

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Constitution Hills, Quezon City

EIGHTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 5142

INTRODUCED BY REP. MACNELL M. LUSOTAN

**AN ACT INSTITUTING THE MAGNA CARTA OF FILIPINO SEAFARERS, AND FOR
OTHER PURPOSES**

EXPLANATORY NOTE

The Philippines is one of the top exporters of seafarers in the world. According to the Philippine Statistics Authority, our country provided 442,820 seafarers to the world, a bigger population than Angeles City.¹

With a city's worth of our countrymen on board ships in the high seas, it made sense for us to be a party to the International Labor Organization's Maritime Labor Convention of 2006. However, it does not make sense for us not to have a law that codifies the rights and privileges of our seafarers and clarifies the means with which we will protect them.

Like all OFWs, seafarers also face illegal recruiters, abuse, loneliness, and all the other problems Filipinos overseas face. Unlike most other OFWs, seafarers must face these issues on their own, aboard ships in international waters, or at port calls in various countries around the world. There, the laws which protect them are less clear, making it imperative that a country such as ours, with a history of seafaring since pre-Hispanic times, to take the initiative and declare how we will protect some of our most vulnerable countrymen.

Their contributions to the economy must not be ignored. Without proper training and protection, we can lose everything that we have worked for. This proposed Act shall guide the policymaking of government from the training and recruitment of seafarers until their retirement. Thus, I ask my colleagues to support this measure and pass the Magna Carta for Seafarers into law.


REP. MACNELL M. LUSOTAN
MARINO Party-list



¹ Based on the 2015 population census.

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*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 **2019**”.

SEC. 2. Declaration of Policies. – It is hereby declared the policy of the State:

(a) To afford Filipino seafarers full protection before, during and after employment by granting them certain rights as maritime professionals, in recognition of their unique role and contribution to national development;

(b) To maintain and progressively develop a pool of competent and world-class seafarers 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 adopt, and implement the standards set by international conventions and agreements on working and living conditions, and occupational safety and health, among others, for seafarers particularly the Maritime Labour Convention, 2006 (MLC, 2006); and

(e) To recognize ship owners, manning and recruitment entities as vital partners in promoting the skills and competencies of Filipino seafarers.

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 promulgate policies and programs to uplift the socioeconomic well-being of the families of Filipino seafarers.

SEC. 3. *Applicability.* – This Act shall cover Filipino seafarers engaged, employed, or working in any capacity on board Philippine registered ships operating domestically or internationally, as well as those on board foreign registered ships.

This Act shall not cover the following categories of ships:

- (a) Warships and naval auxiliaries;
- (b) Government ships not engaged in commercial operations;
- (c) Ships of traditional build, as may be defined under existing rules and regulations; and
- (d) Fishing vessels.

SEC. 4. *Definition of Terms.* – As used in this Act:

(a) *Cadet* refers to a student of a maritime educational institution who is required to undergo training on board registered international ships or domestic ships to fulfill a maritime academic course;

(b) *Domestic Shipping* refers to the transport of passenger or cargo, or both, by ships duly registered and licensed under Philippine law to engage in trade and commerce between Philippine ports and within Philippine territorial or internal waters for hire or compensation with general or limited clientele whether permanent, occasional or incidental, with or without fixed routes and undertaken for contractual or commercial purposes;

(c) *International Maritime Convention* or *International Convention* refers to any written treaty or agreement, or any protocol or amendment thereto, affecting the maritime industry which has come into force and effect, including the MLC, 2006;

(d) *License* refers to the document issued by the Department of Labor and Employment (DOLE) authorizing any person or entity to engage in the recruitment and placement of seafarers;

(e) *Manning/Recruitment and Placement Agency* refers to any Filipino person, corporation, partnership, company, or other entity engaged in the canvassing, enlisting, contracting, transporting, utilizing, hiring or procuring whether for profit or not, of seafarers whether domestic or international;

(f) *Maritime Industry Stakeholders* refer to all private sector stakeholders, engaged in the business of owning, managing, chartering or operating domestic and international ship(s) of Philippine or foreign registry, manning of ships, management of ports, stevedoring and arrastre services, ship brokering and chartering, shipbuilding and ship repair, providing maritime services such as ship supplies and provisions, maritime education and training, shipping agency, and other similar activities.

This term shall also include bona fide maritime labor organizations and professional associations of seafarers;

(g) *Master* refers to a person having command of a ship;

(h) *Maritime Labour Certificate* refers to the document that certifies that the working and living conditions of the seafarers on the ship have been inspected and are compliant with the requirements of Philippine laws and regulations;

(i) *Officer* refers to a member of the crew other than the master who has been designated as such by national law or regulation or, in the absence of such designation, by collective agreement or custom;

(j) *Deck Officer* refers to an officer qualified in accordance with Chapter II of the International Convention on the Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW, 1978), as amended;

(k) *Engine Officer* refers to an officer qualified in accordance with Chapter III of the International Convention on the STCW, 1978, as amended;

(l) *Philippine National* refers 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 sixty percent (60%) of the capital of which is owned by citizens of the Philippines;

(m) *Philippine Seafarers' One Stop Processing Center (PSOC)* refers to the facility created under DOLE Administrative Order No. 56, Series of 2003, which houses multiple offices or agencies involved in providing services to seafarers, in one place;

(n) *Point of Hire* refers to the place where the contract of employment was executed;

(o) *Recognized Organizations* refer to organizations recognized by the DOLE to carry out inspections or issue the Maritime Labour Certificate in accordance with the scope of activities covered by their authorizations;

(p) *Repatriation* refers to the process of returning a seafarer to the point of hire;

(q) *Seafarer* refers to a person who is employed or is engaged to work in any capacity on board a ship to which the Act applies;

(r) *Ship or Vessel* refers to any kind, class or type of craft or artificial contrivance capable of floating in water, whether publicly or privately owned, ordinarily engaged in commercial activities and offshore operations, except fixed platform;

(s) *Seagoing Ship* refers to a ship other than those which navigate exclusively in inland water or water within or closely adjacent to sheltered water, or areas where port regulations apply;

(t) *Shipowner* refers to the owner of the ship employing Filipino seafarers to work on board domestic ships and ships engaged in international trade, 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, and who, in assuming such responsibilities, has agreed to take over all the attendant duties and responsibilities of a shipowner under this Act, regardless of whether any other organization or person fulfill certain of the duties or responsibilities on behalf of the shipowner.

CHAPTER II

SEAFARERS' RIGHTS

SEC. 5. *Right to Just Terms and Conditions of Work.* – Seafarers shall have the right to:

- (a) Safe and secure workplace that complies with safety standards;
- (b) Decent working and living conditions on board a ship;

- (c) Medical care, welfare measures and other forms of health and social protection; and
- (d) 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, rest period consistent with Philippine laws or international maritime conventions, when applicable.

SEC. 6. *Right to Self-organization, to Engage in Collective Bargaining and to Participate in Democratic Exercises.* – Seafarers shall enjoy 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.

SEC. 7. *Right to Educational Advancement and Training at Reasonable and Affordable Costs.* – Seafarers shall have access to educational advancement and training at reasonable and affordable costs.

No fee or other charges shall be imposed on cadets, interns, apprentices, on-the-job-trainees or other persons similarly situated.

Towards this end, relevant government agencies shall:

- (a) Regulate the operation of all educational and training institutions offering courses related to seafaring;
- (b) Pursue grant programs such as scholarships, subsidies, loan assistance and other measures that will harness the skills of Filipino seafarers toward greater competitiveness given the new demands in the industry; and
- (c) Promote quality maritime education and training that respond to the needs of the industry and in accordance with minimum international maritime standards of competency.

SEC. 8. *Right to Relevant Information.* – Shipowners, manning agencies, and other organizations responsible for the recruitment and placement of Filipino seafarers shall be mandated to provide seafarers relevant information, including the terms and conditions of employment and company policies affecting seafarers. This right shall include the right of seafarers' organizations to relevant information affecting the terms and conditions of employment of their members.

All ships covered by this Act shall have a copy of the MLC, 2006 and the grievance procedures observed on board.

SEC. 9. *Right to Consultation.* – Seafarers, ship owners and legitimate seafarers' and ship owners' organizations, as well as other relevant stakeholders, shall be adequately consulted before any maritime policy, executive issuance, rule or regulation affecting seafarers and their families is promulgated, or before any maritime law that may directly affect them is enacted.

SEC. 10. *Right Against Discrimination.* – Upon employment, seafarers shall have the right against discrimination by sole reason of race, sex, religion and political opinion. Career

opportunities shall be promoted and appropriate working and living conditions shall be guaranteed equally among male and female seafarers.

SEC. 11. *Right to Free Legal Representation.* – Seafarers who are victims of violations of the provisions of this Act and who cannot afford the services of a competent and independent counsel shall have the right to free legal assistance and protection at government's expense, subject to existing rules and regulations.

SEC. 12. *Right to Access to Communication.* – Seafarers, especially during their free time or when they are not on duty, shall have reasonable access to ship-to-shore telephone communications, and email and internet facilities, where available.

CHAPTER III DUTIES OF SEAFARERS

SEC. 13. Seafarers shall have the following duties:

- (a) To comply with and observe the terms and conditions of the employment contract;
- (b) To abide by lawful and reasonable company personnel policies;
- (c) To be obedient to the lawful commands of the Master or the Master's lawful successor, and to comply with the shipowner's/principal's policy on safety and operational procedures and instructions given in connection therewith;
- (d) To be diligent in the performance of duties relating to the ship, its stores, equipment and cargo, whether on board, in transit or ashore;
- (e) To be, at all times, orderly and respectful to the shipmates, passengers, shippers, stevedores, port authorities, and other persons who have official business with the ship; and
- (f) To be personally responsible for maintaining a healthy lifestyle.

CHAPTER IV MINIMUM REQUIREMENTS FOR SEAFARERS

SEC. 14. *Minimum Age.* – No person below eighteen (18) years old, other than a cadet, shall be employed, engaged, or otherwise allowed to work on board Philippine registered ships operating domestically or internationally, as well as on board foreign registered ships.

SEC. 15. *Medical Certificates.* – No seafarer shall be employed, engaged, or otherwise allowed to work on board a domestic or ocean-going ship unless a medical certificate has been issued declaring the seafarer to be fit to work.

The seafarer shall hold a valid medical certificate issued by a medical facility duly accredited by the Department of Health (DOH) in accordance with its existing rules and regulations.

The medical certificate shall certify that the person is expected to be able to meet the minimum requirements for performing the duty specific to the person's post at sea safely and effectively during the period of the validity of the certificate.

For the purpose of this section, a medical certificate issued in accordance with the requirements of STCW shall be accepted.

NO WAIVER OF LIABILITIES RESULTING TO FORFEITURE OF BENEFITS SHALL BE ALLOWED IN CASE OF INSUFFICIENT COMPLIANCE WITH THE FIT TO WORK CERTIFICATE.

SEC. 16. *Training and Qualifications.* – Only seafarers certified by appropriate government agencies shall work, be employed or be engaged on board a ship.

SEC. 17. *Recruitment and Placement.* – Only duly licensed manning or placement and recruitment agency shall be allowed to operate and engage in the recruitment and placement of seafarers, in accordance with the rules and regulations as may be issued by the Secretary of Labor and Employment.

No amount or fee shall be charged to the seafarer for their recruitment and placement.

SEC. 18. *Contracting or Subcontracting of Services.* – The contracting or subcontracting of seafarers for work on board domestic ships shall be governed by existing rules and regulations issued by the DOLE.

**CHAPTER V
CADETSHIP**

SEC. 19. *Applicability.* – The shipboard training of cadets shall be governed by Sections 5 to 12 of Chapter II; Section 13 of Chapter III; Section 15 of Chapter IV; Sections 22 to 23 of Chapter VI; Sections 25 to 27 of Chapter VII; Sections 31 to 35 of Chapter IX; Section 36 of Chapter X; and Section 42 of Chapter XIV hereof.

SEC. 20. *Shipboard Training Agreement for Cadets.* – There shall be a written agreement between the shipowner on one hand, and the cadet and the maritime institution or school on the other, and which shall include the following information, terms and conditions:

- (a) Cadet's full name, date of birth, birthplace and age, which should be at least sixteen (16) (18) years old;
- (b) Name and address of the maritime institution or school;
- (c) Name and address of the shipowner, if applicable;
- (d) Place and date when the cadet's agreement is entered into;
- (e) Capacity in which the cadet is to be trained;
- (f) Amount of the cadet's allowance or stipend;
- (g) Required number of hours of training and rest which shall not be less than the prescribed hours of work and rest in Section 21 of this Act;
- (h) Duties and responsibilities of the sponsoring company, Maritime Higher Education Institutions (MHEIs), and cadets, as may be provided under the Standard Cadet Training Agreement on Ships Engaged in International Voyage of the Philippine Overseas Employment Administration (POEA); and
- (i) Other benefits in accordance with law, company policy or agreements.

The foregoing agreement shall be written in a working language or in English, executed in three (3) original copies before the commencement of the shipboard training. The shipowner, cadet and the maritime institution/school shall each have a signed original of the agreement and an electronic copy thereof shall be submitted to the DOLE, through the Bureau of Working Conditions (BWC). A signed original copy shall also be made available on board the ship.

MHEIs shall demonstrate that over the last three (3) years, an average of at least the minimum percentage of the target number of cadets, as per updated relevant Commission on Higher Education (CHED) Memorandum Order are able to secure berths in connection with their studies, which minimum percentage, however, shall not be lower than sixty percent (60%) of students enrolled in their Bachelor of Science in Marine Transportation (BSMT) or Bachelor of Science in Marine Engineering (BSMarE) programs. The CHED, in coordination with the Maritime Industry Authority (MARINA), shall ensure that only BSMT or BSMarE programs in MHEIs that meet the above requirement are conferred approved or accredited.

CHAPTER VI

TERMS AND CONDITION OF EMPLOYMENT

SEC. 21. *Standard Employment Agreement for Seafarers.* – There shall be an agreement in writing between the shipowner and the seafarer, which shall include the following information and terms:

- (a) Seafarer's full name, date of birth or age, and birthplace;
- (b) Shipowner'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 salary, and the formula used for calculating the same;
- (f) Hours of work and hours of rest;
- (g) Wages and wage-related benefits, which include the following: overtime pay, holiday pay, premium pay, paid leaves, 13th month pay, if applicable;
- (h) Social security and welfare benefits;
- (i) Stipulation on repatriation or similar undertakings;
- (j) Separation pay and retirement pay, if applicable;
- (k) Reference to the collective bargaining agreement, if applicable; and
- (l) Other benefits in accordance with law, company policy or agreements.

The foregoing employment agreement shall be in a working language or in English, executed in three (3) original copies before the commencement of the employment. The shipowner and the seafarer shall each have a signed original of the agreement. A signed original shall be made available on board the ship.

The Philippine Overseas Employment Administration-Standard Employment Contract (POEA-SEC) approved by the DOLE shall be observed in the employment of Filipino seafarers on board foreign registered ships.

When there is a collective bargaining agreement, a copy thereof must be maintained on board the ship and readily accessible to the seafarers.

SEC. 22. *Wages.* – Upon effectivity of this Act, the Regional Tripartite Wages and Productivity Boards shall set the minimum wage rates of the seafarers on board ships engaged in domestic shipping, taking into account the peculiarities of the employment arrangement of seafarers and the criteria as determined pursuant to Republic Act No. 6727, otherwise known as “Wage Rationalization Act”: *Provided*, That wages for actual work hours and days shall not be lower than the applicable minimum wage rates in the domicile or head office of the employer. Wages shall be paid at least once every two (2) weeks or twice a month, at intervals not exceeding sixteen (16) days.

Trainees, probationary crew members and other similarly situated persons shall be paid full minimum wage in accordance with the services rendered.

Cadets, on-the-job trainees, apprentices and other similarly situated persons who are on board vessels as part of the completion of their academic or training program, shall be provided with stipends or allowances, which shall not be less than fifty percent (50%) of the existing minimum wage of regular seafarers.

SEC. 23. *Hours of Work and Hours of Rest.* – The normal hours of work of every seafarer shall not exceed eight (8) hours a day. If the seafarer is allowed to work beyond eight (8) hours, the maximum hours of work shall not exceed fourteen (14) hours in any twenty-four (24)-hour period, and seventy-two (72) hours in any seven (7)-day period.

The minimum hours of rest for every seafarer shall not be less than ten (10) hours. Hours of rest may be divided into not more than two (2) periods, one of which shall be at least six (6) hours in length, and the interval between consecutive periods of rest shall not exceed fourteen (14) hours.

In exceptional cases, seafarers in watchkeeping duties may be required to work beyond fourteen (14) hours: *Provided*, That the rest period is not less than seventy (70) hours in any seven (7)-day period. This exception shall not be allowed for more than two (2) consecutive weeks. The intervals between two (2) periods of exception shall not be less than twice the duration of the exception.

SEC. 24. *Paid Annual Leave.* – Whenever applicable, the seafarers shall be paid an annual leave to be calculated on the basis of a minimum of 2.5 calendar days per month of employment.

For ships licensed to engage in domestic shipping, the provisions on “Holidays, Service Incentive Leaves and Service Charges” of Presidential Decree No. 442, or the Labor Code of the Philippines, as amended, shall continue to apply unless higher annual leave is already provided

under the collective bargaining agreement (CBA) or by the shipowner as company practice or policy.

CHAPTER VII REPATRIATION

SEC. 25. *Seafarers Shall Be Entitled to Repatriation.* – All costs related to the repatriation or transport of the personal effects of a seafarer shall be borne by or charged to the shipowner and the manning agency concerned. The expenses of repatriation shall include the transportation charges, pay and allowances from the moment the seafarers leave the ship until they reach the repatriation destination, the accommodation and the food of the seafarer during the journey and transportation of thirty kilograms (30 kgs.) of the seafarers' personal luggage to the repatriation destination. The primary responsibility to repatriate entails the obligation on the part of the shipowner or agency to advance the repatriation and other attendant costs, including plane fare, deployment cost of the principal and immigration fines and penalties, to immediately repatriate the seafarer should the need for it arise, without a prior determination of the cause of the termination of the seafarer's employment. However, after the worker has returned to the country, the shipowner or agency may recover the cost of repatriation from the seafarer if the termination of the employment was due solely to the seafarer's fault.

SEC. 26. *Emergency Repatriation for Seafarers on Board Foreign Registered Ships.* – In cases of war, epidemics, abandonment of ship by ship owners, disasters, calamities, natural or man-made, and other similar events, the Department of Foreign Affairs (DFA), in coordination with the POEA and the Overseas Workers Welfare Administration (OWWA), shall undertake the repatriation of seafarers. The DFA shall draw from the Emergency Repatriation Fund (ERF) provided under the General Appropriations Act (GAA) to defray the expenses involved in the repatriation of undocumented seafarers, while the POEA shall require manning agencies to effect the repatriation of seafarers within forty-eight (48) hours or suffer the penalty of suspension. In case of failure of the manning agency to provide for the repatriation within the prescribed time, the POEA shall coordinate with the OWWA to advance the cost of repatriation of the seafarer without prejudice to reimbursement from the concerned manning agency.

The DFA shall take the lead in the repatriation of the affected seafarers in areas where there is no Philippine Overseas Labor Office (POLO).

SEC. 27. *Repatriation for Seafarers on Board Domestic Ships.* – The provisions on repatriation shall also apply to seafarers working on domestic ships. Seafarers on board domestic ships shall be entitled to emergency repatriation in cases of war, epidemics, abandonment of ship by ship owners, disasters or calamities, whether natural or man-made, and other similar events.

CHAPTER VIII MANNING REQUIREMENT

SEC. 28. *Manning Levels.* – All ships of Philippine registry shall observe the required minimum manning levels in accordance with the requirements prescribed by the MARINA.

Every ship shall be manned by a crew that is adequate in terms of size and qualifications taking into account the need to operate the vessel safely and efficiently.

SEC. 29.*Crew Competence.* – The crew members of a ship of Philippine registry shall possess the appropriate certificate of competency, which sets forth their competence to serve 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 ships concerned.

The certificate of competency shall attest to the fact that the seafarer to whom it is issued meets the requirements for service, age, qualification, and has successfully passed the examinations conducted to determine the seafarer's proficiency and level of expertise for the position.

SEC. 30.*Registry of Seafarers.* – To better respond to the manning requirements of oceangoing ships of foreign registry, and domestic and oceangoing ships of Philippine registry, the POEA and the MARINA, respectively, shall maintain a registry of all seafarers in the Philippines. The registry shall contain the relevant information or data to promote employment opportunities for seafarers whether on board or ashore, and allow for the appropriate learning for and implementation of additional training, skills and competency development programs for seafarers.

CHAPTER IX

ACCOMMODATION, RECREATIONAL FACILITIES, FOOD AND CATERING

SEC. 31.*Accommodation Facilities.* – Unless otherwise exempted herein or by appropriate regulations, all ships of Philippine registry shall have safe, decent and adequate accommodations for seafarers taking into account the need to protect the health and safety of seafarers working or living on board.

SEC. 32.*Requirements for Sanitation.* – All ships of Philippine registry shall have sanitation facilities that meet the minimum standards for health and hygiene and are accessible to seafarers on board. 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.

SEC. 33.*Recreational Facilities.* – Unless otherwise exempted herein or by appropriate regulations, all ships of Philippine registry shall have recreational facilities, amenities, and services that are appropriate and accessible to seafarers.

Domestic ships shall be exempted from this requirement considering that their trading patterns and length of voyages allow their crew to go home or to make use of comparable facilities on land.

SEC. 34.*Food and Catering.* – The shipowner shall ensure the protection and promotion of health of seafarers. Whenever applicable, a shipowner shall ensure that a ship serves free food and drinking water of appropriate quality, quantity and nutritional value that adequately cover the requirements of the ship and take into consideration the differing cultural and religious backgrounds of seafarers. All foods and drinks and the preparation thereof shall be in accordance

with the standards of the Sanitation Code of the Philippines and pertinent laws, rules and regulations.

SEC. 35. *Application.* – The requirements of this chapter for crew accommodation and recreational facilities covering ships of Philippine registry shall be applicable to the following:

(a) All oceangoing ships and domestic ships constructed on or after the date when the MLC, 2006 comes into force;

(b) All second-hand ships, whether oceangoing or domestic, 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; and

(c) All ships constructed prior to the entry into force of the MLC, 2006 which have undergone major or substantial structural alterations after the entry into force of the Convention, unless provided exemption by the relevant Philippine government agency.

CHAPTER X

HEALTH PROTECTION AND MEDICAL CARE

SEC. 36. *Medical Care on Board Ships and Ashore.* – The ship owner shall provide adequate equipment, paraphernalia and medical supplies, including medicines on board, and shall ensure access to shore facilities for the health of seafarers, as well as the corresponding medical or trained personnel who shall provide first aid and medical care pursuant to the Maritime Occupational Safety and Health Standards and other pertinent laws, rules and regulations.

The ship owner shall ensure that seafarers have access to medical treatment for any illness or injury, hospitalization and dental treatment.

A seafarer shall have the right to consult a qualified physician or dentist without delay in ports of call, where practicable.

A seafarer shall have the right to material assistance and financial support from the ship owner with respect to the expenses incurred during and as a result of medical treatment for sickness, injury or death occurring while they are serving under a valid employment contract or those which arise from their employment, without prejudice to any other legal remedies that a seafarer may seek.

CHAPTER XI

WELFARE AND SOCIAL SECURITY PROTECTION

SEC. 37. *Social Welfare Benefits.* – Without prejudice to established policy, CBA or other applicable social agreement, all seafarers shall become members of the Social Security System (SSS), Employees' Compensation and State Insurance Fund, PhilHealth, Home Development Mutual Fund (or Pag-IBIG Fund) and shall enjoy the benefits afforded pursuant to membership thereof.

CHAPTER XII

COMPLIANCE AND ENFORCEMENT

SEC. 38. *Compliance and Certification.* – All ships of Philippine registry shall comply with the provisions of this Act. The shipowner or master shall ensure the compliance of the ship with the provisions of this Act and its implementing rules and regulations.

The ship owner and master, as acting ship owner's representative, shall be made principally liable for any violation of the provisions of this Act and its implementing rules and regulations.

For this purpose, a maritime labour certificate or a certificate of compliance, as applicable, shall be issued in accordance with the implementing rules and regulations. The DOLE, the DFA and the MARINA, in consultation with ship owners and seafarers' organizations, shall formulate the said implementing rules and regulations.

SEC. 39. *Inspection and Enforcement.* – The Secretary of Labor and Employment or the duly authorized representative shall have the sole and exclusive authority to inspect all Philippine ships, domestic or oceangoing, to ensure compliance with the provisions of this Act. The duly authorized representative shall have the power to board ships and carry out any examination, test or inquiry in order to ensure that the standards established under this Act and its implementing rules and regulations are strictly observed.

The Secretary of Labor and Employment may authorize other government agencies or duly recognized organizations to conduct inspection and issue certification in accordance with the provisions of this Act and its implementing rules and regulations.

The Secretary of Labor and Employment or the duly authorized representative shall have the power to order immediate restitution of differences, and impose fines for violations of the provisions of this Act.

If the violation or deficiency constitutes serious breach of the requirement of this Act and its implementing rules and regulations, or poses imminent danger to the ships or to the life or limb of the seafarer, the Secretary of Labor and Employment or the duly authorized representative may immediately order the detention of the ship until the violation or deficiency is corrected.

SEC. 40. *Recognized Organization.* – Recognized organizations may be authorized by the Secretary of Labor and Employment to conduct the inspection of ship's premises and issue the maritime labour certificate or the certificate of compliance with, as appropriate, in accordance with the provisions of this Act and its implementing rules and regulations.

A recognized organization must have the necessary knowledge of the requirements of this Act and its implementing rules and regulations, the MLC, 2006 and other relevant international treaty or convention.

Likewise, to be recognized and authorized to inspect a ship, it must also have the necessary and qualified professional and technical expertise to conduct the inspection and certify to the ship's compliance with established standards.

CHAPTER XIII

TERMINATION OF EMPLOYMENT

SEC. 41. *Termination of Employment.* –

(a) The employment of Filipino seafarers on board Philippine-registered ships operating internationally, as well as those on board foreign-registered ships shall cease when the seafarers complete their period of contractual service aboard the ship, sign off from the ship, and arrive at the point of hire.

The employment is also terminated effective upon arrival at the point of hire for any of the following reasons:

(1) When the seafarer signs off and is disembarked for medical reasons in the event the seafarer is declared: (i) fit for repatriation; or (ii) when after an illness the seafarer is declared fit to work, but the employer is unable to find employment for the seafarer on board the ship originally boarded or on another ship of the employer;

(2) When the seafarer signs off due to the sale of the ship, lay-up of ship, discontinuance of voyage or change of ship principal;

(3) When the seafarer voluntarily resigns in writing and signs off prior to the expiration of contract within a reasonable period as may be prescribed in the implementing rules and regulations of this Act; or

(4) When the seafarer is discharged for just causes in accordance with the provisions of the POEA-SEC.

(b) The termination of employment of a seafarer on board domestic ships shall be governed by the provisions of the Labor Code of the Philippines, as amended, on domestic shipping.

(c) The termination of employment of a seafarer on board a foreign vessel or foreign-registered ships shall be governed by the POEA-SEC or applicable CBA.

CHAPTER XIV

SETTLEMENT OF DISPUTES

SEC. 42. *On Board and Onshore Grievance Machinery.* – All ships of Philippine registry shall prescribe and observe fair, effective and expeditious on board and onshore methods and procedures to handle grievance at no cost to the seafarer, in accordance with the implementing rules and regulations of this Act.

In cases where a seafarer is a member of a legitimate trade union organization, any grievance shall, as a condition precedent to conciliation-mediation, undergo the grievance machinery with the involvement of the union as established in its CBA. Without prejudice to any existing law, any agreement reached by the parties during the grievance negotiation shall be final and binding.

SEC. 43. *Mandatory Conciliation-Mediation and Arbitration.* – Seafarers, whether engaged, employed or working on board ships of Philippine registry or other registries, shall avail of the

conciliation-mediation services of the DOLE pursuant to Republic Act No. 10396 and its implementing rules and regulations, by filing a request for assistance before the conciliation-mediation desks at the Regional/Field/Provincial Offices of the DOLE or its attached agencies.

In case of failure of conciliation-mediation in cases where seafarers are covered by the CBA, the case shall be submitted for Voluntary Arbitration in accordance with Articles 261 and 262 of the Labor Code, as amended. In cases where seafarers are not covered by the CBA, the seafarer shall have the option to submit the case to Compulsory Arbitration or Voluntary Arbitration.

CHAPTER XV

REINTEGRATION FOR OVERSEAS FILIPINO SEAFARERS

SEC. 44. *Reintegration.* – Returning or unemployed overseas Filipino seafarers may avail of the livelihood development and training programs, placements and other services offered by concerned government agencies, including the OWWA, the Technical Education and Skills Development Authority (TESDA), the Technology and Livelihood Resource Center (TLRC), the Cooperative Development Authority (CDA), the National Maritime Polytechnic (NMP) and the CHED.

These agencies shall formulate skills upgrading or retraining curricula to meet the needs of returning or unemployed seafarers. The participation of the maritime sector, 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.

The National Reintegration Center for OFWs (NRCO) shall attend to the needs of returning seafarers. The Center shall provide mechanisms 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

SECTION 45. CREDIT DELIVERY – FINANCIAL ASSISTANCE FOR ALTERNATIVE SUSTAINABLE LIVELIHOOD PROGRAM SHALL BE MADE AVAILABLE TO SEAFARERS. UPON THE APPROVAL OF THIS ACT, THE LANDBANK, DBP, SBGFC AND PCFC SHALL SET UP A SPECIAL CREDIT WINDOW THAT WILL SERVICE THE FINANCING NEEDS OF THE SEAFARER CONSISTENT WITH THE BSP POLICIES, RULES AND REGULATIONS.

SECTION 46. THE LANDBANK, DBP, SBGFC AND PCFC SHALL ANNUALLY REPORT TO THE APPROPRIATE COMMITTEE OF BOTH CONGRESS ON THE STATE OF THE IMPLEMENTATION OF THIS PROVISION.

SECTION 47. INFORMATION DISSEMINATION – THE PIA SHALL ENSURE THE PROPER AND ADEQUATE INFORMATION DISSEMINATION OF THE CONCERNS AND BENEFITS OF THIS ACT TO THE GENERAL PUBLIC ESPECIALLY TO ITS INTENDED BENEFICIARIES SPECIFICALLY IN THE BARANGAY LEVEL

CHAPTER XVI

INCENTIVES AND AWARDS GRANTED TO THE MARITIME INDUSTRY

SEC. 45. *Incentives and Awards.* – There shall be established an incentives and awards system for the maritime industry stakeholders which shall be developed and administered by the concerned government agency in consultation with the Maritime Industry Tripartite Council (MITC).

Under such rules and regulations that may be promulgated, deserving shipowners, seafarers, manning and other organizations or entities, shall be commended or awarded for their outstanding performance in upholding the rights of seafarers and complying with this Act.

CHAPTER XVII

GOVERNMENT AGENCIES

SEC. 46. *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 Labor and Employment (DOLE). – The DOLE shall exercise sole and exclusive jurisdiction in implementing the provisions of this Act and ensure that the standards set forth herein, under Presidential Decree No. 442, as amended, and other laws, the MLC, 2006 and other international treaties and conventions to which the Philippines is a signatory are faithfully complied with and fairly applied to Filipino seafarers.

The DOLE shall likewise determine and set appropriate benchmarks consistent with the MLC, 2006, this Act and other applicable laws on employment conditions and other labor standards and regulations.

(b) Department of Foreign Affairs (DFA). – The DFA, through its home offices or foreign posts, shall give paramount importance to the safety and well-being of Filipino seafarers, by providing adequate and timely intervention and assistance, such as representing their interests with foreign authorities concerned and facilitating their repatriation when they are distressed or beleaguered.

(c) Department of Health (DOH). – The DOH shall regulate the activities and operations of all clinics which conduct physical, optical, dental, psychological and other similar examinations, hereinafter referred to as health examinations, on Filipino seafarers.

The DOH shall determine and prescribe the nature of the health 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 the seafarer 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.

(d) Philippine Overseas Employment Administration (POEA). – The POEA shall look into the contracts of employment and the working conditions of the officers and crew of vessels of Philippine registry operating internationally, and of such officers and crew members who are

Filipino citizens and employed by foreign vessels to ensure that these comply with the prescribed standards.

(e) Overseas Workers Welfare Administration (OWWA). – The OWWA, through its welfare officers or coordinating officers, shall provide the Filipino seafarers and their families all the assistance they may need in the enforcement of contractual obligations by agencies and their principals.

The OWWA shall likewise formulate and implement welfare programs for overseas Filipino seafarers and their families while they are abroad and upon their return. It shall ensure the awareness by the overseas Filipino seafarers and their families of these programs and other related governmental programs.

(f) Maritime Industry Authority (MARINA). – The MARINA shall ensure that all maritime education including the curricula and training programs are structured and delivered in accordance with written programs, methods and media of delivery, procedures and course materials, international standards as prescribed under the STCW Convention and other applicable laws.

(g) Philippine Coast Guard (PCG). – The PCG, in line with its function to assist in the enforcement of applicable laws within the maritime jurisdiction of the Philippines, shall assist the DOLE in the enforcement of Department Orders and other issuances implementing the MLC, 2006, including orders to detain vessels found in gross violation of pertinent laws, rules and regulations.

Unless otherwise provided in this Act, the mandate, power and function of all existing departments, agencies or instrumentalities of the government, including government-owned and -controlled corporations, shall remain and continue to be recognized in accordance with the law or order creating them.

SEC. 47. *Philippine Seafarers' One Stop Processing Center (PSOC).* – The PSOC shall operationalize and make available to the public an integrated document processing center for the seafarers and the general public to conduct official transactions. The agencies that are mandated to provide services in the PSOC are as follows:

- (a) Department of Labor and Employment;
- (b) Department of Foreign Affairs;
- (c) Commission on Higher Education;
- (d) Professional Regulation Commission;
- (e) National Telecommunications Commission;
- (f) Philippine Overseas Employment Administration;
- (g) Overseas Workers Welfare Administration;
- (h) Technical Education and Skills Development Authority;
- (i) Maritime Industry Authority;
- (j) National Bureau of Investigation;

- (k) Social Security System;
- (l) Philippine Health Insurance Corporation;
- (m) Philippine Statistics Authority;
- (n) Home Development Mutual Fund; and
- (o) Such other government agencies that the Secretary of Labor and Employment may deem appropriate to be included in the PSOC.

FURTHER, THE PSOC FOR ITS INITIAL OPERATION SHALL CREATE A PILOT PSOC IN AREAS IDENTIFIED WITH THE BIGGEST NUMBER OF SEAFARERS. THE DATA GATHERED FOR THE PSOC SHALL BE MADE ACCESSIBLE TO AND SHALL BE UTILIZED BY THE MARITIME SECTOR AND STAKE HOLDERS. THE LGUS ARE ENCOURAGED EITHER TO REDUCE THE AMOUNT OF LOCAL TAXES, FEES AND CHARGES IMPOSED OR TO EXEMPT DOCUMENTS OR TRANSACTIONS PERTAINING TO THE PROCESS OF PSOC.

CHAPTER XVIII FINAL PROVISIONS

SEC. 48. *Administrative Fines and Penalties.* – Any shipowner, master, their representative or other person who fails or refuses to present employment records, such as payrolls, daily time records, payslip or other documents, when required by the Secretary of Labor and Employment, or the duly authorized representative of the Secretary of Labor and Employment, or the duly authorized representative of a recognized organization, shall be imposed administrative fines and penalties in accordance with the implementing rules and regulations promulgated to implement this Act.

SEC. 49. *Penalties for Violations of Sections 38 and 39.* – Any person who, without proper authorization, exercises the authority granted to the Secretary of Labor and Employment under Sections 38 and 39 of this Act, shall be punished with a fine of not less than one hundred thousand pesos (P100,000.00) nor more than four hundred thousand pesos (P400,000.00), or imprisonment of not less than one (1) year nor more than four (4) years, or both at the discretion of the court. The foregoing offense shall prescribe after five (5) years from its commission, or upon discovery of the violation by competent authorities.

SEC. 50. *Transitory Provision.* – All rights, privileges and benefits previously enjoyed by Filipino seafarers before the effectivity of this Act, including those set forth in Presidential Decree No. 442, otherwise known as the Labor Code of the Philippines, as amended, and 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.

SEC. 51. *Implementing Rules and Regulations.* – The DOLE, in coordination with the DFA, the MARINA and other concerned agencies, shall formulate the rules and regulations to implement this Act within ninety (90) days after its effectivity.

SEC. 52.*Separability Clause.* – If, for any reason, any section, 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.

SEC. 53.*Repealing Clause.* – All laws, presidential decrees, issuances, executive orders, letters of instruction, rules and regulations inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 54.*Effectivity.* – This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,

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