISION THAT SHALL PROHIBIT SHIPOWNERS FROM REQUIRING THAT SEAFARERS MAKE AN ADVANCE PAYMENT TOWARDS THE COST OF REPATRIATION AT THE BEGINNING OF THEIR EMPLOYMENT, AND ALSO FROM RECOVERING THE COST OF REPATRIATION FROM THE SEAFARERS' WAGES OR OTHER ENTITLEMENTS EXCEPT WHERE THE SEAFARER HAS BEEN FOUND, IN ACCORDANCE WITH NATIONAL LAWS OR REGULATIONS OR OTHER MEASURES OR APPLICABLE COLLECTIVE BARGAINING AGREEMENTS, TO BE IN SERIOUS DEFAULT OF THE SEAFARER'S EMPLOYMENT OBLIGATIONS;**
- i) **REFERENCE TO THE COLLECTIVE BARGAINING AGREEMENT, IF APPLICABLE;**
- j) The capacity in which the seafarer is to serve;
- k) **A PROVISION STATING THAT EQUAL REMUNERATION FOR WORK OF EQUAL VALUE SHALL APPLY TO ALL SEAFARERS EMPLOYED ON THE SAME SHIP WITHOUT DISCRIMINATION BASED UPON RACE, COLOUR, SEX, RELIGION, POLITICAL OPINION, NATIONAL EXTRACTION OR SOCIAL ORIGIN;**
- l) **A PROVISION STATING THAT THE SEAFARERS' EMPLOYMENT AGREEMENT, SPECIFYING THE APPLICABLE WAGES OR WAGE RATES, SHALL BE CARRIED ON BOARD THE SHIP AND THAT INFORMATION ON THE AMOUNT OF WAGES OR WAGE RATES SHALL BE MADE AVAILABLE TO EACH SEAFARER BY PROVIDING AT LEAST ONE SIGNED COPY OF THE RELEVANT INFORMATION TO THE SEAFARER IN A LANGUAGE WHICH THE SEAFARER UNDERSTANDS;**

- m) A PROVISION STATING THAT WAGES SHALL BE PAID IN LEGAL TENDER AND, WHERE APPROPRIATE, THEY MAY BE PAID BY BANK TRANSFER, BANK CHEQUE, POSTAL CHEQUE OR MONEY ORDER;
- n) A PROVISION STATING THAT ON TERMINATION OF ENGAGEMENT, ALL REMUNERATION DUE SHALL BE PAID WITHOUT UNDUE DELAY;
- o) FOR SEAFARERS WHOSE WAGES ARE FULLY OR PARTIALLY CONSOLIDATED, A PROVISION WHICH SHALL SPECIFY CLEARLY THE NUMBER OF HOURS OF WORK EXPECTED OF THE SEAFARER IN RETURN FOR THIS REMUNERATION, AND ANY ADDITIONAL ALLOWANCES WHICH MIGHT BE DUE IN ADDITION TO THE CONSOLIDATED WAGE, AND IN WHICH CIRCUMSTANCES;
- p) A PROVISION STATING THAT ADEQUATE PENALTIES SHALL BE BORNE BY THE EMPLOYER OR OTHER APPROPRIATE REMEDIES SHALL BE GIVEN THE SEAFARER WHEN SHIPOWNERS DELAY DELIBERATELY AND UNDULY, OR FAIL TO MAKE, PAYMENT OF ALL REMUNERATION DUE;
- q) A PROVISION STATING THAT WAGES SHALL BE PAID DIRECTLY TO THE SEAFARER'S DESIGNATED BANK ACCOUNT UNLESS THE SEAFARER REQUESTS OTHERWISE IN WRITING;
- r) A PROVISION STATING THAT THE SHIPOWNER SHALL IMPOSE NO LIMIT ON THE SEAFARER'S FREEDOM TO DISPOSE OF HIS/HER REMUNERATION EXCEPT WHEN THERE IS AN EXPRESS PROVISION IN NATIONAL LAWS OR REGULATIONS OR IN AN APPLICABLE COLLECTIVE AGREEMENT AND THE SEAFARER HAS BEEN ADEQUATELY INFORMED OF THE CONDITIONS FOR SUCH DEDUCTIONS;
- s) A PROVISION STATING THAT THE DEDUCTIONS SHALL NOT IN TOTAL EXCEED THE LIMIT THAT MAY HAVE BEEN ESTABLISHED BY NATIONAL LAWS OR REGULATIONS OR COLLECTIVE AGREEMENTS OR COURT DECISIONS FOR MAKING SUCH DEDUCTIONS AND THAT NO DEDUCTIONS SHALL BE MADE FROM A SEAFARER'S REMUNERATION IN RESPECT OF OBTAINING OR RETAINING EMPLOYMENT;
- t) A PROVISION STATING THAT MONETARY FINES AGAINST SEAFARERS OTHER THAN THOSE AUTHORIZED BY NATIONAL LAWS OR REGULATIONS, COLLECTIVE AGREEMENTS OR OTHER MEASURES SHALL BE PROHIBITED;
- u) A PROVISION STATING THAT, AT THE REQUEST OF THE SEAFARER, THE COMPETENT AUTHORITY SHALL HAVE THE POWER TO INSPECT STORES AND SERVICES PROVIDED ON BOARD SHIP TO ENSURE THAT FAIR AND REASONABLE PRICES ARE APPLIED FOR THE BENEFIT OF THE SEAFARER OR SEAFARERS CONCERNED;
- v) A PROVISION STATING THAT, TO THE EXTENT THAT SEAFARERS' CLAIMS FOR WAGES AND OTHER SUMS DUE IN RESPECT OF THEIR EMPLOYMENT ARE NOT SECURED IN ACCORDANCE WITH THE PROVISIONS OF THE INTERNATIONAL CONVENTION ON MARITIME LIENS AND MORTGAGES, 1993, SUCH CLAIMS SHOULD BE PROTECTED IN ACCORDANCE WITH THE PROTECTION OF WORKERS' CLAIMS (EMPLOYER'S INSOLVENCY) CONVENTION, 1992 (NO. 173).
- w) A PROVISION THAT SHALL ENSURE THAT THE SHIP SHALL CARRY ON BOARD AND SERVE FOOD AND DRINKING WATER OF APPROPRIATE QUALITY, NUTRITIONAL VALUE AND QUANTITY THAT ADEQUATELY COVERS THE REQUIREMENTS OF THE SHIP AND TAKES INTO ACCOUNT THE DIFFERING CULTURAL AND RELIGIOUS BACKGROUNDS AND THAT

SEAFARERS ON BOARD THE SHIP SHALL BE PROVIDED WITH FOOD FREE OF CHARGE DURING THE PERIOD OF ENGAGEMENT;

- x) A PROVISION THAT SHALL ENSURE THAT ALL SEAFARERS ON SHIPS ARE COVERED BY ADEQUATE MEASURES FOR THE PROTECTION OF THEIR HEALTH AND THAT THEY HAVE ACCESS TO PROMPT AND ADEQUATE MEDICAL CARE WHILST WORKING ON BOARD AND THAT THE SAID PROTECTION AND CARE SHALL BE PROVIDED AT NO COST TO THE SEAFARERS;
- y) Provisions on ADEQUATE LEAVE AND rest periods IN CONFORMITY WITH THE STANDARDS SET BY THE MLC 2006; AND
- z) The duration of the employment contract.

THE TERMS AND CONDITIONS FOR EMPLOYMENT OF A SEAFARER SHALL BE SET OUT OR REFERRED TO IN A CLEAR WRITTEN LEGALLY ENFORCEABLE AGREEMENT AND SHALL BE CONSISTENT WITH THE STANDARDS SET OUT IN THE MLC 2006 PROVIDING THE SEAFARER WITH DECENT WORKING AND LIVING CONDITIONS ON BOARD THE SHIP, AMONG OTHERS. THE SHIPOWNER AND SEAFARER CONCERNED SHALL EACH HAVE A SIGNED ORIGINAL OF THE SEAFARERS' EMPLOYMENT AGREEMENT.

THE MINIMUM NOTICE PERIOD TO BE GIVEN BY THE SEAFARERS AND SHIPOWNERS FOR THE EARLY TERMINATION OF A SEAFARERS' EMPLOYMENT AGREEMENT SHALL NOT BE SHORTER THAN SEVEN (7) DAYS. A NOTICE PERIOD SHORTER THAN THE MINIMUM MAY BE GIVEN IN CIRCUMSTANCES WHICH ARE RECOGNIZED UNDER THE IMPLEMENTING RULES AND REGULATIONS OF THIS ACT OR THE APPLICABLE COLLECTIVE BARGAINING AGREEMENTS AS JUSTIFYING TERMINATION OF THE EMPLOYMENT AGREEMENT AT SHORTER NOTICE OR WITHOUT NOTICE. IN DETERMINING THOSE CIRCUMSTANCES, THE IMPLEMENTING RULES AND REGULATIONS OF THIS ACT SHALL INCLUDE PROVISIONS THAT SHALL ENSURE THAT THE NEED OF THE SEAFARER TO TERMINATE, WITHOUT PENALTY, THE EMPLOYMENT AGREEMENT ON SHORTER NOTICE OR WITHOUT NOTICE FOR COMPASSIONATE OR OTHER URGENT REASONS IS TAKEN INTO ACCOUNT.

SEC. 56. *POEA-PREScribed SEAFARERS' EMPLOYMENT AGREEMENT.* THE POEA SHALL PRESCRIBE A SAMPLE SEAFARER'S EMPLOYMENT AGREEMENT WHICH SHALL STRICTLY ADHERE TO THE STANDARDS SET BY THIS ACT AND THE MLC 2006 ESPECIALLY ON, BUT NOT LIMITED TO, SALARIES AND WAGES AND THE PAYMENTS AND REMITTANCES THEREOF, AND WHICH SHALL ALSO CONTAIN ALL THE NECESSARY PROVISIONS FOR THE ADEQUATE PROTECTION AND WELL-BEING OF FILIPINO SEAFARERS, INCLUDING, BUT NOT LIMITED TO, MANDATORY SOCIAL SECURITY SYSTEM (SSS) COVERAGE OF ALL FILIPINO SEAFARERS WITH EMPLOYERS' CONTRIBUTIONS. THE MANNING OR CREWING AGENCIES SHALL SEE TO IT THAT ANY AND ALL SEAFARERS' EMPLOYMENT AGREEMENTS THAT ARE PROCESSED AND/OR CONSUMMATED IN THE COURSE OF THEIR RECRUITMENT AND PLACEMENT ACTIVITIES SHALL STRICTLY ADHERE TO THE AFOREMENTIONED CONVENTION OF 2006 AND TO THE SAID SAMPLE AGREEMENT PRESCRIBED BY THE POEA AS A MINIMUM GUARANTEE FOR THE PROTECTION OF FILIPINO SEAFARERS. FURTHERMORE, THE SAID EMPLOYMENT AGREEMENT SHALL CONTAIN, AMONG OTHERS, A PROVISION THAT ALL SEAFARERS SHALL BE PAID FOR THEIR WORK REGULARLY AND IN FULL IN ACCORDANCE WITH THEIR EMPLOYMENT AGREEMENTS, SAFEGUARDS AGAINST PROLONGED EXPOSURE TO VIBRATION ON BOARD SHIP AND PROVISIONS ON SEAFARERS' COMPLAINT/GRIEVANCE HANDLING PROCEDURES, ON-SHORE AND ON-BOARD, AND MASTERS'/CAPTAINS'/EMPLOYERS' DISCIPLINARY PROCEDURES THAT SHALL COMPLY WITH AT LEAST THE MINIMUM REQUIREMENTS OF THE AFOREMENTIONED CONVENTION IN ORDER TO ENSURE MAXIMUM POSSIBLE PROTECTION OF ALL FILIPINO SEAFARERS. NOTHING IN THIS SECTION SHALL BE DEEMED TO PREVENT THE NEGOTIATION AND/OR CONSUMMATION OF SUCH AGREEMENTS THAT MAY CONTAIN HIGHER THAN THE

MINIMUM STANDARDS SET BY THE POEA AND/OR THE CONSOLIDATED MARITIME LABOR CONVENTION OF 2006.

SEC. 57. VOLUNTARY AND FREE ACCEPTANCE OF AGREEMENT. SEAFARERS SIGNING A SEAFARERS' EMPLOYMENT AGREEMENT SHALL BE GIVEN AN OPPORTUNITY TO EXAMINE AND SEEK ADVICE ON THE AGREEMENT BEFORE SIGNING, AS WELL AS SUCH OTHER FACILITIES AS ARE NECESSARY TO ENSURE THAT THEY HAVE FREELY ENTERED INTO AN AGREEMENT WITH A SUFFICIENT UNDERSTANDING OF THEIR RIGHTS AND RESPONSIBILITIES.

SEC. 58. COLLECTIVE BARGAINING AGREEMENTS. TO THE EXTENT COMPATIBLE WITH PHILIPPINE LAW AND PRACTICE, SEAFARERS' EMPLOYMENT AGREEMENTS SHALL BE UNDERSTOOD TO INCORPORATE ANY APPLICABLE COLLECTIVE BARGAINING AGREEMENTS. IN FURTHERANCE OF THIS, THE POEA SHALL UNDERTAKE MEASURES TO ENSURE THAT WHERE A COLLECTIVE BARGAINING AGREEMENT FORMS ALL OR PART OF A SEAFARERS' EMPLOYMENT AGREEMENT, A COPY OF THAT AGREEMENT SHALL BE AVAILABLE ON BOARD AND WHERE THE LANGUAGE OF THE SEAFARERS' EMPLOYMENT AGREEMENT AND ANY APPLICABLE COLLECTIVE BARGAINING AGREEMENT IS NOT IN ENGLISH, THE FOLLOWING SHALL ALSO BE AVAILABLE IN ENGLISH: (A) A COPY OF A STANDARD FORM OF THE AGREEMENT; AND, (B) THE PORTIONS OF THE COLLECTIVE BARGAINING AGREEMENT THAT ARE SUBJECT TO A PORT STATE INSPECTION.

SEC. 59. ACCESSIBILITY OF INFORMATION AND RECORD OF EMPLOYMENT ON BOARD SHIP AND IN PORTS TO BE VISITED. THE POEA SHALL UNDERTAKE MEASURES TO ENSURE THAT CLEAR INFORMATION AS TO THE CONDITIONS OF SEAFARERS' EMPLOYMENT CAN BE EASILY OBTAINED ON BOARD BY SEAFARERS, INCLUDING THE SHIP'S MASTER, AND THAT SUCH INFORMATION, INCLUDING A COPY OF THE SEAFARERS' EMPLOYMENT AGREEMENT, IS ALSO ACCESSIBLE FOR REVIEW BY OFFICERS OF A COMPETENT AUTHORITY, INCLUDING THOSE IN PORTS TO BE VISITED, AND THAT SEAFARERS SHALL BE GIVEN A DOCUMENT CONTAINING A RECORD OF THEIR EMPLOYMENT ON BOARD THE SHIP.

SEC. 60. SEAFARER COMPENSATION FOR SHIP'S LOSS OR FOUNDERING, HOURS OF WORK, OVERTIME WORK AND PAY, LEAVES AND SHIPBOARD WORKING ARRANGEMENTS. THE MANNING OR CREWING AGENCIES SHALL ENSURE THAT THE STANDARDS SET BY THE MLC 2006 CONCERNING SEAFARER COMPENSATION FOR THE SHIP'S LOSS OR FOUNDERING, HOURS OF WORK, OVERTIME WORK AND PAY, ENTITLEMENT TO LEAVES AND SHIPBOARD WORKING ARRANGEMENTS ARE MET IN ANY AND ALL SEAFARERS' EMPLOYMENT AGREEMENTS THAT ARE PROCESSED AND/OR CONSUMMATED IN THE COURSE OF THEIR RECRUITMENT AND PLACEMENT ACTIVITIES.

SEC. 61. SALARIES, WAGES, Allotment and Remittances. ALL SEAFARERS SHALL BE PAID FOR THEIR WORK REGULARLY AND IN FULL IN ACCORDANCE WITH THEIR EMPLOYMENT AGREEMENTS. It shall be mandatory for all seafarers to remit a portion of their earnings to their families, dependents, and/or beneficiaries in accordance with rules and regulations prescribed by the Secretary of DOLE.

SEC. 62. Limitations on Wage Deductions. A deduction from the seafarer's wages shall not be made without his/her written consent, unless the deduction is provided for in the contract of employment and is authorized by law.

SEC. 63. Rest Periods. A seafarer shall be allowed reasonable rest periods in accordance with international standards and the Labor Code. He/she shall be entitled to adequate time for rest and sleep. The period of rest shall, during any 24-hour period, amount to not less than 10 hours.

SEC. 64. Shore Leave. The seafarer shall be allowed shore leave when practicable, upon the consent of the master of deputy, taking into consideration the operation and safety of the vessel and the seafarer.

SEC. 65. *Short Manning and Saved Wages.* In the event that the whole or part of the voyage is carried out with a smaller crew than what was previously appointed, or if the number of the active members of the crew is reduced prior to or during the voyage, the wages saved due to this circumstances shall be distributed proportionately among the members of the active crew who assumed additional work resulting therefrom.

SEC. 66. *Personal Effects.* A seafarer may bring a reasonable number of articles for personal use: *Provided, however,* That this does not involve inconvenience to the ship or cargo or pose any health risk on board. If the seafarers' personal effects are lost or damaged as a result of shipwreck, loss or stranding, abandonment of the vessel, or as a result of fire, flooding, collision or piracy, the employer shall reimburse him / her for said loss or damage.

SEC. 67. *Consideration of Seaworthiness.* When more than half of the crew makes a written complaint to the master regarding the seaworthiness of the ship for the forthcoming voyage, if the chief engineer or first mate makes a similar complaint regarding the part of the ship, appurtenances or equipments under their respective supervision, the ship master shall be bound to have the ship examined. If the shipmaster refuses to let the ship be examined despite valid complaint to do so, the crew may refuse to proceed **WITH** the voyage.

CHAPTER X.

HEALTH AND SAFETY

Sec 68. *Prevention of Health Hazards.* Work on board the vessel must be organized and executed in such a manner that the seafarer's life and limb is well 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 well-informed of the hazards inherent in the work, and that he is given the proper guidance and adequate practice necessary to avoid such hazards.

Sec 69. *Sanitary Conditions.* Measures should be undertaken to ensure cleanliness and proper hygiene on board. The master shall ensure that the crew is provided a well-balanced diet. He should also guarantee that the crew receives the necessary vaccination or inoculation as required by the circumstances or the laws of the country of which the vessel may enter.

SEC. 70. HEALTH AND PREVENTION OF ACCIDENTS. PRACTICAL MEASURES SHOULD BE TAKEN BY THE MARITIME TRAINING COUNCIL TO BRING TO THE ATTENTION OF YOUNG SEAFARERS INFORMATION CONCERNING THE PREVENTION OF ACCIDENTS AND THE PROTECTION OF THEIR HEALTH ON BOARD SHIPS. SUCH MEASURES COULD INCLUDE ADEQUATE INSTRUCTION IN COURSES, OFFICIAL ACCIDENT PREVENTION PUBLICITY INTENDED FOR YOUNG PERSONS AND PROFESSIONAL INSTRUCTION AND SUPERVISION OF YOUNG SEAFARERS.

SEC. 71. HARMFUL SUBSTANCES. EDUCATION AND TRAINING OF YOUNG SEAFARERS BOTH ASHORE AND ON BOARD SHIPS SHOULD INCLUDE GUIDANCE ON THE DETRIMENTAL EFFECTS ON THEIR HEALTH AND WELL-BEING OF THE ABUSE OF ALCOHOL AND DRUGS AND OTHER POTENTIALLY HARMFUL SUBSTANCES, AND THE RISK AND CONCERNS RELATING TO HIV/AIDS AND OF OTHER HEALTH RISK RELATED ACTIVITIES.

SEC. 72. *Medical Examination and Medical Service.* A seafarer engaged to perform services on board shall secure a medical certificate to the effect that he is not suffering from any illness or mental or physical defect rendering him unfit for work or which may constitute danger to other persons on board. Any member of the crew may also be required to submit to a medical examination, at the expense of the ship owner, should the master have reason to believe that such examination is necessary to monitor and maintain the health and environmental conditions on board the vessel.

SEC. 73. *Protection from Sexual Harassment.* It shall be the duty of the master and the employer to prevent the commission of acts constituting sexual harassment and to provide measures for the resolution, settlement or prosecution of acts of sexual harassment.

Sexual harassment is herein defined as an act committed by an employer, employee, supervisor, agent of the employer, any other person who, having authority, influence or moral ascendancy over another in a work, **TRAINING, CADETSHIP, INTERNSHIP** 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.

CHAPTER XI.

SOCIAL WELFARE SERVICES AND DISABILITY BENEFITS

SEC. 74. Disability. In case of **[work-related]** total or partial disability of the seafarer during the term of his/her employment cause by either injury or illness, the seafarer shall be compensated in accordance with the schedule of the benefits prescribed by the law. Computation of his/her 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 in respect in any injury, incapacity, disability or death of the seafarer resulting from his/her willful or criminal act; *Provided, however,* That the employer can prove that such injury, incapacity, 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.

SEC. 75. Employer's Liability in Case of Death. When the seafarer dies as a result of injury or illness during the term of employment, the employer shall pay the beneficiary/ies of the seafarer all outstanding obligations due the seafarer under his/her employment contract; The employer is also mandated to notify the next of kin and make arrangement for burial, return or repatriation of the remains. If the death occurs in a foreign territory, the master shall also inform the nearest Philippine Embassy or Foreign Service Office of said death. The remains and personal effects of the seafarer shall be transported to the Philippines employer's expense except if the death occurred in the port where local government laws or regulations do not permit the transport of such remains.

In case death occurs at sea, the arrangements for the handling of the remains shall be drawn up and proposed by the shipmaster to the deceased next of kin. In all cases, the employer and/or shipmaster, through the manning and crewing agency, shall communicate with the next of kin of the deceased and secure the next of kin's concurrence as regards the proposed arrangements covering the handling of the seafarer's remains. The employer shall also pay for the seafarer's burial expenses.

SEC. 76. Death Benefits. In case of **[work-related]** death of the Filipino seafarer during the term of his contract, 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.

No benefits shall be payable in case of death resulting from a willful act by the Filipino seafarer. In connection thereto, the employer can prove that such death is directly attributable to the seafarer.

SEC. 77. Payment of Benefits. The employer shall **[have]** ensure expeditious arrangement for the payment of death or personal injury benefits provided under this Act.

The employer shall likewise arrange for adequate insurance coverage.

SEC. 78. Review of Benefits. The POEA shall, upon consultation, with the seafarer's unions and associations of manning agencies and shipping companies, undertake a regular

annual review of the death benefits provided under this Act and through its governing board, update or amend the death benefits to keep it at par with prevailing international standards.

SEC. 79. Seafarer's Loan Guarantee Fund. The OWWA, in coordination with government financial institutions, shall institute financing schemes that will expand the grant of pre-departure loan and family assistance loan to seafarers in accordance with Section 21 of RA No. 8042. **ALL OTHER LAWS, RULES AND REGULATIONS AND OWWA BOARD RESOLUTIONS THAT MAY BE ENACTED/ADOPTED IN THE FUTURE, WHICH SHALL GRANT OWWA LOANS TO OVERSEAS FILIPINO WORKERS AND/OR THEIR FAMILIES/BENEFICIARIES, SHALL BE DEEMED TO INCLUDE FILIPINO SEAFARERS WORKING ABROAD AND/OR THEIR FAMILIES/BENEFICIARIES.**

SEC. 80. Housing and Provident Benefits. Seafarers shall be provided access to the government's housing program through membership in the Home Development Mutual Fund (Pag-ibig Fund).

SEC. 81. Care of the Sick or 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 attention.

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.

SEC. 82. Care for Repatriated Seafarers. If after repatriation, the overseas seafarers still require medical attention arising from said injury or illness, he shall be so provided, at cost to the employer until such time he is declared fit and the degree of his disability has been established by the employer-designated physician.

For this purpose, the seafarer shall submit himself to a post-employment medical examination by a company-designated physician within three (3) working days upon his return except when he is physically incapacitated to do so, in which case, a written notice to the agency within the same period is deemed as compliance. Failure of the seafarer to comply with the mandatory reporting requirement shall result in his forfeiture of his right to claim the above benefits.

SEC. 83. SOCIAL SECURITY BENEFITS. ALL SEAFARERS SHALL BE MEMBERS OF THE WELFARE FUND OF THE OVERSEAS WORKERS WELFARE ADMINISTRATION (OWWA), THE PAG-IBIG FUND (HOME DEVELOPMENT MUTUAL FUND), THE SOCIAL SECURITY SYSTEM (SSS) AND THE PHILIPPINE HEALTH INSURANCE CORPORATION (PHILHEALTH).

SEC. 84. WELFARE FACILITIES AND SERVICES. THE DEPARTMENT OF LABOR AND EMPLOYMENT, IN COORDINATION WITH THE DEPARTMENT OF TRANSPORTATION AND COMMUNICATION, PHILIPPINE PORTS AUTHORITY AND OTHER RELEVANT GOVERNMENT AGENCIES SHALL ENSURE THE PROVISION OF SUCH WELFARE FACILITIES AND SERVICES AS MAY BE REQUIRED, IN APPROPRIATE PORTS/AIRPORTS OF THE COUNTRY TO BE KNOWN AS SEAFARERS' WELFARE CENTERS. THE DOLE, IN COORDINATION WITH THE AFOREMENTIONED AGENCIES SHALL TAKE MEASURES DESIGNED TO EXPEDITE THE FREE CIRCULATION AMONG SHIPS, SEAFARERS, CENTRAL SUPPLY AGENCIES AND WELFARE ESTABLISHMENTS OF WELFARE MATERIALS SUCH AS FILMS, BOOKS, NEWSPAPERS AND SPORTS EQUIPMENT FOR USE BY SEAFARERS ON BOARD THEIR SHIPS AND IN WELFARE CENTERS ASHORE. INTERNATIONAL SEMINARS ON THE SUBJECT OF WELFARE OF SEAFARERS AT SEA AND IN PORT SHALL BE ORGANIZED. WHERE APPROPRIATE, FACILITIES FOR RELIGIOUS OBSERVANCES, LEGAL SERVICES AND PERSONAL COUNSELLING SHALL BE PROVIDED IN THE SAID WELFARE CENTERS.

CHAPTER XII

DISCIPLINARY AND DISPUTE SETTLEMENT PROCEDURE

SEC. 85. 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;
- 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; AND
- c) To ensure the protection and safety of seafarers at all times.

SEC. 86. 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 sanctions;
- b) To treat the ship and the cargo with proper care 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.

SEC. 87. Disciplinary Procedures. The employer/master shall serve seafarers with a written notice containing the grounds for the charges as well as the date, time and place for a formal investigation of the charges against the seafarer concerned.

The employer/master or his/her 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 employer / master is convinced that the imposition of a penalty is justified, the employer / master shall issue a written notice of penalty and the reason therefor to the seafarer, with copies furnished to the manning or crewing agency which deployed the said seafarer.

The aggrieved seafarer may appeal in writing within a period of five (5) days from the date the Master rendered decision to a Grievance Resolution Committee composed of one (1) representatives from the ratings to be chosen by the concerned seafarer, one (1) representative from the officer 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 not more than fifteen (15) days from the date of appeal. Execution of judgment is deemed suspended upon filing of the appeal.

SEC. 88. Grievance Machinery.

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

1. The seafarer shall approach the head of the Department in which he is assigned to explain his grievance;

2. The seafarer shall state his grievance in writing and in an orderly manner, and shall choose a proper 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 at his level refer the complaint or grievance to the Master;
4. If the seafarer is not satisfied with the decision of the Master, he may appeal to the Grievance Resolution Committee which shall be composed of the one (1) representative from the ratings to be chosen by the concerned seafarer, one (1) representative from the officer level to be chosen by the Master, and one (1) neutral party to be agreed on by the concerned seafarer and shipmaster;
5. The Grievance Resolution Committee shall seek to address and resolve the grievance within a period of fifteen (15) days 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 a Philippine Labor Attache or consular officer overseas.
7. The Master shall afford such facilities necessary to enable the seaman to transmit his appeal; and

B) THE GRIEVANCE MACHINERY SHALL BE AVAILED OF BY THE PARTIES TO THE DISPUTE IRRESPECTIVE OF WHETHER OR NOT THEIR CONTRACTUAL RELATIONSHIP IS COVERED BY A COLLECTIVE BARGAINING AGREEMENT. THE PROCEDURE SHALL BE A CONDITION PRECEDENT PRIOR TO THE ASSUMPTION BY THE VOLUNTARY ARBITRATOR OR PANEL OF VOLUNTARY ARBITRATORS OR THE LABOR ARBITER OF THEIR ORIGINAL AND EXCLUSIVE JURISDICTION. When availed 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. Speedy resolution of cases shall be given utmost priority.

C) THE GRIEVANCE RESOLUTION COMMITTEE SHALL INCLUDE, AMONG OTHERS IN ITS RESOLUTION, ORDER OR DECISION A CERTIFICATION OF WHETHER OR NOT THE RELATIONSHIP OF THE PARTIES TO THE DISPUTE ARE COVERED BY A COLLECTIVE BARGAINING AGREEMENT, AND THE REFERRAL OF THE DISPUTE TO THE APPROPRIATE VENUE.

SEC. 89. *Dispute Settlement.* The procedure herein stated shall be without prejudice to the other action that maybe brought by the seafarer before the jurisdiction of the concerned regular courts and/or NLRC; or to the exclusive and original jurisdiction of the voluntary arbitrator or panel of arbitrators appointed from the accredited voluntary arbitrators of the National Conciliation and Mediation Board (NCMB) of DOLE.

SEC. 90. *Voluntary Arbitration.* Pursuant to the constitutional mandate on the preferential use of voluntary modes of dispute settlement, the DOLE shall adopt procedural guidelines in the conduct of voluntary arbitration proceedings involving the maritime sector, and promote the use of voluntary arbitration as a mode to achieve speedy resolution of cases.

SEC. 91. *Money Claims.* Notwithstanding any provision of law to contrary, the Labor Arbiters of the NLRC shall have the original and exclusive jurisdiction to hear and decide, within ninety (90) calendar days after filing of the complaint, the claims arising out of an employer-employee relationship or by virtue of any law or contract involving a Filipino seafarer, including claims for actual, moral, exemplary and other forms of damages.

THE LABOR ARBITER, RECOGNIZING THE SIGNIFICANCE OF THE DIFFERENT MODES OF ALTERNATIVE DISPUTE RESOLUTION SHALL BEFORE ITS ASSUMPTION

OF JURISDICTION ENSURE THAT THE DISPUTE HAS UNDERGONE THE MANDATORY GRIEVANCE PROCEDURE AND NOT WITHIN THE AMBIT OF VOLUNTARY ARBITRATION.

The liability of the principal/employer and the manning or crewing agency 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 manning and crewing agency, as provided by law, shall be answerable for all money claims or damages that may be awarded to the seafarer concerned. If the manning or crewing agency is a juridical being, the corporate officers and directors and partners as the case may be, shall themselves be jointly and solitarily liable with the corporation or partnership for the aforesaid claims and damages.

Such liabilities shall continue during the entire duration of the employment contract and shall not be affected by any substitution, amendment or modification made locally or in a foreign country where the said contract was entered into. Any compromise, amicable settlement or voluntary agreement on money claims inclusive of damages under this section shall 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 defined by law or contract, the seafarer shall be entitled to the full reimbursement of his/her placement fee with interest at twelve percent (12%) per annum, plus his/her salaries for the unexpired portion of his/her employment contract or for three (3) months for every year of the unexpired term, whichever is less.

SEC. 92. Liability for Claims. The liability of the principal/employer and the manning agency for any claims made by a Filipino seafarer under this Title shall be joint and several.

SEC. 93. MANDATORY LIABILITY INSURANCE COVERAGE. THE STATE SHALL ESTABLISH A SYSTEM OF PROTECTION, 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 RECRUITMENT AND PLACEMENT SERVICE OR THE RELEVANT SHIPOWNER UNDER THE SEAFARERS' EMPLOYMENT AGREEMENT TO MEET ITS OBLIGATIONS TO THEM. TOWARDS THIS END, A MANDATORY LIABILITY INSURANCE COVERAGE FOR THE BENEFIT OF SEAFARERS AND TO COVER SEAFARERS' MONEY CLAIMS SHALL BE ESTABLISHED BY THE GOVERNMENT WHEREBY ALL MANNING OR CREWING AGENCIES SHALL BE REQUIRED TO JOIN IN. THE SEAFARERS/APPLICANTS SHALL NOT BE MADE TO PAY ANY CHARGE OR PREMIUM FOR THIS INSURANCE. THE STATE SHALL ENSURE THE PAYMENT IN FULL AND WITHOUT DELAY OF SEAFARERS' MONEY CLAIMS. AN ADMINISTRATIVE FINDING BY THE POEA OF ANY VIOLATION OF THIS SECTION SHALL CAUSE THE MANNING OR CREWING AGENCY CONCERNED TO SUFFER THE PENALTY OF SUSPENSION OR CANCELLATION OF ITS LICENSE TO OPERATE.

SEC. 94. Prescriptive Period. Recognizing the particular nature of overseas shipboard employment, all monetary claims arising from the seafarer's contract shall prescribe within three (3) years from the date of the seafarer's return to the point of hire. All monetary claims of those employed in domestic shipping shall prescribe within three (3) years from the day the action commenced.

CHAPTER XIII

POST EMPLOYMENT

SEC. 95. Termination of Employment. The employment of the overseas seafarer shall cease when he/she:

- a) Completes his/her period of contractual service aboard the vessel, signs off from the vessel and arrives at the point of hire;
- b) Arrives at the point of hire for any of the following reasons:

- i. Voluntarily resigns for just cause and signs off prior to expiration of contract;
- ii. Signs-off and disembarks for health reasons;
Signs-off due to shipwreck, lay-up of vessel, change of vessel or discontinuance of voyage; AND
Is discharged for just cause.

SEC. 96. Termination by the Seafarer.

- a) A seafarer may terminate the employer-employee relationship based on either:
 - i. The ship is not seaworthy;
 - ii. The principal changes;
 - iii. The vessel is sold;
 - iv. The vessel is shipwrecked;
 - v. The seafarer has been ill-treated on board and the master has failed to protect him when requested to do so;
 - vi. The voyage is discontinued or substantially altered;
 - vii. After the seafarer starts on board, it appears that the ship risk being seized by a belligerent power or exposed to war damage, or that such risk is imminent or has increased considerably; and
 - viii. After the seafarer starts on board, 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 (vi)-(viii) hereof, the seafarer may take his/her departure with immediate effect if the voyage has not commenced, or otherwise at the ship's first port of call after he has become aware of the situation.

SEC. 97. Prohibition against Transfer of Station. A Filipino seafarer shall not be transferred at any port to any vessel owned or operated, manned or managed by the same employer without the seafarer's consent. In the event that the seafarer concerned consents with such transfer, the position of the seafarer and the rate of his/her wages and terms of services shall, in no way, be lower or inferior and the total period of employment shall not exceed that original agreed upon. Any form of transfer shall be documented and reported by the manning or crewing agency to the POEA.

SEC. 98. Post-Employment Benefits. Whenever applicable, in addition to the benefits a seafarer may be entitled to under the OWWA and the SSS, a retiring seafarer covered by collective bargaining agreement shall be entitled to such post-employment benefits as may be provided in his / her contract or agreement.

A Filipino seafarer who is not covered by a collective bargaining agreement, on the other hand, may, upon notice to his/her manning or crewing agency and principal, authorize the deduction of a specified percentage of his/her monthly wages to form part of his/her voluntary contribution to the post-employment fund. The amount to be deducted shall be placed in an account in the name of the contributing seafarer.

CHAPTER XIV

REPATRIATION

SEC. 99. Repatriation. All costs related to the repatriation and / or transport of the personal effects of a seafarer shall be borne by or charge to the manning or crewing 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. However, in cases where the termination of employment is due solely to the fault of the seafarer, the principal/employer or manning/crewing agency shall not in any manner be responsible for the repatriation of the former and/or his/her personal effects. **THE IMPLEMENTING RULES AND REGULATIONS OF THIS ACT SHALL CONTAIN ALL THE NECESSARY DETAILS AND**

GUIDELINES CONCERNING THE REPATRIATION OF SEAFARERS THAT SHALL STRICTLY ADHERE TO THE RELEVANT PROVISIONS OF THE MLC 2006.

SEC. 100. *Mandatory Repatriation of Underage Seafarers.* Upon discovery or information of a Filipino seafarer whose actual age falls below eighteen (18) years of age, the nearest Philippine consulate office shall, without delay, repatriate the said seafarer and advise the DFA and DOLE as soon as possible of such discovery and other relevant information.

SEC. 101. *Emergency Repatriation.* The DOLE, in coordination with the OWWA and the DFA, shall undertake the repatriation of seafarers in cases of war, epidemics, disasters or calamities, natural or man-made, and other similar events without prejudice to reimbursement by the responsible principal or manning/crewing agency. **SEAFARERS WHO ARE DETAINED IN A FOREIGN PORT SHALL BE DEALT WITH PROMPTLY UNDER DUE PROCESS OF LAW AND SHALL BE PROVIDED BY THE DFA WITH APPROPRIATE CONSULAR PROTECTION AND SHALL BE REPATRIATED PROMPTLY, ESPECIALLY WHEN THE FAMILY OF THE SEAFARER OR THE SEAFARER HIMSELF REQUESTS IMMEDIATE REPATRIATION.**

SEC. 102. *Legal Assistance Fund.* The Legal Assistance Fund created under RA No. 8042 shall extend legal services to an overseas seafarer who is in distress in accordance with the guidelines, criteria and procedures promulgated therein.

CHAPTER XV

REINTEGRATION SERVICES

SEC. 103. *Retraining and Reintegration.* Returning or unemployed seafarers may avail of the livelihood development/re-training programs and placements services offered by concerned government agencies, including OWWA and TESDA, TLC, and the CDA.

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, port and shipping industry, and maritime educational institutions shall be likewise solicited by the DOLE in devising the appropriate retraining and local job placement programs for unemployed seafarers.

SEC. 104. *Establishment of Reintegration Center.* A Re-integration Center within the OWWA shall be established to attend to the needs of returning seafarers. The Center shall provide a mechanism for their reintegration into the Philippine society, serve as a promotion house for their local employment, and tap their skills and potentials for national development.

The Center shall provide the following services:

- a) Develop livelihood programs and project for returning seafarers in coordination with the private sector and concerned government agencies;
- b) Coordinate with appropriate private government agencies in the promotion, development, and full utilization of their potentials. For this purpose, the DOLE shall be the lead implementer. The CDA and the TLRC shall develop among returning Filipino seafarers, technical expertise in the enterprise building and development, while the DSWD shall provide the necessary services for the effective social re-integration of migrant workers;
- c) Develop a matching program that will allow returning Filipino seafarers to develop business partnerships and employment options with public and private sector enterprises in the country; and
- d) Provide a periodic study of the assessment of job opportunities for returning seafarers.

SEC. 105. *Scholarship Programs.* Qualified seafarers or their immediate descendants, who intend to pursue science and technology related courses may apply for scholarships with the OWWA 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 field 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.

CHAPTER XVI

ACCOUNTABILITY OF GOVERNMENT OFFICIAL AND PERSONNEL

SEC. 106. *Accountability of Government Officials and Personnel.* Any government official and personnel who fails or refuse to render service(s) and/or assistance to seafarers without just cause shall, after due notice and hearing, and if found guilty, be punished with suspension from office of not less than thirty (30) days or dismissal from the service with forfeiture of retirement and other benefits.

CHAPTER XVII

TRANSITORY PROVISIONS

SEC. 107. *Implementing Rules and Regulations.* The DOLE, in coordination with the DFA AND THE SENATE COMMITTEE ON LABOR AND THE HOUSE COMMITTEE ON OVERSEAS WORKERS' AFFAIRS and other agencies concerned, **AFTER CONSULTATION WITH THE STAKEHOLDERS** and within ninety (90) days after the effectivity of this Act, shall formulate its rules and regulations.

SEC. 108. *Separability Clause.* If any provision of this Act is declared unconstitutional, the remaining provisions shall **[be]** continue in force.

SEC. 109. *Repealing Clause.* All laws, presidential decrees, or issuance, executive orders, letters of instruction, rules or regulations inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 110. *Effectivity Clause.* This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in at least two (2) newspapers of general circulation, whichever comes first.

Approved,