

DEPARTMENT ORDER NO. ____

Series of 2011

**RULES AND REGULATIONS GOVERNING THE EMPLOYMENT
AND WORKING CONDITIONS OF DOMESTIC SEAFARERS**

Pursuant to the authority of the Secretary of Labor and Employment to promulgate the necessary rules and regulations under Article 5 of the Labor Code of the Philippines, as amended and the Administrative Code of 1987, as amended, the following rules and regulations are hereby issued providing maritime labor standards to ensure the protection and welfare of domestic seafarers employed onboard ships which navigate within the maritime jurisdiction of the Philippines:

**RULE I
COVERAGE AND DEFINITION OF TERMS**

SECTION. 1. Coverage. – This Rules and Regulations shall apply to all Filipino seafarers who are employed, engaged or work in any capacity onboard Philippine registered ships which navigate exclusively within the maritime jurisdiction of the Philippines, other than the following categories of ships:

- a) Those navigating exclusively within protected waters such as bays, harbors, rivers, lakes, particularly sensitive sea areas or similar areas and waters in which a ship is not more than three nautical miles from land;
- b) Fishing vessels as defined under Republic Act No. 8550, otherwise known as the Fisheries Code of 1998;
- c) Warships and naval auxiliaries;
- d) Pleasure crafts not engaged in any activity with pecuniary benefits;
- e) Ships of traditional build, such as wooden ships and ships propelled by sails; and
- f) Government ships not engaged in commercial operation.

Seafarers working onboard categories of ships which are not covered by this Rules and Regulations shall continue to be governed by existing laws, rules and regulations.

SEC. 2. Definition of Terms. – As used herein, the following terms shall mean:

- a) “Bureau” refers to the Bureau of Working Conditions.
- b) “DOLE” refers to the Department of Labor and Employment.
- c) “Seafarer” refers to any person employed, engaged or works in any capacity onboard Philippine registered ships which navigate exclusively within the maritime jurisdiction of the Philippines. Cadets and trainees shall be governed by separate rules and regulations.
- d) “Labor standards” refers to the minimum requirements prescribed by existing laws, rules and regulations and other issuances relating to wages, hours of work,

allowances and other monetary and welfare benefits, including those set by occupational safety and health standards.

- e) “Maritime jurisdiction” refers to the exclusive economic zone, territorial sea, archipelagic waters, internal waters and inland waters of the Philippines.
- f) “Regional office” refers to the Regional Offices of the Department of Labor and Employment.
- g) “Shipowner” refers to the owner of the ship or any organization or person, who undertakes the operation of the ship such as, but not limited to, the manager, agent or bareboat charterer.

RULE II

MINIMUM REQUIREMENTS FOR SEAFARERS TO WORK ON A SHIP

SECTION. 1. *Minimum Age.* – No person below eighteen (18) years old shall work, be employed or be engaged onboard a ship.

SEC. 2. *Medical Certificate.* – The seafarer shall hold a valid medical certificate issued by a medical facility accredited by the Department of Health (DOH) for that purpose, in accordance with the existing rules and regulations of the DOH. This certificate is a confirmation that the person is expected to be able to meet the minimum requirements for performing the duty specific to his/her post at sea, safely and effectively during the period of validity of the certificate.

SEC. 3. *Training and Qualification.* – Only seafarers who are certified as competent or qualified to perform their duties pursuant to applicable laws and regulations shall be allowed to work onboard a ship.

SEC. 4. *Recruitment and Placement.* – No placement or hiring fee shall be charged against the seafarer in consideration of his/her recruitment, placement or hiring.

RULE III

CONDITIONS OF EMPLOYMENT

SECTION. 1. *Employment Agreement for Seafarers.* – There shall be an agreement in writing between the shipowner and the seafarer, which shall include the following terms:

- a) the seafarer’s full name, date of birth or age, and birthplace;
- b) the shipowner’s name and address;
- c) the place where and date when the seafarer’s employment agreement is entered into;
- d) the capacity in which the seafarer is to be employed;
- e) the amount of the seafarer’s salary, and the formula used for calculating the same;
- f) hours of work;
- g) wages and wage-related benefits, which include the following: overtime pay, holiday pay, premium pay, paid leaves, 13th month pay;

- h) social security and welfare benefits;
- i) separation pay and retirement pay; and
- j) other benefits in accordance with law, company policy or agreements.

The foregoing employment agreement shall be executed by and between the shipowner and the seafarer before the commencement of employment, in a dialect or language understandable to both parties. The employer shall provide the seafarer the signed original copy of the agreement and a certified true copy must be made available onboard the ship.

When there is a collective bargaining agreement, a copy thereof must be maintained onboard the ship.

SEC. 2. *Minimum Benefits.* – The seafarers are entitled to not less than the following benefits pursuant to the Labor Code of the Philippines, as amended, unless otherwise indicated:

- a) Wages for all actual work hours and days shall not be lower than the applicable minimum wage rates. Wages shall be paid at least once every two weeks or twice a month at intervals not exceeding 16 days.
- b) Twelve (12) Regular Holidays with pay pursuant to Republic Act No. 9849 (An Act Declaring The Tenth Day Of Zhul Hijja, The Twelfth Month Of The Islamic Calendar, A National Holiday For The Observance Of Eidul Adha, Further Amending For The Purpose Section 26, Chapter 7, Book I Of Executive Order No. 292, Otherwise Known As The Administrative Code Of 1987, As Amended). The seafarer shall be paid holiday pay of 100% of the regular rate even if he/she did not report for work. If the seafarer is required to work on said holiday, he/she shall be paid 200% of the regular rate.
- c) Three (3) special days (non-working) pursuant to Republic Act 9849 and such other special days as may be declared under existing laws. If the seafarer is required to work on a special day, he/she shall be paid an additional premium pay of 30% of the basic wage.
- d) Rest day of twenty-four (24) consecutive hours for every six (6) consecutive working days. If the seafarer is required to work on a rest day, he/she shall be paid an additional premium pay of 30% of the basic wage. Whenever work is performed on a rest day which happens to be also a special day, he/she is entitled to an additional 50% of the basic wage.
- e) Overtime pay for work in excess of eight hours a day, equivalent to the regular rate plus an additional of at least 25% thereof on ordinary days, or regular rate plus an additional of at least 30% thereof if overtime work is rendered on regular holidays, special days or rest days.
- f) Night shift differential equivalent to 10% of the basic wage for work between 10:00 pm and 6:00 am of the following day.
- g) Paid service incentive leave of five (5) days for every year of service.

- h) 13th month pay pursuant to Presidential Decree No. 851, as amended, equivalent to 1/12 of the total basic salary earned within the calendar year to be given not later than 24 December of every year.
- i) Paid maternity leave of sixty (60) days for normal delivery or seventy eight (78) days for caesarian section delivery, pursuant to Republic Act No. 8282, otherwise known as the Social Security Act of 1997.
- j) Paid paternity leave of seven (7) days, pursuant to Republic Act No. 8187, otherwise known as Paternity Leave Act of 1996.
- k) Paid parental leave of seven (7) days for solo parents pursuant to Republic Act No. 8972, otherwise known as the Solo Parents' Welfare Act of 2000.
- l) Paid leave of ten (10) days for victims of violence against women and their children, pursuant to Republic Act No. 9262 otherwise known as the Anti-Violence Against Women and Their Children Act of 2004.
- m) Paid special leave of sixty (60) days due to surgery for any gynecological disorder, pursuant to Republic Act No. 9710, otherwise known as the Magna Carta of Women.
- n) Retirement pay upon reaching the age of sixty (60) or more but not beyond sixty-five (65) years old, pursuant to Republic No. 7641.

The foregoing minimum benefits shall be without prejudice to any company policy, contract, or Collective Bargaining Agreement providing for better terms and conditions of employment.

SEC. 3. *Hours of Work and Hours of Rest.* – The normal hours of work of a seafarer shall not exceed eight (8) hours a day.

If the seafarer is required to work overtime, the maximum hours of work shall not exceed fourteen (14) hours in any 24-hour period and seventy-two (72) hours in any 7-day period, subject to the overriding safety and operational conditions of the ship.

The minimum hours of rest for seafarers shall not be less than ten (10) hours in any 24-hour period; and seventy-seven (77) hours in any 7-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 fourteen (14) hours.

In cases where the hours of work exceeds fourteen (14) hours due to overriding safety and operational conditions of the ship, in no case, shall the hours of rest be less than seventy (70) hours in any seven (7) day period.

SEC. 4. *Manning Level.* – The shipowner shall maintain a sufficient number of personnel in accordance with existing maritime laws and regulations issued by the Maritime Industry Authority (MARINA).

SEC. 5. *Right to Security of Tenure.* – Seafarers shall enjoy security of tenure in their employment as provided by law. Their services can only be terminated for just or authorized causes pursuant to the provisions of the Labor Code, as amended.

SEC. 6. *Right to Self-Organization and Collective Bargaining.* – Seafarers shall have the right to form, join or assist in the formation of a labor organization of their own choosing for purposes of collective bargaining and to engage in concerted activities which are not contrary to law.

RULE IV ACCOMMODATION, FOOD AND CATERING

SECTION. 1. *Accommodation.* – Seafarers shall be provided with accommodations in accordance with the standards set under the existing maritime laws and regulations.

SEC. 2. *Food and Catering.* – The shipowner shall ensure protection and promotion of the health of the seafarer and ensure that ships carry on board and serve 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. The 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.

RULE V OCCUPATIONAL SAFETY AND HEALTH

SECTION. 1. *Occupational Safety and Health Policy and Program.* – The shipowner shall adopt, implement and promote occupational safety and health policies and programs on ships, consistent with the Occupational Safety and Health Standards (OSHS) and the Philippine Merchant Marine Rules and Regulations (PMMRR), which shall include the following subjects:

- a) Risk evaluation, training and instruction to seafarers;
- b) Prevention of occupational accidents and diseases, including measures to reduce and prevent risk of exposure to harmful chemicals and physical hazards, such as heat, noise and vibration, as well as the risk of injury or disease that may arise from the use of equipment and machinery onboard ship; and
- c) Monitoring of work environment, engineering and design control, compliance with safe work procedures, safe use and maintenance of machine or equipment, and the use of appropriate Personal Protective Equipment (PPE).
- d) Inspection, reporting and correction of unsafe conditions as well as investigation and reporting of on-board occupational accidents.

The shipowner shall adopt Occupational Health Programs, including the prevention and control of Hepatitis B, HIV/AIDS and Tuberculosis, Drug-free Workplace, Anti-sexual Harassment, disaster or climate risk reduction.

SEC. 2. *Safety and Health Committee.* – A Safety and Health Committee shall be organized in accordance with the existing rules and regulations.

SEC. 3. *Medical Care Onboard Ship and Ashore.* – The shipowner shall provide adequate medical services and medicine chest onboard, and access to shore facilities for the protection of the health of the seafarers, as well as the corresponding medical and/or trained personnel who shall provide first-aid and medical care pursuant to the Occupational Safety and Health Standards and other pertinent laws, rules and regulations.

The shipowner shall ensure that the seafarers have access to treatment for sickness or injury, hospitalization and dental treatment.

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

RULE VI SOCIAL PROTECTION BENEFITS

SECTION 1. *Social Welfare Benefits.* – Without prejudice to established company policy, collective bargaining agreement or other applicable employment agreement, all seafarers shall be entitled to coverage for social welfare benefits, such as Pag-IBIG Fund (Republic Act No. 7742), PhilHealth (Republic Act No. 7875, as amended by Republic Act No. 9241), Employees' Compensation Law (Presidential Decree No. 626, as amended), the Social Security Law (Republic Act No 1161, as amended by Republic Act No. 8282), and other applicable laws.

The cost of health services for the sickness and injuries suffered by the seafarer shall be covered by mandatory social welfare programs under existing laws.

RULE VII COMPLIANCE AND ENFORCEMENT

SECTION. 1. *Enforcement and Monitoring of Working and Living Conditions.* – All Philippine Registered Ships which navigate exclusively within the maritime jurisdiction of the Philippines shall be subject to inspection.

With respect to ships of less than 200 GT, the DOLE shall give technical advice and assistance to shipowners to facilitate eventual compliance with the provisions of this Rules and Regulations.

The DOLE Regional Office which has jurisdiction over the port of registry of the ship shall conduct inspection of the same. The conduct of such inspection shall be coordinated with other government agencies having maritime jurisdiction and supervision.

SEC. 2. *Onboard Complaint Procedures.* – When a collective bargaining agreement (CBA) exists between the bargaining agent of the seafarers and the shipowner, the parties thereto shall include provisions that will ensure the mutual observance of its terms and conditions. They shall establish a machinery for the adjustment and resolution of grievances arising from the interpretation or implementation of their CBA and those arising from the interpretation or enforcement of company personnel policies.

In the absence of a CBA, the shipowner shall establish a grievance procedure or any machinery that will ensure fair, effective and expeditious handling of seafarers' complaints for violation of this Rules and Regulations, and employment agreement.

SEC. 3. *Onshore Complaints.* – When onshore, seafarers may avail of the conciliation-mediation services of the DOLE pursuant to Department Order No. 107, series of 2010 by filing a request for assistance before conciliation-mediation desks at the Regional/Field/Provincial Offices of DOLE, Regional Conciliation and Mediation Boards, Regional Arbitration Branches of the National Labor Relations Commission (NLRC), and other offices and agencies with established conciliation-mediation desks.

SEC. 4. *Institution of Complaints.* – Without prejudice to the provisions of the two preceding paragraphs, complaints for violations of this Rules and Regulations shall be filed before the appropriate DOLE regional, field, provincial office or regional arbitration branch of the NLRC pursuant to Articles 128 and 217 of the Labor Code, as amended.

RULE VIII MISCELLANEOUS PROVISIONS

SECTION. 1. *Transitory Provisions.* – With respect to ships of less than 200 GT, the implementation of Sections 1 and 3, Rule III shall be subject to a five (5) year phase-in program of the DOLE.

The DOLE shall provide technical advice and assistance to shipowners to facilitate phase-in and eventual compliance with the provisions of this Rules and Regulations.

SEC. 2. *Non-diminution of Benefits.* – Nothing herein shall be construed to authorize diminution of benefits being enjoyed by the domestic seafarers at the time of issuance hereof.

SEC. 3. *Repealing Clause.* – All policies, issuances, rules and regulations and agreements inconsistent with these rules are hereby repealed or modified accordingly.

SEC. 4. *Effectivity.* – This Order shall take effect fifteen (15) days after its publication in a newspaper of general circulation.

Manila, Philippines, _____, 2011.

ROSALINDA DIMAPILIS-BALDOZ
Secretary