

[**DOLE DEPARTMENT ORDER NO. 129, S. 2013,**
June 07, 2013]

**RULES AND REGULATIONS GOVERNING THE EMPLOYMENT AND
WORKING CONDITIONS OF SEAFARERS ONBOARD SHIPS
ENGAGED IN DOMESTIC SHIPPING**

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, the Administrative Code of 1987, as amended, and in compliance with the Maritime Labour Convention, 2006, the following rules and regulations are hereby issued providing maritime labor standards to ensure the protection and welfare of seafarers employed onboard ships engaged in domestic shipping:

**RULE I
COVERAGE AND DEFINITION OF TERMS**

SECTION 1. Coverage. - This Rules and Regulations shall apply to shipowners and seafarers referred herein where employer-employee relationship exists. It shall cover Philippine registered ships engaged in domestic shipping other than the following categories of ships:

- a) Warships and naval auxiliaries;
- b) Government ships not engaged in commercial operation: and
- c) Fishing vessels.

SECTION 2. Definition of Terms. - As used herein, the following terms shall mean:

- a) "**BLR**" refers to the Bureau of Labor Relations of the Department of Labor and Employment (DOLE);
- b) "**BWC**" refers to the Bureau of Working Conditions of the DOLE;
- c) "**Cadet**" refers to a student of maritime educational institution, who is required to undergo onboard training to complete the educational requirements for a maritime degree or technical course;
- d) "**Certificate of Compliance**" refers to the certificate issued to a ship after being found compliant with this Rules and Regulations;
- e) "**DOLE**" refers to the Department of Labor and Employment;
- f) "**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 done for contractual or commercial purposes^[1];

- g) "**Gross Tonnage**" refers to the gross tonnage calculated in accordance with the tonnage measurement regulations contained in Annex I to the International Convention on Tonnage Measurement of Ships, 1969, or any successor Convention. For ships covered by the tonnage measurement interim scheme adopted by the International Maritime Organization, the gross tonnage is that which is included in the remarks column of the International Tonnage Certificate (1969)^[2];
- h) "**Homeport**" refers to the port where the ship is registered;
- i) "**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 the occupational safety and health standards;
- j) "**MOSH**" refers to Maritime Occupational Safety and Health Guidelines;
- k) "**Port of Registry**" refers to the port in the Philippines where the ship's record of registry is being kept and maintained. It is likewise the homeport where the ship's first entry into the registry was made;
- l) "**Regional Director**" refers to the Director of the Regional Office of the DOLE;
- m) "**Regional Office**" refers to the Regional Office of the DOLE;
- n) "**Seafarer**" refers to any person employed, engaged or works in any capacity onboard Philippine registered ships^[3];
- o) "**Secretary**" refers to the Secretary of Labor and Employment;
- p) "**Ship**" or "**Vessel**" refers to any kind, class or type of craft or artificial contrivance capable of floating in water, designed to be used, or capable of being used, as a means of floating in water transport in the domestic trade for the carriage of passengers or cargo, or both, utilizing its own motive power or that of another^[4]; and
- q) "**Shipowner**" refers to the owner of the ship/shipping enterprise or another organization or person, such as the manager, agent or bareboat charter, who has assumed responsibility for the operation of the ship from the owner who, on assuming such responsibility has agreed to take over the duties and responsibilities imposed on shipowners in accordance with the Maritime Labor Convention, 2006 (MLC, 2006) regardless of whether any other organization or persons fulfill certain of the duties or responsibilities on behalf of the shipowner.

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.

SECTION 2. *Medical Certificate.* - The seafarer shall hold a valid medical certificate issued by a medical facility duly accredited by the Department of Health (DOH) for that purpose, in accordance with its existing rules and regulations.

SECTION 3. *Training and Qualifications.* - Only seafarers certified by appropriate government agencies, shall work, be employed or be engaged onboard a ship.

SECTION 4. *Recruitment and Placement.* - The DOLE existing guidelines on recruitment and placement and/or contracting and subcontracting work

arrangement shall govern the recruitment and placement of seafarers. No fees or other charges for recruitment, placement or for providing employment to seafarers shall be borne directly or indirectly, in whole or in part, by the seafarer.

However, fees for pre-employment medical examination may be shouldered by the seafarers.

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 in a working language and in English, executed in three (3) original copies before the commencement of employment. The shipowner and the seafarer shall each have a signed original of the agreement and an electronic copy thereof shall be submitted to the DOLE through the BWC. A signed original shall be made available onboard the ship.

The seafarer shall be given an opportunity to examine and seek advice on the agreement before signing.

SECTION 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 actual work hours and days shall not be lower than the applicable minimum wage rates in the domicile or head office of the shipowner, whichever is higher. 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 Executive Order No. 292 otherwise known as the Administrative Code of 1987 as amended by Republic Act No. 9849. 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 Executive Order No. 292 otherwise known as the Administrative Code of 1987 as amended

by Republic Act No. 9849 and such other special days as may be declared. 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 also happens to be 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 basic hourly rate plus an additional of at least 25% thereof on ordinary days, or regular hourly 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 pay of an additional 10% of the regular wage rate for work between 10:00 pm and 6:00 am of the following day.
- g) Paid service incentive leave of five 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 the 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 not more than 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 (CBA) providing for better terms and conditions of employment

SECTION 3. Hours of Work. - The normal hours of work of a seafarer shall not exceed eight (8) hours a day.

If the seafarer is required to work beyond eight (8) hours, the maximum hours of work shall not exceed fourteen (14) hours in any 24-hour period and seventy-two (72) hours in any seven-day period.

SECTION 4. Hours of Rest - 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 seven-day period. The ten (10) hours of rest may be divided into not more than two

periods. One of the two periods shall be at least six hours in length. 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, the hours of rest in any seven-day period shall not be less than seventy (70) hours.

SECTION 5. *Waiting Time.* - Waiting time shall not be considered as compensable working time if the seafarer is completely relieved from his/her duty and can use the time effectively for his/her own purpose.

SECTION 6. *Posting and Record Keeping of Shipboard Working Arrangement.* The shipowner shall post, in an easily accessible place, a table of shipboard working arrangements containing the schedule of service at sea and at port, and the maximum hours of work or minimum hours of rest in working language and in English.

The shipowner shall likewise maintain records of the seafarer's daily hours of work or rest for the purpose of monitoring compliance thereof.

SECTION 7. *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.

SECTION 8. *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 in accordance with law.

When there is a CBA, it shall be registered with the concerned DOLE Regional Office. A copy thereof shall be maintained onboard the ship.

RULE IV ACCOMMODATION, FOOD AND CATERING

SECTION 1. *Accommodation.* - Seafarers shall be provided with decent accommodations and recreational facilities onboard in accordance with the standards set under applicable laws and regulations.

SECTION 2. *Food and Catering.* - The shipowner shall ensure protection and promotion of the health of the seafarer and ensure that ships carry onboard 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 implemented by the DOH.

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 Maritime Occupational Safety