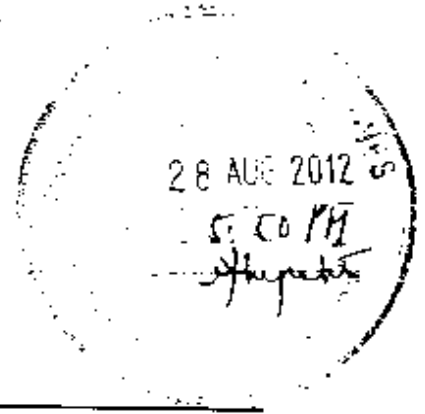


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila
FIFTEENTH CONGRESS
FIRST REGULAR SESSION
House Bill No. _____ **6508**



Introduced by **AKBAYAN Party-list Representatives Walden F. Bello and Kaka J. Bag-ao**

EXPLANATORY NOTE

With the Philippines deploying over 300,000 overseas Filipino seafarers (OFS) in international ocean-going vessels, the government's continuous efforts to ensure their protection and welfare has been strengthened through the recent ratification of international seafarer's bill of rights, making the Philippines the 30th member-state to sign the International Labor Organization's Maritime Labor Convention 2006. This act shows the international commitment of the Philippines to being one of the progressive member-states that actively protects its international seafarers.

In an article in Inquirer Global Nation, columnist Tina G. Santos reported that according to Secretary Baldoz, around 300,000 overseas Filipino seafarers stand to benefit from the ratification of the MLC 2006. Aimed towards better protection before, during and after deployment, increase in competency building, education and training, and increase in overall competitiveness and professional advantage of our Filipino overseas seafarers, this bill seeks to strengthen the rights of our OFS through stronger compensation benefits, clearer institutional accountabilities and more hardworking protective mechanisms that can empower the Philippine institutions in their protection of OFS within and beyond our borders. This bill seeks to forge clearer accountability of specific institutions when it comes to protection of OFS, and to ensure just compensation of our OFS and relevant social protection


WALDEN F. BELLO


KAKA J. BAG-AO

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House Bill No. _____ **6508**

Introduced by **AKBAYAN** Party-list Representative **Walden F. Bello** and
Representative **Kaka J. Bag-ao**

**AN ACT INSTITUTING THE MAGNA CARTA OF FILIPINO SEAFARERS
ON BOARD INTERNATIONAL OCEAN-GOING VESSELS**

This bill applies to international seafaring and does not cover domestic vessels and domestic seafaring workers.

Chapter 1
General Provisions

Section 1. Short Title. – This Act shall be known as the “Magna Carta of Overseas Filipino Seafarers.”

Section 2. Coverage. – This Act shall cover all Filipino seafarers working on an international ocean-going ship under Philippine registry or those working on ships under foreign registry.

Section 3. Applicability. – All rights and benefits granted under this Act shall, except as may otherwise be provided herein, apply to Filipino seafarers as defined herein. All rights, privileges and benefits previously enjoyed by Filipino seafarers before the effectivity of this Act, including but not limited to, those set forth in Republic Act No. 8042, otherwise known as the “Migrant Workers and Overseas Filipinos Act of 1995,” as amended, shall continue to be recognized and shall not be diminished after the effectivity of this Act.

Section 4. Declaration of Policies. – It is hereby declared the policy of the State:

- a) To recognize the rights, contributions and unique role of Filipino seafarers as maritime professionals, as well as their vulnerabilities, and afford them full protection before, during and after their employment;
- b) To maintain and progressively develop a pool of competent and world-class international seafarers for all officers, ranks and ratings, as well as service personnel on special types of vessels, through a system of education, training, accreditation and licensing;
- c) To establish mechanisms for the enhancement of administrative, adjudicative, social as well as welfare services for them and their families;

- d) To enact laws that ratify, adopt, and implement the standards set by international conventions and agreements on safety, working conditions, and working hours, among others for seafarers particularly the Maritime Labor Convention of 2006;
- e) To recognize manning and recruitment entities as vital partners in promoting the skill and competence of Filipino seafarers and protecting their rights prior to, and post employment by offering these manning and recruitment entities fiscal and tax incentives.
- f) To allow the deployment of Filipino seafarers as overseas workers on vessels navigating the foreign seas or to installations located offshore or on high seas whose owners/employers are compliant with international laws and standards that protect the rights of migrant workers, and also compliant with the minimum standard employment contract as well as rules and regulations on sea-based workers prescribed by the Philippine Overseas Employment Administration (POEA).

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 as well as promote and provide incentives to the sea-based manning industry. The State shall further work to uplift the socio-economic well-being of the Filipino seafarers' families.

Section 5. *Definition of Terms.* –

- (a) "*Authority*" refers to the document issued by the POEA authorizing any person or entity to engage in the recruitment and placement of seafarers as OFWs;
- (b) "*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. Contract coverage takes effect upon departure from residence.
- (c) "*Foreign Registry*" shall refer to the official public register of vessels of a country other than the Philippines;
- (d) "*International Maritime Convention*" or "*International Convention*" shall refer to any written treaty or agreement, or any protocol or amendment thereto, affecting the maritime industry which has come into force and effect;
- (e) "*License*" refers to the document issued by the POEA authorizing any person or entity to operate a manning agency;
- (f) "*Manning Agency*" refers to any person, company, institution, licensed to engage in recruitment and deployment of overseas Filipino seafarers on board ships of foreign registry in behalf of its foreign principals;

- (g) "*Maritime Industry*" refers to all stakeholders engaged in the business of owning, managing, chartering and/or operating ocean-going ship(s) of Philippine or foreign registry, manning of ships, management of ports, stevedoring and arrastre services, ship brokering and chartering, ship-building and ship repair, providing maritime services such as ship supplies and provisions, maritime education and training, shipping agency, and other similar activities;
- (h) "*Master*" refers to a seafarer who is licensed and authorized to command and/or navigate a ship by law or regulation and appointed as representative of the ship owner;
- (i) "*Officers*" refer to seafarers who are licensed by law or regulation to serve in such capacity, such as Master Mariner, Chief Officer, 2nd Officer, and 3rd Officer for the Deck department and Chief Engineer, 2nd Engineer, 3rd Engineer, and 4th Engineer for the Engine department;
- (j) "*Overseas Filipino Worker (OFW)*" or "Migrant Worker" refers to a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a state of which he or she is not a citizen or on board a vessel navigating the foreign seas other than a government ship used for military or non-commercial purposes or on an installation located offshore or on the high seas; For the purposes of this bill, the terms OFW and OFS (Overseas Filipino Seafarer) may be used interchangeably.
- (k) "*Philippine National*" shall refer to any individual who is a citizen of the Philippines, or a commercial partnership or corporation organized under the laws of the Philippines, at least 60% of the capital of which is owned by citizens of the Philippines;
- (l) "*Philippine Port*" refers to any Philippine airport or seaport;
- (m) "*Philippine Seafarers' 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, issued on January 24, 2003;
- (n) "*Philippine Shipping Companies*" refer to entities registered and licensed under the laws of the Philippines to engage in the business of overseas and or domestic water transportation;
- (o) "*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;
Will depend on the MOA of the principal and manning agency. Note previous comment.
- (p) "*Principal*" or "*employer*" refers to any person, partnership or corporation hiring overseas Filipino seafarers to work on board ocean-going ships;

- (q) "*Rating*" refers to any member of the crew other than the Officers as defined herein;
- (r) "*Recruitment and Placement*" refers to any act of canvassing, enlisting, contracting, transporting, utilizing, hiring or procuring workers, and includes 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.
- (s) "*Recruitment and placement agency*" refers to any Filipino person, corporation, partnership, company, etc. who is engaged in recruiting seafarers for placement or employment on board Philippine-registered vessels or foreign registered vessels;
- (t) "*Philippine Registry*" shall refer to the official public register under the authority of the Registrar of Ships which shall hold the record of all vessels and its encumbrances registered under Philippine laws;
- (u) "*Seafarers*" refer to any person who fulfils the conditions to be employed or engaged as part of the crew or complement of the ocean-going ship other than a government ship used for military or non-commercial purposes. This term includes seafarers serving on mobile offshore units who perform functions similar to those constituting a crew, fishermen or cruise ship personnel;
- (v) "*Overseas Filipino Seafarer (OFS)*" refers to a seafarer as defined above, who fulfils the conditions for or engaged as part of the crew or complement of an ocean-going ship of Philippine or foreign registry.
- (w) "*Ocean-going ship*" shall refer to any Philippine or foreign-registered ship which is authorized to carry passengers or cargo, or both, in trade between a Philippine port and a foreign port, or between two foreign ports;
- (x) "*Ship owner*" refers to the 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 under this Act;
- (y) "*Vessel*" or "*Ship*" shall refer to any boat, craft or artificial contrivance capable of floating in water, designed to be used, or capable of being used, as a means of water transport for the carriage of passengers or cargo, or both, utilizing its own motive power or that of another, and shall include a ship under construction and mobile offshore units;
- (z) "*Commission on Higher Education (CHED)*" refers to the government agency created pursuant to Republic Act No. 7722;
- (aa) "*Department of Education (DepEd)*" 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);

- (bb) *“Department of Foreign Affairs (DFA)”* refers to government agency created pursuant to Republic Act No. 7157;
- (cc) *“Department of Labor and Employment”* refers to the government agency created pursuant to Executive Order No. 292;
- (dd) *“ILO”* refers to the International Labor Organization;
- (ee) *“IMO”* refers to the International Maritime Organization;
- (ff) *“Maritime Industry Authority” (MARINA)* refers to the government agency created pursuant to Presidential Decree No. 474;
- (gg) *“Maritime Training Council”* refers to the government agency created pursuant to Letter of Instruction No. 1404;
- (hh) *“NSO”* refers to the National Statistics Office;
- (ii) *“Overseas Workers Welfare Administration (OWWA)”* refers to the government agency created pursuant to Executive Order No. 126;
- (jj) *“Philippine Coast Guard (PCG)”* refers to the government agency created pursuant to Republic Act No. 517;
- (kk) *“Philippine Overseas Employment Administration (POEA)”* refers to the government agency created pursuant to Executive Order No. 797, as amended by Executive Order No. 247;
- (ll) *“PRC”* refers to the Professional Regulation Commission;
- (mm) *“STCW ’78”* refers to the International Convention on Standards of Training, Certification and Watch-keeping for Seafarers of 1978, as amended;
- (nn) *“Technical Education and Skills Development Authority”* refers to the government agency created pursuant to Republic Act No. 7796;
- (oo) *“TLC”* refers to the Technical and Livelihood Center.

Chapter 2 **Filipino Seafarer’s Rights**

Section 6. *Right to Educational Advancement and Training at Reasonable and Affordable Costs.* – The State shall ensure that Filipino seafarers, employed in ocean-going ships, have access to quality educational advancement and training at reasonable and affordable rates.

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.

Section 7. *Right to Relevant Information.*— The State shall ensure that manning agencies, and other private and public agencies shall provide Filipino seafarers with adequate and relevant information to make them understand their rights, benefits, obligations, conditions and realities attendant to their profession, their duties, responsibilities and obligations under the POEA-approved contract.

Toward this end, manning agencies, and other organizations responsible for the recruitment and placement of Filipino seafarers shall be mandated to provide seafarers information on the computation and payment of salaries and specific privileges and benefits available in their contract of employment.

The State shall provide seafarers access to an efficient, adequate and accountable system for finding employment on board ship, which may include relevant government agencies and manning agencies, without charge to the seafarer.

Section 8. *Right to Humane Conditions of Work and Right to Just Compensation.* -

The State shall protect the Filipino seafarers' rights to:

- (a) humane conditions of work;
- (b) a safe and secure workplace that complies with safety standards;
- (c) decent working and living conditions on board ship,
- (d) medical care, welfare measures and other forms of health and social protection,
- (e) time for himself and his family,
- (f) equal treatment , protection from discrimination and respect for cultural identity regardless of gender, race, religion, ethnicity or socio-economic status,
- (g) fair terms and conditions of employment including salary commensurate to their rank, hours of work, and other relevant basis for wage computation, minimum number of working hours, minimum annual leave (2.5 days per month) and rest period consistent with Philippine laws or international maritime conventions, when applicable.

Section 9. *Right to Legal Representation.*— Filipino seafarers who are victims of illegal recruitment and prohibited acts as defined in this Act, shall have the right to

free legal assistance and protection. 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 judicial or administrative body, and right to speedy disposition of cases.

Section 10. *Right to Self-Organization and Political Representation.* – Seafarers have the right to self-organization, to engage in collective bargaining and to participate in democratic exercise. The state shall provide for an enabling environment for the Seafarers to exercise their democratic rights.

The exercise of this right includes representation in governing boards or appointment in government instrumentalities that may affect them.

Seafarers' organizations or unions as well as concerned maritime industry representatives shall be adequately consulted by the State before adopting any policy, law, executive issuance, rule or regulation that may directly or indirectly affect them and/or their families and beneficiaries.

Chapter 3 Duties of the Seafarer

Section 11. Filipino Seafarers shall have the following duties:

1. To comply with and observe the terms and conditions of his/her employment contract;
2. To abide by the Code of Discipline as provided for in the POEA rules and regulations governing OFS;

Chapter 4 Manning Requirements for Philippine-Registered Ships

Section 12. *Citizenship of Crew.* Every member of the crew of any ocean-going ship, for which a certificate of Philippine registry or a certificate of vessel registry and ownership has been issued, should be a citizen of the Philippines.

An exemption from this requirement may be obtained from the relevant agency upon written application from the ship owner or operator and proof that no Philippine citizen is qualified for the position or is willing to serve on board the ship. This exemption shall not be granted to ships engaged purely in coastal trade.

Chapter 5 Minimum Requirements for Seafarers to Work on a Ship

Section 13. *Minimum Age.* No person below eighteen (18) years old shall be

employed, engaged, or shall be otherwise allowed to work on board an ocean-going ship.

Section 14. Education. – A Filipino seafarer must have at least finished high school or successfully completed the required academic requirements for a maritime degree provided for in the curriculum approved by the Commission on Higher Education, or must have completed the basic training courses for the position applied for as required by MARINA for ratings. The implementing rules and regulations of this Act shall set the educational and/or training requirements for each classification of seafarers.

Training and upgrading of a Filipino seafarer shall take into consideration the seafarer's right to spend quality time with his family.

Section 15. 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 Convention, as amended, and under the ILO Conventions which have come into force.

Where in-service training and assessment of competence for the Filipino seafarer is required for purposes of certification under the STCW Convention, the person conducting the same either on board or ashore must meet the qualifications prescribed under the requirements of the STCW Convention and the pertinent requirements of the MTC and PRC.

No seafarer shall be allowed to work on a ship unless he is properly trained and certified as competent or otherwise qualified to perform his duties on board in accordance with the standards of the STCW or other international maritime convention(s) providing for seafarer's training, qualification, competency or certification.

No seafarer shall be permitted to work on a ship unless he is able to demonstrate that he has successfully completed the training for personal safety on board ship. Quality standards for local seafarers shall devolve upon the Maritime Industry Authority (MARINA).

Section 16. Documentation – For the documentation, a seafarer shall be classified into local and overseas. This bill, however, shall apply on to Overseas Filipino Seafarers.

OFS must have a Seafarer's ID and Record Book (SIRB) and Seafarer's Registration Certificate (SCR), along with his Certificate of Completion of Training and Certificate of Competency.

Section 17. Medical Certification and Validity

A. Medical Certificates.—As a requirement for employment and periodically thereafter as may be determined by the Department of Health (DOH), every seafarer shall be required to hold a valid medical certificate attesting that he/she is medically fit to perform the duties that he will be required to carry

out at sea.

- B. *Required Medical Tests and Certificates.*** – The Department of Health shall determine and prescribe the nature of the medical examination that shall be required of a seafarer, ensuring that such examination will genuinely determine the seafarer's state of health, considering the duties that he/she shall be required to perform on board.

The DOH shall likewise prescribe the contents of the medical certificate to ensure that such certification will genuinely reflect the seafarer's state of health.

In determining the tenor and substance of the medical certificate, the DOH shall take into account the requirements for medical certificates prescribed by government agencies for similar professions or international maritime conventions, when applicable.

- C. *Issuance of Medical Certificates.*** — The medical certificate shall be issued by a duly qualified medical clinic or practitioner recognized and accredited by the DOH as meeting the standards to conduct medical examinations on seafarers in accordance with the guidelines of the World Health Organization (WHO).

In cases where the cost of medical examinations for seafarers is shouldered by the ship owner or manning agency, the right to designate the DOH-accredited medical clinic or practitioner that will conduct the medical examination and thereafter issue a medical certificate, shall belong to the ship owner or manning agency.

- D. *Medical Second Opinions.*** – Any seafarer who has been refused the issuance of a medical certificate or who has been issued a medical certificate but stating a limitation on his ability to work, or any limitation with respect to time of work, or number of hours of work, or trading area, shall be given the opportunity to seek further medical examination by another duly qualified medical clinic or practitioner accredited by DOH at the option of the ship owner or manning agency; Provided that, the cost of such medical examination shall be shouldered by the seafarer.

- E. *Contents of the Medical Certificate.*** — Each medical certificate shall state that:

- a. The hearing (audiometry), and eyesight (color-blindness test) of the seafarer are satisfactory;
- b. For seafarers who shall be employed in capacities where fitness for the work to be performed will be affected by a defective color vision, that the seafarer's color vision is satisfactory; and
- c. The seafarer has passed other standard medical tests as mandated by

the DOH or as required by the ship owner or manning agency.

- F. *Period of Validity of Medical Certificates.*** – Unless a shorter period is required by reason of specific duties to be performed by the seafarer, or there are specific requirements imposed by the international maritime convention:

A medical certificate shall be valid for a maximum period of two (2) years, while the seafarer is on board, provided; that the ship owner or the manning agency may require the seafarer to undergo and pass a medical examination as a requirement for every new employment contract.

A certification of color vision shall be valid for a maximum period of six (6) years.

- G. *Expiration of Medical Certificate While on Board.*** – If the period of validity of the medical certificate expires in the course of a voyage, the certificate shall continue in force until the next port call where the seafarer can obtain a medical certificate from a qualified medical practitioner, provided that the period of extension shall not exceed three (3) months.

- H. *Language of Medical Certificates.*** – All medical certificates issued to seafarers intending to work on ships engaged in international voyages shall be written in the English language.

Chapter 6

Recruitment and Placement of Overseas Filipino Seafarers (OFS)

Section 18. *Private Sector Participation in the Recruitment and Placement of OFS.* Pursuant to the above-mentioned state policies 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 overseas Filipino seafarers. *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 and other concerned government agencies.

Section 19. *Qualifications of Manning Agencies.*– The POEA shall determine the qualifications of persons, partnerships or corporations which shall be permitted to engage in the business of recruitment and placement of OFS including, among others:

- a) Minimum capitalization and other proof of financial capacity; and
- b) Qualification of officers. Non-Filipino citizens shall not be allowed to head or manage a manning agency.

Provided that, no manning agency shall be licensed to operate unless it is owned by Filipino citizens, or by partnerships wholly owned by Filipino citizens, or by corporations at least seventy-five percent (75%) of the authorized and voting capital stock of which is owned and controlled by Filipino citizens.

Section 20. *Fees Charged to the Seafarer.* No fees or other charges for recruitment or for providing employment to seafarers shall be borne directly or indirectly, in whole or in part, by the seafarer. For this purpose, the costs for obtaining national statutory certificates, personal travel documents, visas, and national seafarer's book, shall not be deemed to be included in the phrase "fees or other charges for recruitment," the costs for which shall be borne by the seafarer.

In the case where the manning agency pays the cost of medical examination it shall have the right to appoint the duly qualified and accredited medical clinic by DOH.

Section 21. *Prohibition on Officials and Employees.* It shall be unlawful for any official or employee of the DOLE, POEA, OWWA, DFA, 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 recruitment and placement of OFS as defined in this Act.

Section 22. *Protection of Seafarer's Interests.* The POEA shall control the deployment of OFS and ensure that deployment shall only be to ships of flag States which implement the standards imposed by international maritime conventions protecting the rights of seafarers. If national interest warrants or public interest requires, the POEA Governing Board, after consultation with the Department of Foreign Affairs may, at any time, terminate or impose a ban on the deployment of OFS to ships of particular flag States or trading in particular areas.

As per Section 3, of RA 10022, the State shall also allow the deployment of overseas Filipino workers to vessels navigating the foreign seas or to installations located offshore or on high seas whose owners/employers are compliant with international laws and standards that protect the rights of migrant workers.

Section 23. *Duties of Manning Agencies.* – All manning agencies shall:

- a. Maintain a register of all seafarers recruited or placed through them, giving due regard to the right to privacy of the seafarer, which register shall be made available for inspection by the relevant agency, and shall include the following information:
 - 1) The seafarer's qualifications;
 - 2) His/her record of employment;
 - 3) His/her personal data relevant to employment;
 - 4) His/her medical data relevant to employment.
- b. Ensure that all seafarers recruited or placed by them are qualified and hold valid and up-to-date training certificates, medical certificates and other applicable certificates and as well as seafarer's identity documents and other documents necessary for the job concerned;
- c. Maintain an up-to-date list of ships for which recruitment and placement

services are provided and to which seafarers are deployed and ensure that there is in place a means by which to contact the ship at all hours;

- d. Ensure that contracts of employment covering seafarers recruited or placed by them are in accordance with applicable laws and regulations;
- e. Ensure that seafarers are informed, prior to engagement or during the process of engagement, of their rights and duties under their contracts of employment, any particular conditions applicable to the job for which they will be engaged, and any specific policies of the ship owner relating to their employment;
- f. Ensure that proper and adequate arrangements are made for seafarers to examine their contracts of employment before and after they are signed and they are given a copy of the contract before they are deployed;
- g. Provide for procedures to ensure that, in the process of recruitment and placement, seafarers are not subject to any form of exploitation by any of its personnel;
- h. Inform the seafarer of the costs which he or she will be expected to bear in the recruitment and placement process;
- i. Examine and respond to any complaint received from any seafarer they have deployed and advise the competent authority of any unresolved complaint;
- j. Provide for adequate procedures to address requests for information or advise from seafarers' families while the seafarer is at sea and that these are dealt with promptly, sympathetically and adequately;
- k. Verify that working and living conditions on board are in conformity with the employment contract or the applicable collective bargaining agreement in place;
- l. Investigate any reasonable complaint raised by the seafarers and forward the findings to the relevant agency;
- m. Ensure that the ships to which it deploys seafarers provide financial security such as protection and indemnity or other insurance cover to ensure compensation for ship owner's liabilities arising out of the operations of the vessel like loss of life, injury or illness of seafarers, among others;
- n. Ensure that arrangements are made by the employer for the monthly remittance of at least eighty percent of the basic wages of the seafarer to designated allottees which remittance shall be arranged through the banking system or other similar channels;
- o. Ensure that appropriate arrangements are in place for the repatriation of any seafarer who has been abandoned by his employer.

Section 24. *Illegal Recruitment.* —For purposes of this Act, illegal recruitment shall mean any act of canvassing, enlisting, contracting, transporting, utilizing, hiring, or procuring workers and includes referring, contract services, promising or advertising for employment abroad, whether for profit or not, when undertaken by non-licensee or non-holder of authority contemplated under Article 13(f) of Presidential Decree No. 442, 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 so engaged. It shall likewise include the following acts, whether committed by any person, whether a non-licensee, non-holder, licensee or holder of authority:

- (a) To charge or accept directly or indirectly any amount greater than that specified in the schedule of allowable fees prescribed by the Secretary of Labor and Employment, or to make a worker pay or acknowledge any amount greater than that actually received by him as a loan or advance;
- (b) To furnish or publish any false notice or information or document in relation to recruitment or employment;
- (c) To give any false notice, testimony, information or document or commit any act of misrepresentation for the purpose of securing a license or authority under the Labor Code, or for the purpose of documenting hired workers with the POEA, which include the act of reprocessing workers through a job order that pertains to nonexistent work, work different from the actual overseas work, or work with a different employer whether registered or not with the POEA;
- (d) To include or attempt to induce a worker already employed to quit his employment in order to offer him another unless the transfer is designed to liberate a worker from oppressive terms and conditions of employment;
- (e) To influence or attempt to influence any person or entity not to employ any worker who has not applied for employment through his agency or who has formed, joined or supported, or has contacted or is supported by any union or workers' organization;
- (f) To engage in the recruitment or placement of workers in jobs harmful to public health or morality or to the dignity of the Republic of the Philippines;
- (g) To fail to submit reports on the status of employment, placement vacancies, remittance of foreign exchange earnings, separation from jobs, departures and such other matters or information as may be required by the Secretary of Labor and Employment;
- (h) To substitute or alter to the prejudice of the worker, employment contracts approved and verified by the Department of Labor and Employment from the time of actual signing thereof by the parties up to and including the period of the expiration of the same without the approval of the Department of Labor

and Employment:

- (i) For an officer or agent of a recruitment or placement agency to become an officer or member of the Board of any corporation engaged in travel agency or to be engaged directly or indirectly in the management of travel agency;
- (j) To withhold or deny travel documents from applicant workers before departure for monetary or financial considerations, or for any other reasons, other than those authorized under the Labor Code and its implementing rules and regulations;
- (k) Failure to actually deploy a contracted worker without valid reason as determined by the Department of Labor and Employment;
- (l) Failure to reimburse expenses incurred by the worker in connection with his documentation and processing for purposes of deployment, in cases where the deployment does not actually take place without the worker's fault. Illegal recruitment when committed by a syndicate or in large scale shall be considered an offense involving economic sabotage; and
- (m) To allow a non-Filipino citizen to head or manage a licensed recruitment/manning agency.

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

Section 25. Prohibited Acts. – In addition to the acts enumerated above, it shall also be unlawful for any person or entity to commit the following prohibited acts:

- (1) Grant a loan to an overseas Filipino worker with interest exceeding eight percent (8%) per annum, which will be used for payment of legal and allowable placement fees and make the migrant worker issue, either personally or through a guarantor or accommodation party, postdated checks in relation to the said loan;
- (2) Impose a compulsory and exclusive arrangement whereby an overseas Filipino worker is required to avail of a loan only from specifically designated institutions, entities or persons;
- (3) Refuse to condone or renegotiate a loan incurred by an overseas Filipino worker after the latter's employment contract has been prematurely terminated through no fault of his or her own;
- (4) Impose a compulsory and exclusive arrangement whereby an overseas Filipino worker is required to undergo health examinations only from specifically designated medical clinics, institutions, entities or persons, except in the case of a seafarer whose medical examination cost is shouldered by the principal/shipowner;

(5) Impose a compulsory and exclusive arrangement whereby an overseas Filipino worker is required to undergo training, seminar, instruction or schooling of any kind only from specifically designated institutions, entities or persons, except for recommendatory trainings mandated by principals/shipowners where the latter shoulder the cost of such trainings;

(6) For a suspended recruitment-manning agency to engage in any kind of recruitment activity including the processing of pending workers' applications; and

(7) For a recruitment/manning agency or a foreign principal/employer to pass on the overseas Filipino worker or deduct from his or her salary the payment of the cost of insurance fees, premium or other insurance related charges, as provided under the compulsory worker's insurance coverage.

(8) For a principal/ ship owner/ manning agency to use completion of medical tests to withhold personal documents, salary and/or benefits of a seafarer.

(9) For principal/ ship owner/ manning agency or any person with access to remittances to engage in short-changing of dollar remittances.

The persons criminally liable for the above offenses are the principals, accomplices and accessories. In case of juridical persons, the officers having ownership, control, management or direction of their business that are responsible for the commission of the offense and the responsible employees/agents thereof shall be liable.

The POEA shall impose by regulation the requisite penalty for the commission of any of the foregoing offenses shall be limited to the penalty of a fine of not more than two million (P2,000,000.00), provided that, the fine actually imposed shall take into consideration the gravity of the offense, the prejudice caused to the seafarer and the need to prevent the future commission of the same or a similar act;

Section 26. Penalties. –

(a) Any person found guilty of illegal recruitment shall suffer the penalty of imprisonment of not less than twelve (12) years and one (1) day but not more than twenty (20) years and a fine of not less than One million pesos (P1,000,000.00) nor more than Two million pesos (P2,000,000.00).

(b) The penalty of life imprisonment and a fine of not less than Two million pesos (P2,000,000.00) nor more than Five million pesos (P5,000,000.00) shall be imposed if illegal recruitment constitutes economic sabotage as defined therein.

Provided, however, That the maximum penalty shall be imposed if the person illegally recruited is less than eighteen (18) years of age or committed by a non-licensee or non-holder of authority.

(c) Any person found guilty of any of the prohibited acts 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 Five hundred thousand pesos (P500,000.00) nor more than One million pesos (P1,000,000.00).

If the offender is an alien, he or she shall, in addition to the penalties herein prescribed, be deported without further proceedings.

In every case, conviction shall cause and carry the automatic revocation of the license or registration of the recruitment/manning agency, lending institutions, training school or medical clinic.

The filing of an offense punishable under this Act shall be without prejudice to the filing of cases punishable under other existing laws, rules or regulations.

Section 27. *Investigation of Complaints.* – The POEA shall investigate and take appropriate action on any complaint received concerning the recruitment and placement activities of manning agencies and any violations of the law or of regulations they may commit.

Section 28. *Prescriptive Periods.* – Illegal recruitment cases under this Act shall prescribe in five (5) years: Provided, however, that illegal recruitment cases involving economic sabotage as defined herein shall prescribe in twenty (20) years.

Chapter 7

Conditions of Employment

Section 29. *Seafarer's Employment Agreement.* – Every seafarer engaged to work on board a ship on contract shall be covered by a seafarer's employment agreement signed by the seafarer and the ship owner or a representative of the ship owner.

Every seafarer who signs a seafarer's employment agreement shall be informed of his rights and duties under his contract of employment, any particular conditions applicable to the job for which he will be engaged, and any specific policies of the ship owner relating to his employment.

The ship owner and the seafarer shall each be provided a signed original copy of the contract of employment.

At the end of his contract and upon disembarkation, a seafarer shall be given a record of his employment on board the ship specifying the length of service, the position the seafarer occupied, and such other information that will facilitate the seafarer's future employment acquisition of further work or satisfy sea service requirements for upgrading or promotion.

Section 30. *Standard Employment Contract (SEC).* – For OFS to be deployed on ocean-going ships under Philippine and foreign registry, the POEA, after consultation with the Seafarers sector, the Employer and Manning sector, shall determine

formulate and establish the minimum terms and conditions which shall be contained in a standard employment contract for seafarers in accordance with accepted international standards and maritime practice. A standard employment contract shall be prepared for each group or category of seafarers and shall be reviewed periodically to keep them attuned to international requirements and demands. A duly executed standard employment contract approved by the relevant agency shall be the minimum requirement for deployment of a seafarer.

Section 31. *Minimum Terms and Conditions.* The minimum standard terms and conditions of the standard employment contract shall include:

- a. Seafarer's full name, date of birth and birthplace;
- b. Ship owner's name and address;
- c. Place where and date when the seafarer's employment agreement is entered into;
- d. Capacity in which the seafarer is to be employed;
- e. Amount of the seafarer's wages or the formula for calculating the same;
- f. Date of termination of the agreement or any conditions for the pre-termination of such agreement, including:
- g. 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 ship owner than for the seafarer;
- h. If the agreement has been made for a definite period, the date fixed for its expiry or the conditions entitling the seafarer to an early termination of the contract including compassionate grounds or other urgent reasons;
- i. 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;
- j. Health and social security protection benefits to be provided to the seafarer by the ship owner;
- k. Seafarer's entitlement to repatriation; and
- l. Reference to any collective bargaining agreement.

Section 32. *Freedom to Stipulate.*— Parties to the individual employment contract are allowed to stipulate and mutually agree on other terms and conditions exceeding the minimum standards, provided that the additional provisions are mutually beneficial to both parties and are not contrary to law, public policy and morals.

Section 33. *Information on Conditions of Employment on Board.*— Every ship

owner shall be required to ensure that information on the general conditions of employment can be easily obtained on board by all seafarers working on the ship.

A copy of the seafarer's employment agreement showing the general conditions of employment shall be made available on board and accessible to representatives of the competent authority of the ports to be visited by the ship.

If a collective bargaining agreement forms part of the seafarer's employment agreement, a copy of that agreement shall likewise be made available on board and accessible to representatives of the competent authority of the ports to be visited by the ship.

Section 34. *Payment of Wages.*— All seafarers working on board ships on contract shall be promptly paid their wages, not later than the end of each calendar month covering services rendered for that month.

For this purpose, every seafarer shall be given a monthly account of all payments due and the amounts to be paid, including basic wages, overtime pay, leave pay, allowances, and other additional remuneration, any allowed deductions, and where applicable, the foreign exchange rate used if work is on board an ocean-going ship and payment is made in a currency other than Philippine pesos.

Section 35. *Remittance of Wages.*— Every ship owner shall ensure that arrangements are made for the monthly remittance of at least eighty percent of the basic wages of the seafarer to designated allottees, which remittance shall be arranged through any authorized Philippine bank.

Provided that, for ships licensed to engage in coastal trade only the rules found in Book Three, "Conditions of Employment", Title II, "Wages", Chapter I, "Preliminary Matters", Chapter II, "Minimum Wage Rates", Chapter III, "Payment of Wages", Chapter IV "Prohibitions Regarding Wages", Chapter V, "Wage Studies, Wage Agreements, and Wage Determination", and Chapter VI, "Administration and Enforcement" of the "Labor Code of the Philippines", Presidential Decree No. 442 as amended, shall continue to apply and shall be considered as substantially complying with international standards.

Section 36. *Hours of Work.*— It is hereby established that normal working hours for seafarers shall be based on an eight-hour day with one day of rest per week and rest on public holidays.

Section 37. *Measures to Address Fatigue.*— To address the effects of fatigue of a seafarer, which can be detrimental to the safety of the ship and the safety of other persons on board, especially where the seafarer is engaged in duties involving navigational safety and the safe and secure operation of the ship, the following limits on hours of work are hereby established:

- a. Maximum hours of work shall not exceed:
 1. 14 hours in any 24-hour period; and

2. 72 hours in any seven-day period.

Or,

- b. Minimum hours of rest shall not be less than:
 1. Ten hours in any 24-hour period; and
 2. 77 hours in any seven-day period.

Hours of rest may be divided into no more than two periods, one of which shall be at least six hours in length, and the interval between consecutive periods of rest shall not exceed 14 hours.

Provided, that, for ships licensed to engage in coastal trade only the rules found in Book Three, "Conditions of Employment", Title I, "Working Conditions and Rest Periods", Chapter I, "Hours of Work", Chapter II, "Weekly Rest Periods", and Chapter III, "Holidays, Service Incentive Leaves and Service Charges" of the "Labor Code of the Philippines", Presidential Decree No. 442 as amended, shall continue to apply and shall be considered as substantially complying with international standards.

Section 38. Entitlement to Leave. Seafarers engaged to work on seagoing vessels shall be entitled to a minimum of two-and-a-half calendar days per month of actual employment as annual leave with pay. The annual leave with pay shall be computed using as basis the basic wage of the seafarer. The POEA may provide by regulations the limitations or exclusions that may be imposed when determining total entitlement for leave with pay.

Section 39. Exclusions from Annual Leave.— The following shall be excluded from the computation of annual leave:

1. Public and customary holidays of the Philippines whether or not they fall during the annual leave with pay;
2. Periods of incapacity for work resulting:
 - (a) From illness or injury; or
 - (b) From maternity provided such maternity leave shall be computed in accordance with the provisions Republic Act No. 1161 as amended by Republic Act No. 7322; or
 - (c) From paternity provided such paternity leave shall be computed in accordance with Republic Act, No. 8187;
3. Temporary shore leave granted to a seafarer while employed on board;
4. Compensatory leave of any kind.

Section 40. Recall from Leave. – A seafarer taking an annual leave should be recalled only in cases of extreme emergency and only with his consent.

Section 41. Recovery of Repatriation Cost.– It shall be unlawful for a ship owner to require a seafarer to make an advance payment towards the cost of his repatriation at the beginning of his employment or from recovering the cost of repatriation from the seafarer's wages or other entitlements except if repatriation is made in accordance with the next succeeding section.

Section 42. Repatriation at the Cost of the Seafarer.– Any seafarer engaged on an ocean-going ship shall bear his own cost for repatriation in the following cases:

- (a) If the seafarer is discharged for just cause;
- (b) If the seafarer requests for an early termination of his contract, in which case, the seafarer shall be also liable for the cost of transportation for his replacement.
- (c) Additional cost of repatriation due to delay, detour, or taking a different route other than the most direct route to the point of hire as provided in the preceding section.

Section 43. Compensation in Case of Ship's Loss or Foundering.– A seafarer shall be entitled to the payment of indemnity for unemployment in case of foundering or loss of the ship he/she is working on. The indemnity shall be paid for the days during which the seafarer actually remains unemployed and shall be paid at an amount equivalent to the seafarer's basic wages as stipulated in the employment agreement. The maximum amount recoverable by a seafarer under this section shall be limited to an amount equivalent to one month's basic wages.

Section 44. Manning Levels. – The MARINA shall determine the minimum manning levels for ships belonging to the Philippine registry. Every ship shall be manned by crew that is adequate in terms of size and qualifications taking into account the need to operate the vessel safely, efficiently and with due regard to security.

Section 45. Crew Competence. – Every member of the crew of a Philippine flag vessel shall possess the appropriate certificate of competency setting forth his competence to serve in the capacity and perform the functions involved at the level of responsibility, for the position held, for the type, tonnage, power, means of propulsion, and trading patterns of the ship concerned.

The certificate of competency shall attest to the fact that the seafarer to whom it is issued meets the requirements for service, age, medical fitness training, qualification, and examinations for the position held.

Section 46. Registry of Seafarers.– The POEA for OFS on ocean-going ships of foreign registry and MARINA for coastal and ocean-going ships under Philippine registry shall maintain a registry of all seafarers in the Philippines. The registry shall contain the following information:

- a. The name of the seafarer;
- b. Qualifications;
- c. Record of employment;
- d. Education and training;
- e. Current certificates;
- f. Occupational category;

Such other relevant information shall be included in the registry that will allow the relevant agency to promote employment opportunities for seafarers whether on board or ashore, or allow for further training and education to support skills development and competencies of seafarers in order to secure or improve employment opportunities.

Chapter 8 Compulsory Benefits for OFS

Section 47. *Compulsory Benefits for OFS.*—In addition to the performance bond to be filed by the manning agency, the POEA shall ensure that the ships to which OFS are deployed are provided financial security such as protection and indemnity or other insurance cover to answer for the following:

- (a) In case of death, with at least fifteen thousand United States dollars (US\$50,000.00) survivor's benefit payable to the OFS' beneficiaries; Per RA 10022 check if the minimum benefits are upheld (7,000 USD per child below 21 years old);
- (b) Permanent total disablement, with at least seven thousand five hundred United States dollars (US\$60,000.00) disability benefit payable to the OFS. The following disabilities shall be deemed permanent: total, complete loss of sight of both eyes; loss of two (2) limbs at or above the ankles or wrists; permanent complete paralysis of two (2) limbs; brain injury resulting to incurable imbecility or insanity;
- (c) Repatriation cost of the OFS when his/her employment is terminated without any valid cause, including the transport of his or her personal belongings. In case of death, the coverage provider shall arrange and pay for the repatriation or return of the OFS' remains. The coverage provider shall also render any assistance necessary in the transport including, but not limited to, locating a local licensed funeral home, mortuary or direct disposition facility to prepare the body for transport, completing all documentation, obtaining legal clearances, procuring consular services, providing necessary casket or air transport container, as well as transporting the remains including retrieval from site of death and delivery to the receiving funeral home;

- (d) Subsistence allowance benefit, with at least One hundred United States dollars (US\$100.00) per month for a maximum of six (6) months for an OFS who is involved in a case or litigation for the protection of his/her rights in the receiving country;
- (e) Compassionate visit. When an OFS is hospitalized and has been confined for at least seven (7) consecutive days, he shall be entitled to a compassionate visit by one (1) family member or a requested individual. The coverage provider shall pay for the transportation cost of the family member or requested individual to the major airport closest to the place of hospitalization of the OFS. It is, however, the responsibility of the family member or requested individual to meet all visa and travel document requirements;
- (f) Medical evacuation. When an adequate medical facility is not available proximate to the OFS as determined by the coverage provider's physician and/or a consulting physician, evacuation under appropriate medical supervision by the mode of transport necessary shall be undertaken by the coverage provider; and
- (g) Medical repatriation. When medically necessary as determined by the attending physician, repatriation under medical supervision to the OFS' residence shall be undertaken by the coverage provider at such time that the OFS is medically cleared for travel by commercial carrier. If the period to receive medical clearance to travel exceeds fourteen (14) days from the date of discharge from the hospital, an alternative appropriate mode of transportation, such as air ambulance, may be arranged. Medical and non-medical escorts may be provided when necessary.

The manning agency's submission of Certificate of Cover (COC) as per prescribed form to the POEA shall be sufficient compliance with the requirements under this section.

Chapter 9

Accommodation, Recreational Facilities, Food and Catering

Section 48. Application. – The requirements of this Chapter for crew accommodation and crew recreational facilities covering ships under the Philippine Registry shall be applicable to the following:

- (a) All ocean-going ships constructed on or after the date when the Maritime Labor Convention of 2006 come into force;
- (b) All second hand ships, whether ocean-going, acquired or leased, and entered in the Philippine Registry after the entry date into force of the said Convention unless provided exemption by the relevant Philippine government agency;
- (c) All ships constructed prior to the entry into force of the Maritime Labor Convention of 2006, as the case may be, which undertake major or substantial structural alterations after the entry into force of the Convention unless

provided exemption by the relevant Philippine government agency.

Section 49. *Accommodation Facilities.* – Every ship owner shall provide safe, decent and adequate accommodations for seafarers on ships under Philippine Registry taking into account the need to protect the health and safety of seafarers working or living on board. For this purpose, MARINA shall ensure that the following requirements in respect of crew accommodations are properly implemented:

- (a) Size of the rooms and other accommodation spaces;
- (b) Heating and ventilation;
- (c) Noise and vibration and other ambient factors;
- (d) Sanitary facilities;
- (e) Lighting; and
- (f) Hospital accommodations.

Provided that, for coastal vessels, sleeping rooms shall be provided when the vessel is engaged in service:

- (a) Exceeding fourteen (14) hours in any 24-hour period for any single voyage;
- (b) Part of the voyage is undertaken between the hours of 10:00 p. m. and 6:00 a. m.; and
- (c) Sleeping rooms are required for non-watchkeepers.

Section 50. *General requirements for Accommodation Facilities.* The MARINA shall provide by regulation the description and technical requirements for crew accommodations on ships under Philippines Registry taking into account:

- (a) The requirements of international conventions in reference to all ships;
- (b) The size, type, tonnage, power, means of propulsion and trading patterns of the particular ship in reference to coastal ships where exception may be properly be provided.

Section 51. *Requirements for Mess Rooms.* - Mess rooms shall be provided to all crew, whether common or separate. The MARINA shall provide by regulation the description and technical requirements for mess rooms taking into account:

- (a) The requirements of international conventions in reference to all ships;
- (b) The size, type, tonnage, power, means of propulsion and trading patterns of the particular ship in reference to coastal ships.

Provided that, when determining the adequacy of space for mess rooms for coastal ships, the size of the mess room shall be determined in relation to the size of the ship so that the mess room shall be able to accommodate the greatest number of seafarers at any one time.

Section 52. *Requirements for Sanitation.* The MARINA shall ensure that all seafarers working on ships belonging to the Philippine registry shall have access to sanitation facilities meeting the minimum standards for health and hygiene. The sanitation facilities shall be located at convenient places, allowing for easy access to work stations. Separate facilities shall be provided for male and female crew.

The MARINA shall provide by regulation the description and technical requirements for sanitation facilities taking into account:

- (a) The requirements of international conventions in reference to all ships;
- (b) The size, type, tonnage, power, means of propulsion and trading patterns of the particular ship in reference to coastal ships.

Provided that, when determining the adequacy and location of sanitation facilities on coastal ships, the relevant agency shall take into account size of the ship.

Section 53. *Hospital Accommodations.* –For all ships belonging to the Philippine registry carrying fifteen or more seafarers and engaged in a voyage of more than three days' duration, the MARINA shall ensure that adequate hospital accommodations are provided on board exclusively to address medical requirements of crew: provided that, all coastal ships shall be exempt from this requirement.

Section 54. *Office Accommodations.* – The MARINA shall ensure that all ships belonging to the Philippine registry are fitted with adequate office, whether separate or common, for use by personnel of the deck and engine departments, except coastal ships exempted from this requirement.

Section 55. *Recreational Facilities.* - The MARINA shall ensure that recreational facilities, amenities, and services appropriate for seafarers shall be provided on board all ships belonging to the Philippine registry. Coastal ships are exempted from this requirement considering the trading patterns and length of voyages of such ships which allow the crew to go home or to have access and make use of comparable facilities on land.

Section 56. *Food and Catering.* The MARINA shall provide by regulation the minimum standards required to ensure that all ships belonging to the Philippine registry 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 following:

- a. The differing cultural and religious backgrounds of the crew;
- b. The number of seafarers on board;

c. The duration and nature of the voyage:

In addition, the MARINA shall ensure that all ship owners meet the minimum standards imposed by regulation covering the organization and equipment required for the catering department and that all catering staff are properly trained and instructed in practical cookery, food and personal hygiene, food storage, stock control, environmental protection, catering, health, and safety.

The MARINA may provide for specific exemptions by regulation covering ships operating below certain manning levels, taking into account the trading pattern of the ship, provided that, any person assigned to process food in the galley on these ships shall be trained or instructed in areas including food and personal hygiene and handling and storage of food on board.

Chapter 10

Health Protection, Medical Care, Welfare and Social Security Protection

Section 57. *Medical Care on Board.* – When a ship is not required to carry a medical doctor on board, the MARINA shall ensure that:

- (a) All ships belonging to the Philippine registry which cannot ordinarily reach qualified medical care and medical facilities within eight hours should have at least one designated seafarer with the approved medical first aid training required by international conventions or by government regulations which will enable such persons to take immediate, effective action in case of accidents or illnesses likely to occur on board and to make use of medical advice by radio or satellite communication; and
- (b) All other ships in the Registry should have at least one designated seafarer with approved training in medical care required by international conventions or by government regulations, including practical training and training in life-saving techniques such as intravenous therapy, which will enable the persons concerned to participate effectively in coordinated schemes for medical assistance to ships at sea, and provide the sick or injured with a satisfactory standard of medical care during the period they are likely to remain on board.

Section 58. *Recurrency Training.* – The medical training required in the preceding section shall be undertaken by seafarers at regular intervals as may be provided by regulation. These refresher courses shall be taken by seafarers to enable them to maintain and improve their knowledge and skills and to keep up-to-date with new developments.

Section 59. *Medicine Chest.* – The medicine chest and its contents, the medical equipment, and the medical guide on board shall be maintained and inspected regularly by the relevant agency to ensure that labeling, expiry dates, and conditions of storage of all medicines, and the directions for their use are checked, and all equipment are functioning properly.

Section 60. *Remote Access to Medical Advice.*— The MARINA shall ensure that all ships belonging to the Philippine registry shall carry a complete and up-to-date list of radio stations through which medical advice can be obtained. If satellite communication is available on board, the ship should also carry an up-to-date and complete list of coast earth stations through which medical advice can be obtained.

Seafarers must be allowed to visit a qualified medical doctor or dentist without delay in ports of call, where practicable.

Section 61. *Medical Care and Facilities.*— The MARINA shall compile and maintain a list of medical doctors and medical care facilities available nationwide for emergency medical treatment for seafarers.

Section 62. *Medical Repatriation.*— The MARINA shall provide guidelines covering procedures for the medical repatriation of Filipino seafarers on board ocean-going ships under Philippine registry who fall ill or are injured in a foreign port or for foreign seafarers who fall ill or are injured in any port in the Philippines.

Section 63. *Repatriation of Remains.*— The MARINA shall provide guidelines covering procedures for the repatriation of the remains of Filipino seafarers on board ocean-going ships under Philippine registry who die at sea and whose remains are not otherwise disposed of in accordance with procedures for the burial at sea.

Section 64. *Social Security Coverage for Seafarers and their Dependents.* All seafarers and their dependents shall be enrolled for coverage with the Social Security System in accordance with the provisions of Republic Act No. 1161, otherwise known as the "Social Security Law," as amended, and the Philippine Health Insurance Corporation, in accordance with Republic Act No. 7875, otherwise known as the "National Health Insurance Act of 1995."

Seafarers shall also be provided access to the government's housing program through membership in the Home Development Mutual Fund (Pag-ibig Fund).

Section 65. *Ship owner's/Principal's Liability to Seafarers.*— The ship owner/principal shall be liable for the following in respect of OFS working on ocean-going ships under Philippine or foreign registries:

- (a) Medical cost in the event of sickness or injury of a seafarer arising from employment between the date of engagement and the date of repatriation;
- (b) Compensation in the event of death or long-term disability due to an occupational injury, illness or hazard as provided by regulation or in the seafarers employment contract, or collective bargaining agreement, as the case may be; Provided that the amount of compensation shall not be measured or determined by the number of days a seafarer is under treatment or the number of days in which sickness allowance is paid under the succeeding paragraph.
- (c) Expenses for medical care, including medical treatment and the supply of the necessary medicines and therapeutic appliances, and board and

lodging away from home until the sick or injured seafarer has recovered, or until the sickness or incapacity has been declared of a permanent character by the medical physician designated by the concerned ship owner or manning agency. The seafarer shall receive sickness allowance from his employer in an amount equivalent to his basic wage computed from the time he signed-off until he is declared fit to work or the degree of disability has been assessed by the company-designated physician. The period within which the seafarer shall be entitled to his sickness allowance shall not exceed 120 days.

- (d) Burial expenses in case of death occurring on board or ashore during the period of engagement in accordance with the seafarer's standard employment contract or collective bargaining agreement.
- (e) Repatriation of the sick, or injured, or deceased seafarer's belongings left on board and for returning it to the seafarer or to his next of kin, as the case may be.
- (f) Wages during the period of illness or incapacity while the seafarer remains on board or until he is repatriated.
- (g) On-board property of seafarers who are sick, injured or deceased.
- (h) Compulsory examination within 72 hours upon disembarkation

Section 66. *Exemption from Liability.*— The ship owner/principal shall not be liable for:

- a. Death, sickness or injury which is not work-related;
- b. Death, sickness or injury of a seafarer due to his wilful or criminal act or intentional breach of his duties as provided in this Act.
- c. Sickness or infirmity intentionally concealed when the engagement is entered into.

Section 67. *Health and Safety on Board.*— The MARINA, by regulation, shall provide for measures to address the following on board ships under the Philippine registry:

- (a) Occupational health and safety, including risk evaluation, training and instructions to seafarers;
- (b) Precautions to prevent occupational accidents, injuries and diseases on board, including measures to reduce and prevent the risk of exposure to harmful levels of ambient factors and chemicals as well as risk of injury or disease that may arise from the use of equipment and machinery on board;
- (c) On board programs for the prevention of occupational accidents, injuries, and diseases and for continuous improvement in occupational safety and

health protection;

- (d) Processes for inspecting, reporting and correcting unsafe conditions and on board occupational accidents.

In providing for regulation, the MARINA shall take into account relevant international instruments dealing with occupational safety and health protection, particularly those pertaining to maritime employment, as well a national regulation implementing the occupational health and safety standards provided in Book Four "Health, Safety and Social Welfare Benefits", Title I, "Medical, Dental and Occupational Safety", Chapter II, "Occupational Health and Safety", of Presidential Decree No. 442, as amended, otherwise known as the Labor Code of the Philippines.

Section 68. *Protection to Filipino Seafarers in a Foreign Port.*– The POEA and the Manning agency shall provide for guidelines to seafarers which will afford them protection while in a foreign port, including measures which will facilitate their access to Philippine consular officers and allow for effective cooperation between the Philippine consuls and local or national authorities of the foreign port where the seafarer is.

Shore-based welfare facilities, if they exist in the respective country, must be accessible to all seafarers, irrespective of nationality, race color, sex, religion, political opinion or social origin, of the flag State of their ship.

Development of welfare facilities must be promoted in appropriate ports determined after consultation with ship owners' and seafarers' organizations.

Establishment of welfare boards must be encouraged to regularly review welfare facilities and service for appropriateness in light of changes in the needs of seafarers resulting from developments in the shipping industry.

Chapter 11 Legal Assistance

Section 69. *Legal Assistant For Migrant Workers Affairs.*– The office of the Legal Assistant for Migrant Workers Affairs created under Republic Act No. 8042, shall also be primarily responsible for the provision and overall coordination of all legal assistance services to be provided to OFS in distress.

Section 70. *Legal Assistance Fund.*– The Legal Assistance Fund created under R.A. No. 8042, as amended, shall also be used to provide legal services to OFS in distress including fees to foreign lawyers to be hired by the Legal Assistant for Migrant Workers Affairs to represent OFS facing charges abroad, bail bonds to secure the temporary releases and other litigation expenses.

Chapter 12 Services

Section 71. *Travel Advisory/Information Dissemination.* - To give utmost priority to the establishment of programs and services to prevent illegal recruitment, fraud, and exploitation or abuse of OFS, all embassies and consular offices, through the POEA, shall issue travel advisories or disseminate information on labor and employment conditions, migration realities and other facts; and adherence of particular countries to international standards on human and workers' rights which will adequately prepare individuals into making informed and intelligent decisions about overseas employment. Such advisory or information shall be published in a newspaper of general circulation at least three (3) times in every quarter.

Section 72. *Repatriation of OFS Emergency Repatriation Fund.*— The repatriation of the OFS and the transport of his personal belongings shall be the primary responsibility of the manning agency which recruited or deployed the OFS overseas. All costs attendant to repatriation shall be borne by or charged to the agency concerned and/or its principal.

Likewise, the repatriation of remains and transport of the personal belongings of a deceased worker and all costs attendant thereto shall be borne by the principal and/or manning agency. However, in cases where the termination of employment is due solely to the fault of the worker, the principal/employer or agency shall not in any manner be responsible for the repatriation of the former and/or his belongings.

The OWWA, in coordination with appropriate international agencies, shall undertake the repatriation of OFS in cases of war, epidemic, disasters or calamities, natural or man-made, and other similar events without prejudice to reimbursement by the responsible principal or manning agency. However, in cases where the principal or manning agency cannot be identified, all costs attendant to repatriation shall be borne by the OWWA.

For these purposes, the emergency repatriation fund established under R.A. No. 8042, as amended, shall be utilized by the OWWA.

Section 73. *Migrant Workers Loan Guarantee Fund.*— In order to further prevent unscrupulous illegal recruiters from taking advantage of workers seeking employment abroad, 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. For this purpose, the Migrant Workers Loan Guarantee Fund created under R.A. No. 8042, as amended, is hereby made available to OFS as a guarantee fund in favor of participating government financial institutions.

Chapter 13

Role of Government Agencies

Section 74. *Role of Government Agencies.*— The following government agencies shall perform the following functions to promote the welfare and protect the rights of Filipino seafarers;

- (a). **Department of Foreign Affairs.** - The Department, through its home office or foreign posts, shall take priority action or make representations

with the foreign authority concerned to protect the rights of migrant workers and other overseas Filipinos and extend immediate assistance including the repatriation of distressed or beleaguered migrant workers and other overseas Filipinos;

(c.1) In addition to the above, the DFA shall also provide an exclusive lane for the processing and issuance of passports for Filipino seafarers, given the schedule followed by the ships which requires an efficient and speedy deployment of OFS as delay in their departure results to costly and complicated consequences.

(b). **Department of Labor and Employment** - The Department of Labor and Employment shall see to it that labor and social welfare laws in the foreign countries are fairly applied to migrant workers and whenever applicable, to other overseas Filipinos including the grant of legal assistance and the referral to proper medical centers or hospitals;

(c). **Philippine Overseas Employment Administration**. - The Administration shall regulate private sector participation in the recruitment and overseas placement of land-based workers and OFS by setting up a licensing and registration system distinct and independent for the land-based sector and the sea-based sector. In coordination with the appropriate entities concerned and when necessary, the POEA shall also formulate and implement a system for promoting and monitoring the overseas employment of Filipino land-based workers and OFS, taking into consideration their welfare and the domestic manpower requirements. It shall be responsible for the regulation and management of overseas employment from the pre-employment stage, securing the best possible employment terms and conditions for both sectors of overseas Filipino workers, while taking into consideration the needs of vulnerable sectors and the peculiarities of sea-based and land-based workers. In appropriate cases, the Administration shall allow the lifting of suspension of erring recruitment/manning agencies upon the payment of fine of Fifty thousand pesos (P50,000.00) for every month of suspension.

In addition to its powers and functions, the Administration shall inform land-based OFWs and OFS not only of their rights as workers but also of their rights as human beings, instruct and guide the workers on how to assert their rights, and provide the available mechanisms to redress violation(s) of their rights. In coordination with other law-enforcement agencies, the POEA shall also be responsible for the implementation of an intensified program against illegal recruitment. For this purpose, the POEA shall provide comprehensive Pre-Employment Orientation Seminars (PEOS) that will discuss topics such as prevention of illegal recruitment and gender-sensitivity.

The Administration shall not engage in the recruitment and placement of overseas workers except on a government-to-government arrangement only.

(d). **Overseas Workers Welfare Administration.** - The Welfare officer or in his absence, the coordinating officer, shall provide the Filipino migrant worker and his family all the assistance they may need in the enforcement of contractual obligations by agencies and/or by their principals. In the performance of this function, he shall make representations and may call on the agencies or entities concerned to conferences or conciliation meetings for the purpose of settling the compliance or problems brought to his attention. The OWWA shall likewise formulate and implement welfare programs for overseas Filipino workers and their families while they are abroad and upon their return. It shall ensure the awareness by the overseas Filipino workers and their families of these programs and other related governmental programs.

In the repatriation of workers to be undertaken by OWWA, the latter shall be authorized to pay repatriation-related expenses, such as fines or penalties, subject to such guidelines as the OWWA Board of Trustees may prescribe.

(e) **Department of Health.** - The Department of Health (DOH) shall regulate the activities and operations of all clinics which conduct medical, physical, optical, dental, psychological and other similar examinations, hereinafter referred to as health examinations, on Filipino migrant workers as requirement for their overseas employment. Pursuant to this, the DOH shall ensure that:

(c.1) The fees for the health examinations are regulated, regularly monitored and duly published to ensure that the said fees are reasonable and not exorbitant;

(c.2) The Filipino migrant worker shall only be required to undergo health examinations when there is reasonable certainty that he or she will be hired and deployed to the jobsite and only those health examinations which are absolutely necessary for the type of job applied for or those specifically required by the foreign employer shall be conducted;

(c.3) No group or groups of medical clinics shall have a monopoly of exclusively conducting health examinations on migrant workers for certain receiving countries;

(c.4) Every Filipino migrant worker shall have the freedom to choose any of the DOH-accredited or DOH-operated clinics that will conduct his/her health examinations and that his or her rights as a patient are respected. The decking practice, which requires an overseas Filipino worker to go first to an office for registration and then farmed out to a medical clinic located elsewhere, shall not be allowed;

(c.5) Within a period of three (3) years from the effectivity of this Act, all DOH regional and/or provincial hospitals shall establish and operate clinics that can be serve the health examination requirements of Filipino migrant workers to provide them easy access to such clinics

all over the country and lessen their transportation and lodging expenses and

- (c.6) All DOH-accredited medical clinics, including the DOH-operated clinics, conducting health examinations for Filipino migrant workers shall observe the same standard operating procedures and shall comply with internationally-accepted standards in their operations to conform with the requirements of receiving countries or of foreign employers/principals.

Any Foreign employer who does not honor the results of valid health examinations conducted by a DOH-accredited or DOH-operated clinic shall be temporarily disqualified from the participating in the overseas employment program, pursuant to POEA rules and regulations.

In case an overseas Filipino worker is found to be not medically fit upon his/her immediate arrival in the country of destination, the medical clinic that conducted the health examination/s of such overseas Filipino worker shall pay for his or her repatriation back to the Philippines and the cost of deployment of such worker.

Any government official or employee who violates any provision of this subsection shall be removed or dismissed from service with disqualification to hold any appointive public office for five(5) years. Such penalty is without prejudice to any other liability which he or she may have incurred under existing laws, rules or regulations.

- (f) **Local Government Units.** - In the fight against illegal recruitment, the local government units (LGUs), in partnership with the POEA, other concerned government agencies, and non-government organizations advocating the rights and welfare of overseas Filipino workers, shall take a proactive stance by being primarily responsible for the dissemination of information to their constituents on all aspects of overseas employment. To carry out this task, the following shall be undertaken by the LGUs:

- (d.1) Provide a venue for the POEA, other concerned government agencies and non- government organizations to conduct PEOS to their constituents on a regular basis;

- (d.2) Establish overseas Filipino worker help desk or kiosk in their localities with the objective of providing current information to their constituents on all the processes aspects of overseas employment. Such desk or kiosk shall, as be linked to the database of all concerned government agencies, particularly the POEA for its updated lists of overseas job orders and licensed recruitment agencies in good standing.

Section 75. Section 32 of RA 8042, as amended by Section 20 of RA 10022 is hereby further amended to read as follows:

"SEC. 32. POEA, OWWA and other Boards; Additional Memberships -

- Notwithstanding any provision of law to the contrary, the respective Boards of the POEA and the OWWA shall, in addition to their present composition, have four (4) members each who shall come from the women, sea-based OFW, land-based OFW, and sea-based private sectors respectively, to be selected and nominated openly by the general membership of the sector being represented.

"The selection and nomination of the additional members from the women, sea-based OFW, land-based OFW, and sea-based private sectors shall be governed by the following guidelines:

- (a). The POEA and the OWWA shall launch a massive information campaign on the selection of nominees and provide for a system of consultative sessions for the certified leaders or representatives of the concerned sectors, at least three (3) times, within ninety (90) days before the boards shall be convened, for purposes of selection. The process shall be open, democratic and transparent;
- (b). Only non-government organizations that protect and promote the rights and welfare of overseas Filipino workers, duly registered with the appropriate Philippine government agency and in good standing as such, and in existence for at least three (3) years prior to the nomination shall be qualified to nominate a representative for the women, sea-based OFW, and land-based OFW sectors to the POEA and OWWA boards;
- (c). Only manning industry associations duly recognized and registered with the appropriate Philippine government agency and in good standing as such, and in existence for at least three (3) years prior to the nomination shall be qualified to nominate a representative for the sea-based private sector to the POEA and OWWA boards;
- (d). The nominee for the women, sea-based OFW and land-based OFW sectors must be at least twenty-five (25) years of age, able to read and write, and a migrant worker at the time of his or her nomination or was a migrant worker with at least three (3) years experience as such
- (e). The nominee for the sea-based private sector must be at least 30 years of age, able to read and write, and must have at least five (5) years experience and involvement in the Philippine manning industry.
- (f). A final list of the nominees selected by the OWWA/POEA governing boards, which shall consist of three(3) names for each sector to be represented, shall be submitted to the President and published in a newspaper of general circulation;

"Within thirty (30) days from the submission of the list, the President shall select and appoint from the list, the representatives to the POEA/OWWA governing boards.

"The additional members shall have a term of three (3) years and shall be eligible for reappointment for another three (3) years. In case of vacancy, the President shall in accordance with the provisions of this Act, appoint a replacement who shall serve the unexpired term of his or her predecessor.

"Any executive issuances or orders issued that contravene the provisions of this section shall have no force and effect.

"All other government agencies and government-owned or controlled corporations which require at least one (1) representative from the overseas workers sector to their respective boards shall follow all the applicable provisions of this section."

Section 76. *Strengthening the Philippine Seafarer One Stop Processing Center (PSOC).* The PSOC, as established under Administrative Order No. 56, which 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, shall be strengthened to include the POEA amongst the government offices housed within the center in order to enhance its mandate and functions to provide better services to the Filipino seafarers.

Final Provisions

Section 77. *Repealing Clause.* – The following laws are hereby modified or repealed:

- a. The following sections of Republic Act No. 8042, as amended by Republic Act No. 10022, insofar as it applies to OFS:
 - i. Section 4. *Deployment of Migrant Workers*
 - ii. Section 6. *Definition of Illegal Recruitment*
 - iii. Section 7. *Penalties*
 - iv. Section 26. *Uses of the Legal Assistance Fund*
 - v. Section 32. *POEA, OWWA and other Boards; Additional Memberships*
 - vi. Section 37-A. *Compulsory Insurance Coverage for Agency-Hired Workers*
- b. Such other laws, presidential decrees, executive orders, issuances, rules and regulations or parts thereof, which are otherwise inconsistent with the provisions of this Act.

Section 78. *Separability Clause.* If, for any reason, any section, subsection, clause or term of this Act is held to be illegal, invalid, or unconstitutional, such parts not affected by such declaration shall remain in full force and effect.

Section 79. *Transitory Provision.* – Every ship currently registered under the laws of the Philippines and granted the privilege to fly its flag shall be deemed to be registered under this Act insofar as its registration is not inconsistent with the provisions of this Act and such registration shall continue to be valid until its expiration, unless sooner revoked by the MARINA.

Section 80. *Effectivity.* – This Act shall take effect after fifteen (15) days following its publication in a newspaper of general circulation.