

**POEA Rules and Regulations
Governing the Recruitment and Employment
of Seafarers**

**PART I
GENERAL PROVISIONS**

**RULE I
STATEMENT OF POLICY**

It is the policy of the Administration:

- a. To uphold the dignity and fundamental human rights of Filipino seafarers navigating the foreign seas and promote full employment and equality of employment opportunities for all;
- b. To protect every Filipino seafarer desiring to work overseas by securing the best possible terms and conditions of employment;
- c. To allow the deployment of Filipino seafarers to countries which have existing labor and social laws or are signatories to international agreements protecting the rights of seafarers;
- d. To develop strategies and programs to ensure full and quality employment opportunities for seafarers through possession of appropriate level of competence, training and certification as required by the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, (1978 STCW Convention, as amended) and other applicable conventions, laws, rules and regulations;
- e. To pursue, with the active participation of the private sector, the creation of an environment conducive to maritime employment in order to maximize opportunities for employment generation, facilitation, enhancement and preservation;
- f. To help strengthen support programs for the effective reintegration of returning seafarers into the Philippine society;
- g. To establish an adequate shared government information system on maritime employment program using computer databases that are linked electronically to allow verification and full-flow of data exchanges;
- h. To provide an effective gender-sensitive mechanism that can adequately protect and safeguard the rights and interest of Filipino seafarers;
- i. To recognize the participation of the private sector in the recruitment and placement of seafarers to serve national development objectives;
- j. To deregulate recruitment activities progressively taking into account emerging circumstances which may affect the welfare of seafarers and their families;
- k. To cooperate with duly registered non-government organizations, in a spirit of trust and mutual respect, in protecting and promoting the welfare of Filipino seafarers;

**RULE II
DEFINITION OF TERMS**

For the purpose of these Rules, the following terms are defined as follows:

1. Accreditation – refers to the grant of authority to a foreign principal to engage Filipino seafarers for specific ship/s through a licensed agency for maritime employment.

2. Administration – refers to the Philippine Overseas Employment Administration (POEA).
3. Administrator – refers to the Administrator of the POEA.
4. Agency – refers to a licensed manning agency, as defined herein.
5. Allottee- refers to any person named or designated by the seafarer as the recipient of his remittance to the Philippines.
6. Authentication – refers to an attestation made by a duly authorized officer by which he certifies that a person appeared before him and is known to him to have voluntarily executed a document.
7. Beneficiary – refers to the person/s to whom compensation benefits due under an employment contract are payable by operation of law or those to whom proceeds of a life or accident insurance are likewise payable.
8. Claims – refers to a valid contractual claim for compensation or benefits arising from employer-employee relationship or for any personal injury, illness or death at levels provided for within the terms and conditions of employment of seafarers.
9. Cruise ship personnel – refers to person/s engaged as part of the hotel crew on board seagoing ships or passenger ships navigating the foreign seas.
10. Department – refers to the Department of Labor and Employment (DOLE).
11. Derogatory Record – refers to the existence of negative information such as, but not limited to, illegal recruitment, falsification, swindling or estafa, and/or conviction for crimes involving moral turpitude.
12. DFA – refers to the Department of Foreign Affairs.
13. Enrolment – refers to the enlistment to the Administration of a vessel by an accredited principal to its appointed manning agent for the purpose of employing seafarers;
14. Fisherman – refers to a person engaged to undertake fishing activities on board a fishing vessel operating overseas.
15. Joint and Solidary Liability – refers to the nature of liability of the principal and the manning agency, for any and all claims arising out of the implementation of the employment contract involving Filipino seafarers. It shall likewise refer to the nature of liability of officers, directors, partners or sole proprietors with the company over claims arising from employer-employee relationship.
16. LAC – refers to the Labor Assistance Center of the POEA located at international airports.
17. License – refers to the document issued by the Secretary or his duly authorized representative authorizing any person, partnership or corporation to operate a manning agency.
18. Licensed manning agency – refers to any person, partnership or corporation duly licensed by the Secretary or his/her duly authorized representative to recruit and deploy seafarers for maritime employment.

19. Manning agreement – refers to a written agreement entered into by and between the principal and manning agency defining their respective rights, obligations and responsibilities.
20. Maritime employment – refers to the engagement of Filipino seafarers on ships navigating the foreign seas under a government-approved standard employment contract.
21. MARINA – refers to the Maritime Industry Authority
22. MTC – refers to the Maritime Training Council.
23. New Market –refers to a principal which is not in the active list of registered or accredited principals to any licensed manning agency for the past six months or more, or which has never been registered or accredited to any licensed manning agency; and provided, that its new vessels should not also be in the active list of enrolled vessels for the past six months or more or have never been enrolled to any licensed manning agency, or if enrolled there has been no prior deployment.
24. NAC – refers to the National Assessment Center of the MTC.
25. NBI – refers to the National Bureau of Investigation.
26. NLRC – refers to the National Labor Relations Commission.
27. Non-licensee – refers to any person, partnership or corporation who has no valid license to engage in recruitment and placement of Filipino seafarers, or whose license is suspended.
28. OEC – refers to the Overseas Employment Certificate.
29. OWWA – refers to the Overseas Workers Welfare Administration.
30. PDOS – refers to the Pre-Departure Orientation Seminar.
31. Personal Injury – refers to any disease, impairment of a seafarer’s physical or mental condition or death arising out of or in connection with the employment of the seafarer.
32. Philippine Overseas Shipping Company – refers to any entity registered and duly authorized to engage in overseas shipping activities, among others, under the laws of the Philippines.
33. Principal – refers to a foreign person, partnership or corporation engaging and employing Filipino seafarers through a licensed manning agency.
34. Provisional License – refers to a license issued to a new manning agency with a limited period of one year within which the licensee shall comply with its undertaking to deploy fifty (50) seafarers to its new market.
35. PRC – refers to the Professional Regulation Commission.
36. Recruitment and placement – refers to any act of canvassing, enlisting, contracting, transporting, utilizing, hiring, or procuring workers, and includes referrals, contract services, promising or advertising for maritime employment, whether for profit or not; provided that any person or entity which, in any manner, offers or promises for a fee employment to two or more persons shall be deemed engaged in recruitment and placement.

37. Registration – refers to the act of recognizing and entering in the official records of the Administration the existence of a foreign principal whose documents have been verified and authenticated by the appropriate officials of the Philippine Government.
38. Seafarer – refers to any person who is employed or engaged in any capacity on board a seagoing ship navigating the foreign seas other than a government ship used for military or non-commercial purposes. The definition shall include fishermen, cruise ship personnel and those serving on foreign maritime mobile offshore and drilling units.
39. Shipowner – 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 of the ship from the shipowner and who on assuming such responsibilities has agreed to take over all the attendant duties and responsibilities.
40. Secretary – refers to the Secretary of Labor and Employment.
41. SEC – refers to the Securities and Exchange Commission.
42. Standard employment contract – refers to a written government-approved employment contract stipulating a specific period of employment and formulated through tripartite consultation, individually adopted and agreed upon by the principal/employer and the seafarer.
43. TESDA – refers to the Technical Education and Skills Development Authority.
44. Verification – refers to the act performed by a Philippine Overseas Labor Officer or any other officer designated by the Secretary of Labor and Employment in the Philippine Embassy or Consulate, in reviewing and verifying the recruitment documents of foreign principals including the employment contract, with the view to establish the existence of the employing company, its capability to hire seafarers at acceptable rates and at desirable working conditions that are in conformity with the minimum standards prescribed by the Administration taking into consideration the labor laws and legislations of the country whose flag the ships will be flying and/or international maritime labor standards.

**PART II
LICENSING AND REGULATION**

**RULE I
PARTICIPATION OF PRIVATE SECTOR IN THE
MARITIME EMPLOYMENT PROGRAM**

Section 1. Qualifications. Only those who possess the following qualifications may be permitted to engage in the business of recruitment and placement of Filipino seafarers:

- a. Filipino citizens, partnerships or corporations at least seventy-five percent (75%) of the authorized and voting capital stock of which is owned and controlled by Filipino citizens;
- b. A minimum capitalization of Two Million Pesos (P2,000,000.00) in case of a single proprietorship or partnership and a minimum paid-up capital of Two Million Pesos (P2,000,000.00) in case of a corporation; Provided that those with existing licenses shall, within four years from effectivity hereof, increase their capitalization or paid up capital, as the case may be, to Two Million Pesos (P2,000,000.00) at the rate of Two Hundred Fifty Thousand (P250,000.00) every year; and
- c. Those not otherwise disqualified by law or other government regulations to engage in the recruitment and placement of seafarers.

Section 2. Disqualification. The following are not qualified to engage in the business of recruitment and placement of Filipino seafarers.

- a. Travel agencies and sales agencies of airline companies;
- b. Officers or members of the Board of any corporation or members in a partnership engaged in the business of a travel agency;
- c. Corporations and partnerships, when any of its officers, members of the board or partners, is also an officer, member of the board or partner of a corporation or partnership engaged in the business of a travel agency;
- d. Persons, partnerships or corporations which have derogatory records, such as but not limited to the following:
 1. Those certified to have a derogatory record by the National Bureau of Investigation or by the Anti-Illegal Recruitment Branch of the POEA;
 2. Those against whom probable cause or prima facie finding of guilt for illegal recruitment or other related cases exists;
 3. Those convicted for illegal recruitment or other related cases and/or crimes involving moral turpitude;
 4. Those agencies whose licenses have been previously revoked or cancelled by the Administration for violation of RA 8042, PD 442, as amended, and their implementing rules and regulations as well as these rules and regulations.All applicants for issuance/renewal of license shall be required to submit clearances from the National Bureau of Investigation and Anti-illegal Recruitment Branch, POEA, including clearances for their respective officers and employees.
- e. Any official or employee of the DOLE, POEA, OWWA, DFA and other government agencies directly involved in the implementation of R.A. 8042 and/or any of his/her relatives within the fourth civil degree of consanguinity or affinity; and
- f. Persons, partners, officers and directors of corporations whose licenses have been previously cancelled or revoked for violation of recruitment laws.

RULE II ISSUANCE OF LICENSE

Section 1. Requirements for Licensing. Every applicant for license to operate a manning agency shall submit a written application together with the following requirements:

- a. A certified copy of the Articles of Incorporation or of Partnership duly registered with the SEC, in the case of a corporation or partnership or Certificate of Registration of the firm or business name with the Department of Trade and Industry (DTI), in the case of single proprietorship.
- b. Proof of financial capacity. In the case of a single proprietorship or partnership, verified income tax returns of the proprietors or partners for the past two (2) years and a savings account showing a maintaining balance of not less than Five Hundred Thousand Pesos (P500,000.00), provided that the applicant should submit an authority to examine such bank deposit. In the case of a newly organized corporation, submission of a savings account showing a maintaining balance of not less than Five Hundred Thousand Pesos (P500,000.00), with authority to examine the same. For an existing corporation, submission

of a verified financial statement, corporate tax returns for the past two (2) years and a savings account showing a maintaining balance of not less than Five Hundred Thousand Pesos (P500,000.00) with the corresponding authority to examine such deposit.

c. Proof of marketing capability:

1. A duly executed Special Power of Attorney authenticated by the Philippine Embassy/Consulate or verified by the Labor Attaché in the place where the vessel owner/operator/manager holds its principal office;
2. A duly concluded manning agreement authenticated by the Philippine Embassy/Consulate or verified by the Labor Attaché in the place where the vessel owner/operator/manager holds his/its principal office;
3. Crew order/s of not less than fifty (50) seafarers from its new market; and
4. Certification from Pre-Employment Services Office of POEA on the existence of new market.

d. Clearance of all members of the board of directors, partners and proprietor of the applicant agency from the NBI, Anti-Illegal Recruitment Branch of POEA and other government agencies as the need may require; provided that where the member or partner concerned is a foreigner, clearance from his country of origin shall be required.

e. A verified undertaking stating that the applicant shall:

1. Provide its seafarers orientation on recruitment policies and procedures, terms and conditions of employment and other relevant information;
2. Ensure that any seafarer recruited or deployed by them is qualified and holds the documents necessary for the job concerned;
3. Ensure that contracts of employment are in accordance with the standard employment contract and other applicable laws, regulations and collective bargaining agreements;
4. Ensure that seafarers are informed of their rights and duties under their contracts of employment and the articles of agreement prior to or in the process of engagement;
5. Ensure that proper arrangements are made for seafarers to examine their contracts of employment and articles of agreement before and after they are signed and for them to receive a copy of the contract of employment;
6. Ensure that the vessel/s and the crew are adequately covered by P & I Club or similar insurance thru the submission of the certificate of insurance coverage;
7. Assume full and complete responsibility for all claims and liabilities which may arise in connection with the use of the license;
8. Assume joint and solidary liability with the employer for all claims and liabilities which may arise in connection with the implementation of the employment contract, including but not limited to wages, death and disability compensation and their repatriation;
9. Guarantee compliance with the applicable labor, social and maritime legislations of the Philippines, and applicable regulations of the flag state and international maritime bodies such as the International Maritime Organization (IMO) and the International Labor Organization (ILO);
10. Assume full and complete responsibility for all acts of its officials, employees and representatives done in connection with recruitment and placement;
11. Deploy at least fifty (50) seafarers to its new market within one-year from issuance of its license which shall also be a condition to the accreditation of old principals; and
12. Repatriate the deployed seafarers when the need arises.

f. In case of corporation or partnership, verified undertaking by officers, directors and partners that they will be jointly and severally liable with the company over claims arising from employer-employee relationship.

- g. Individual income tax return of the proprietor, partners, or board of directors as the case may be, for the past two (2) years.
- h. Proof of possession by the sole proprietor, partner or chief executive officer, as the case may be, of a bachelor's degree and three years business experience.
- i. List of all officials and personnel involved in the recruitment and placement, together with their appointment, bio-data and two (2) copies of their passport size pictures as well as their clearances from the NBI and the Anti-Illegal Recruitment Branch, POEA.
- j. Copy of contract of lease or proof of building ownership, indicating the office address and providing for an office space of at least one hundred (100) square meters.
- k. Proof of publication of notice of the application with the names of the proprietor, partners, incorporators and officers;
- l. Certificate of attendance of owner and/or chief executive officer in a pre-application seminar conducted by the Administration.

Only applications with complete supporting documents shall be processed.

Section 2. Payment of Filing Fee. Upon receipt of an application with complete requirements, the Administration shall require payment of a non-refundable filing fee of Ten Thousand Pesos (P10,000.00) and submission of proof of payment thereof.

Section 3. Action Upon the Application. Within fifteen (15) calendar days from receipt of an application with complete requirements including proof of payment of the filing fee of Ten Thousand Pesos (P10,000.00), the Administration shall evaluate the pertinent documents, inspect the office premises of the applicant and determine whether or not to grant the application. Denial of an application will result to the forfeiture of the filing fee.

Section 4. Payment of Fees and Posting of Bonds. Upon approval of the application, the applicant shall pay a license fee of Fifty Thousand Pesos (P50,000.00). It shall submit an escrow agreement in the amount of One Million Pesos (P1,000,000.00), confirmation of escrow deposit with a reputable bank and a surety bond of One Hundred Thousand Pesos (P100,000.00) from a bonding company acceptable to the Administration and accredited with the Insurance Commission.

Agencies with existing licenses shall, within four years from effectivity hereof, increase their Escrow Deposit to One Million Pesos (P1,000,000.00) at the rate of One Hundred Seventy-Five Thousand (P175,000.00) pesos per year.

The bonds and escrow shall answer for all valid and legal claims arising from violations of the conditions for the grant and use of the license and/or contracts of employment. The bonds and escrow shall likewise guarantee compliance with the provisions of these rules and pertinent Philippine laws and all liabilities which the Administration may impose. The surety bonds shall include the condition that notice to the principal is notice to the surety and that any final and executory judgment against the principal in connection with matters falling under POEA's/NLRC's jurisdiction shall be binding and conclusive on the surety. The surety bonds shall cover the validity period of the license.

Section 5. Provisional License. Applicants for new license shall be issued a provisional license which shall be valid for a limited period of one (1) year within which the applicant should be able to comply with its undertaking to deploy 50 seafarers to its new principal. The license of a complying agency shall be upgraded to a full license entitling them to another three years of operation. Non-complying agencies will be notified of the expiration of their license.

Section 6. Validity of the License. Except in case of a provisional license, every license shall be valid for four (4) years from the date of issuance unless sooner cancelled, revoked or suspended for violation of applicable Philippine law, these rules and other pertinent issuances. Such license shall be valid only at the place/s stated therein, subject to the conditions of the subsequent paragraph, and when used by the licensed person, partnership or corporation.

Section 7. Non-Transferability of the License. No license shall be transferred, conveyed or assigned to any person, partnership or corporation. It shall not be used directly or indirectly by any person, partnership or corporation other than the one in whose favor it was issued.

In case of death of the sole proprietor, and in order to prevent disruption of operations and so as not to prejudice the interest of legitimate heirs, the license may be extended upon request of the heirs, to continue only for the purpose of winding up business operations.

Section 8. Change of Ownership/Relationship of Single Proprietorship or Partnership. Transfer or change of ownership of a single proprietorship licensed to engage in maritime employment shall cause the automatic revocation of the license.

A change in relationship of the partners in a partnership duly licensed to engage in maritime employment, which materially interrupts the course of the business or results in the actual dissolution of the partnership, shall likewise cause the automatic revocation of the license.

Section 9. Upgrading of Single Proprietorship or Partnerships. License holders, which are single proprietorships or partnerships, may convert into a corporation for purposes of upgrading or raising their capabilities to respond adequately to developments/changes in international shipping and to enable them to better comply with their responsibilities arising from the recruitment and deployment of seafarers.

The approval of merger, consolidation or upgrading shall automatically revoke or cancel the licenses of the single proprietorships, partnerships or corporations so merged, consolidated or upgraded.

Section 10. Derogatory Record After Issuance/ Renewal of License. The license of a single proprietorship and partnership shall be suspended until cleared by the Administration should any derogatory record be found to exist against the single proprietorship or any or all of the partners, as the case may be. The appointment of any officer or employee of any licensed agency may be cancelled or revoked at any time with due notice to the agency concerned, whenever said officer or employee is found to have any derogatory record, as herein contemplated.

Section 11. Appointment/Change of Officers and Personnel. Every appointment of agents or representatives of a licensed agency shall be subject to prior approval or authority of the Administration. The acknowledgment or approval may be issued upon submission of or compliance with the following:

- a. Proposed appointment or special power of attorney;
- b. Clearances of the proposed representative or agent from the NBI and the Anti-illegal Recruitment Branch of the POEA; and
- c. Sworn or verified statement by the designating or appointing person or company assuming full responsibility for all acts of the agent or representative done in connection with the recruitment and placement of seafarers.

Every change in the composition of the board of directors of a corporation, appointment or termination of officers and personnel shall be registered with the Administration within thirty (30) calendar days from the date of such change. The agency shall be required to submit the minutes

of proceedings duly certified by the SEC in case of election of new members of the board of directors with their bio-data, ID pictures and clearances.

The Administration reserves the right to deny the acknowledgment or appointment of officers, employees and representatives who were directly involved in recruitment irregularities.

Section 12. Publication of Change of Directors/Other Officers and Personnel/ Revocation or Amendment of Appointment of Representatives. In addition to the requirement of registration with and submission to the Administration, every change in the membership of the Board of Directors, termination for cause of other officers and personnel, revocation or amendment of appointment of representatives shall be published at least once in a newspaper of general circulation, in order to bind third parties. Proof of such publication shall be submitted to the Administration.

Section 13. Transfer of Business Address. Any transfer of business address shall be effected only with prior authority or approval of the Administration. The approval shall be issued only upon formal notice of the intention to transfer with the following attachments:

- a. In the case of a corporation, a Board Resolution duly registered with the SEC authorizing the transfer of business address; and
- b. Copy of the contract of lease or proof of building ownership.

The new office shall be subject to the regular ocular inspection procedures by duly authorized representatives of the Administration.

A notice to the public of the new address shall be published in a newspaper of general circulation.

Section 14. Establishment of Extension Offices. Extension offices may be established subject to the prior approval of the Administration.

Section 15. Renewal of License. An agency shall submit an application for the renewal of its license on or before the expiration of the license. Such application shall be supported by the following documents:

- a. Renewed or revalidated surety bond amounting to One Hundred Thousand Pesos (P100,000.00);
- b. Renewed escrow agreement in the amount of One Million Pesos (P1,000,000.00) with a commercial bank to primarily answer for valid and legal claims of recruited seafarers as a result of recruitment violations or money claims;
- c. Audited financial statements for the past two years with verified corporate or individual tax returns. In case the equity of the agency is below the minimum capitalization requirement, it shall be given thirty (30) days from release of the renewed license to submit proof(s) of capital infusion, such as SEC certification of such infusion or bank certification corresponding to the amount infused and treasurer's affidavit duly received by the SEC. Otherwise the license shall be suspended until it has complied with said requirement;
- d. Clearances from the NBI and Anti-Illegal Recruitment Branch for all its employees and officers; and
- e. Other requirements as may be imposed by the Administration.

Section 16. Monitoring Compliance with Conditions of License. The Administration shall monitor the compliance of agencies with their undertakings in connection with the issuance or renewal of

the license. Appropriate sanctions shall be imposed for non-compliance with any of their undertakings.

Section 17. Non-expiration of License Pending Renewal. Where the license holder has made timely and sufficient application for renewal, the existing license shall not expire until the application shall have been finally determined by the Administration. For this purpose, an application shall be considered sufficient if the applicant has complied with the requirements for renewal.

Section 18. Action on Renewal of License. Within forty-eight (48) hours from receipt of the application for renewal with the complete requirements, the Administration shall undertake evaluation and inspection and determine the grant or denial of the application. Application for renewal of license which fail to meet the requirements set by the Administration, shall be denied.

Only applications for renewal submitted with complete requirements shall be processed.

Section 19. Late Filing of Renewal. Any agency which failed to file an application for renewal of license may be allowed to renew within thirty (30) calendar days from expiry thereof and subject to the payment of a fine of P10,000.00.

Section 20. Escrow Deposit as Garnished. As soon as an Order or Notice of Garnishment is served upon the bank, and the same is correspondingly earmarked, the deposit in escrow of an agency shall no longer be considered sufficient. The Administration shall forthwith serve upon the agency a notice to replenish its escrow deposit.

Section 21. Replenishment of Surety Bonds/Deposit in Escrow. Within fifteen (15) calendar days from date of receipt of notice from the Administration that the bonds/deposit in escrow or any part thereof had been garnished, the agency shall replenish the same. Failure to replenish such bonds/deposit in escrow within the said period shall cause the suspension of the license.

Section 22. Release of Deposit in Escrow. A licensed agency which voluntarily surrenders its license shall be entitled to the release of the deposit in escrow, only after posting a surety bond of similar amount valid for four (4) years from expiration of license and submission of the necessary clearances from the National Labor Relations Commission (NLRC) and the Administration.

Section 23. Classification, Ranking and Incentives. The Administration shall undertake the classification and ranking of agencies. In recognition of their exemplary performance, the Administration shall issue guidelines for entitlement of agencies to schemes for incentives and rewards such as extension of validity of the license, express processing and in-house documentation.

RULE III INSPECTION OF MANNING AGENCIES

Section 1. Inspection for Purposes of Issuance of License/Transfer of Office/Opening of Branch and other Facilities. Before issuance of a license, the Administration shall conduct an inspection of the premises and pertinent documents of the applicant. Inspection shall likewise be conducted on the new premises in case of transfer of office or opening of branch or other facilities.

Section 2. Routine/Regular Inspection. All agencies shall be subject to periodic inspection of offices or pre-departure orientation seminar (PDOS) venues by the Administration to determine compliance with existing rules and regulations.

Section 3. Spot Inspection. Inspection may be conducted by the Administration upon receipt of a complaint or report of violation of existing rules and regulation.

Section 4. Authority to Inspect. An authority to inspect shall be issued by the Administration before any inspection may be conducted.

Such authority, stating the purpose and subject of inspection, shall be presented to the agency before inspection.

Section 5. Scope of Inspection. Depending on the purpose of inspection, the Administrator or his duly authorized representative may inspect the premises and require the presentation of necessary documents, records and books of account of the agency and examine the same.

Section 6. Inspection Program and Procedures. The Administration shall conduct inspection in accordance with the Inspection Program and Procedures of the POEA.

Section 7. Violations Found in the Course of Inspection. Violations found in the course of inspection such as non-compliance with existing rules and regulations, shall be ground for the imposition of appropriate sanction or for the denial of application for the issuance or renewal of license. Copy of the inspection report shall be endorsed to the appropriate unit for the conduct of necessary proceedings.

RULE IV FEES AND CONTRIBUTIONS

Section 1. Fees Chargeable to Principals. Agencies shall charge from their principals manning fee to cover services rendered in the recruitment and deployment of seafarers. However, manning agencies shall not charge any fee from the seafarers for their recruitment and deployment services.

Section 2. Utilization and Accounting of Maritime Welfare Fund. Contributions to the Maritime Welfare Fund shall be used to address welfare concerns of contributing seafarers and must be accounted for separately from the General Fund of OWWA. A report of receipts and disbursements shall be published annually in a newspaper of general circulation and be made available to contributing seafarers, manning agencies and shipowners.

RULE V ADVERTISEMENT FOR MARITIME EMPLOYMENT

Section 1. Advertisement for Actual Job Vacancies. Licensed manning agencies may advertise for actual job vacancies without prior approval from the Administration if covered by manpower requests of accredited foreign principals and projects. The advertisements shall indicate the following information:

- a. Name, address and POEA license number of the agency;
- b. Type of ship and its registration;
- c. Level of competence, skill and knowledge categories and qualification standards; and
- d. Number of available positions.

Section 2. Advertisement for Manpower Pooling. Licensed manning agencies may advertise for manpower pooling without prior approval from the Administration subject to the following conditions:

- a. The advertisement should indicate in bold letters that it is for manpower pooling only; and

- b. The advertisement indicates the name, address and POEA license number of the agency, name of the ship and the skill categories and qualification standards.

Section 3. Foreign Advertisements for Maritime Employment. Foreign principals/employers who wish to advertise job requirements using Philippine print media, broadcast or television may do so only through a POEA licensed agency.

Non-observance of this rule shall be considered as valid ground for cancellation of accreditation of the violating principals/employers.

**RULE VI
MEDICAL EXAMINATION**

Section 1. Standard of Medical Examination. The agency shall ensure that the medical examination conducted is in accordance with the prescribed and acceptable international standard, and the requirements of the employer/principal.

Section 2. When to Refer for Medical Examination. The agency shall refer an applicant for medical examination to a DOH-accredited medical clinic/hospital after the agency has interviewed him and pre-qualified him for an existing position duly covered by an approved crew order by the Administration.

**RULE VII
DEPARTURE AND ARRIVAL OF SEAFARERS**

Section 1. Departure. All departing seafarers shall be monitored through the POEA Assistance Centers established by the Administration at international airports and other exit points in the country to ensure that they are properly documented before proceeding to their overseas job sites. Seafarers without proper documents shall not be cleared by the center.

Section 2. Overseas Employment Certificate (OEC) Issuance at the Center. Departing seafarers may secure overseas employment certificate at the labor assistance centers under such circumstances as may be determined by the Administration. POEA shall cease issuing OECs as soon as the computerized ID system is implemented.

Section 3. Arrival. The center shall support OWWA and other government agencies in providing assistance to arriving seafarers particularly those who are in distress.

Section 4. POEA Clearance for Special Cases. The POEA shall issue special clearances for travel abroad in accordance with guidelines which may be issued by the Administration.

**PART III
PLACEMENT BY THE PRIVATE SECTOR**

**RULE I
VERIFICATION OF DOCUMENTS AND
REGISTRATION OF FOREIGN PRINCIPALS
AND ENROLMENT OF VESSELS**

Section 1. Verification of Documents. Manning documents of foreign principals and employers shall undergo verification at their principal place of business prior to registration with POEA. The Philippine Overseas Labor Office (POLO) nearest their principal place of business shall review and verify the documents with the view to establish the existence of the employing person/entity, its capability to hire the seafarer at the applicable rates and at desirable working conditions that are in conformity with the minimum standards prescribed by the Administration and/or with the labor laws and legislations of the country whose flag the ships will be flying and/or international maritime labor standards.

Section 2. Documentary Requirements for Verification. The following documents shall be submitted to the POLO for verification:

- a. Manning agreement containing among others, the responsibilities of both principal and manning agency with respect to the employment of seafarers;
- b. Special Power of Attorney;
- c. List of ships and their particulars including IMO number;
- d. Crew complement ;
- e. Valid business license, registration certificate or equivalent document or proof of existence of business validated or certified by the issuing authority in the host country; and
- f. Other documents which the Administration may find necessary.

Section 3. Application for Registration of Foreign Principals and Enrolment of Ships. Only duly licensed manning agencies may file an application for registration of principals.

Registered principals shall enroll ships through their agencies subject to the guidelines as may be determined by the Administration.

Section 4. Documentary Requirements for Registration of Principals. The following verified documents shall be submitted to the POEA, through the Philippine licensed manning agent for registration of the principal:

- a. Duly verified manning agreement and special power of attorney containing among others the responsibilities of both principal and manning agency with respect to the employment of seafarers; and
- b. Crew complement and their corresponding wage scales.

Section 5. Approval and Validity of Registration. The Administration shall issue to the agency a registration certificate for its principal after the approval of the request for registration.

The registration of the principal shall be valid for a period of four (4) years from the date of issuance, unless sooner revoked by the Administration on the following grounds:

- a. Expiration of the principal's business license;
- b. Upon written mutual agreement by the parties to pre-terminate the Agreement;
- c. False documentation or misrepresentation in connection with the application for registration; and
- d. Final judgment in a disciplinary action against the foreign principal.

Provisional registration may be granted for a period of ninety (90) days for a principal that substantially meets the registration requirements.

The expiration of the agency's license shall not cause the automatic expiration or cancellation of the registration which shall only be suspended until the renewal of the license.

Registered principals shall enroll ships through their agencies subject to the guidelines as may be determined by the Administration.

Section 6. Renewal of Registration. The registration shall be renewed upon request by the agency provided that the documents required for initial registration are still valid.

Section 7. Multiple Registration of Principals. A principal may be registered to a maximum of three (3) manning agencies provided that a uniform wage and compensation package shall be adopted by the principal for all seafarers employed through the agencies taking into consideration the type of the vessel and its operations.

Section 8. Transfer of Registration of Principal and/or Enrolment of Vessel. The registration of a principal and/or enrolment of vessel may be transferred to another agency provided such transfer shall not involve diminution of wages and benefits of the seafarers hired through the previous agency; and provided further that the transferee agency shall assume full and complete responsibility over all contractual obligations of the principal to the seafarers originally recruited and processed by the former agency. Prior to the transfer of registration, the Administration shall notify the previous agency and principal of such application for transfer.

Section 9. Action on Application for Transfer of Registration of Principals and/or Enrolment of Vessel With Outstanding Obligations. Claims for money or enforcement of obligations arising out of business relations between principals and their existing agencies may be conciliated by the Administration. However, the pendency of the conciliation shall not prevent the Administration from acting on the request for registration, if public interest so requires.

RULE II ACCREDITATION OF PRINCIPALS AND ENROLMENT OF SHIPS BY MANNING AGENCIES

Section 1. Accreditation of Principals and Enrolment of Ships. In the absence of a Philippine Overseas Labor Office in the principal place of business of the foreign principals, employers or vessel owner/operator/manager to verify the manning documents, accreditation shall be conducted at the POEA.

Only duly licensed manning agencies may file an application for accreditation of principals and enrolment of ships.

Accredited principals shall enroll ships through their agencies subject to the guidelines as may be determined by the Administration.

Section 2. Documentary Requirements for Accreditation. An agency applying for accreditation of its principals shall submit the following:

- a. Authenticated manning agreement and Special Power of Attorney containing among others, the responsibilities of both principal and manning agency with respect to the employment of seafarers.
- b. List of ships and their particulars including IMO number;
- c. Crew complement of the principal and their corresponding wage scales;
- d. Valid business license, registration certificate or equivalent document or proof of existence of business validated or certified by the issuing authority in the host country; and
- e. Other documents which the Administration may find necessary.

Section 3. Authentication of Documents. Authentication of documents of foreign principals shall be undertaken by any of the following:

- a. Appropriate official of the Philippine Embassy or Consulate, or the authorized Philippine foreign representative, in the absence of a Philippine mission; or
- b. Appropriate official of any of the designated government ministries or offices of the host country.

The manning agreement and special power of attorney required for accreditation may be signed by the authorized officials of both the hiring company and its local agent in the presence of any member of the POEA Directorate or those officers of the Administration who are authorized to administer oath. The Administration shall charge attestation fees as may be allowed by the Secretary.

Section 4. Parties to the Agreement. Parties to the manning agreement are the duly authorized representative of the manning agency and the direct principal of the seafarers to be recruited.

Section 5. Multiple Accreditations of Principals. A principal may be accredited to a maximum of three (3) manning agencies provided that a uniform wage and compensation package shall be adopted by the principal for all seafarers employed through the agencies taking into consideration the type of the vessel and its operations.

Section 6. Approval and Validity of Accreditation. The Administration shall issue to the agency an accreditation certificate for its principal after the approval of accreditation request.

The accreditation of the principal shall be valid for a period of four (4) years from the date of issuance, unless sooner revoked by the Administration on the following grounds:

- a. Upon mutual agreement of the parties to pre-terminate the agreement;
- b. Expiration of the principal's business license;
- c. False documentation or misrepresentation in connection with the application for accreditation; or
- d. Final judgment in a disciplinary action against the foreign principal.

The expiration of the agency's license shall not cause the automatic expiration or cancellation of the accreditation which shall only be suspended until the renewal of the license.

Provisional accreditation may be granted for a period of ninety (90) days for a principal that substantially meets the accreditation requirements.

Section 7. Transfer of Accreditation of Principal and/or Enrolment of Vessel. The accreditation of a principal and/or enrolment of vessel may be transferred to another agency provided such transfer shall not involve diminution of wages and benefits of the seafarers hired through the previous agency; and provided further that the transferee agency shall assume full and complete responsibility to all contractual obligations of the principals to its workers originally recruited and processed by the former agency. Prior to the transfer of accreditation, the Administration shall notify the previous agency and principal of such application for transfer.

Section 8. Transfer of Vessel Due to Sale or Change of Management. In case of sale of vessel or change of management necessarily involving a change in principal, the agency of the new principal automatically assumes full and complete responsibility over the seafarers originally recruited and deployed by the previous agent, if the seafarers opt to sign an employment contract with the new principal. Otherwise, the agency which originally recruited and employed the

seafarers shall retain full and complete responsibility over the contractual obligation of its principal.

Other cases or modes of transfer of accreditation/registration and/or vessel not covered herein shall be subject to guidelines to be determined by the Administration.

Section 9. Action on Application for Transfer of Accreditation of Principal and Enrolment of Ships with Outstanding Obligations. Claims for money or enforcement of obligations arising out of business relations between principals and their existing manning agents that would involve the transfer of accreditation of principal and/or enrolment of ships may be conciliated by the Administration. However, the pendency of the conciliation should not prevent the Administration from acting on the request for accreditation and enrolment of ship, if public interest so requires.

Section 10. Renewal of Accreditation. The Accreditation shall be renewed upon request by the agency provided that the documents required for initial accreditation are still valid.

Section 11. One-Stop Processing Center. A one-stop processing center shall be established to facilitate the delivery of all governmental activities pertaining to maritime employment which shall include among others, the electronic linking of data bases of government agencies involved in the issuance of certificates and other documents to seafarers.

RULE III ENLISTMENT OF PHILIPPINE OVERSEAS SHIPPING ENTERPRISES AND ENROLMENT OF PHILIPPINE FLAGSHIPS

Section 1. Enlistment of Philippine Overseas Shipping Enterprises and Enrollment of Philippine Flagships. Philippine overseas shipping enterprises may enlist their companies and enroll their ships trading overseas upon submission of the following documents:

- a. Certificate of Accreditation by the Maritime Industry Authority (MARINA);
- b. Certified true copy of certificate of vessel registry issued by MARINA; and
- c. Post a surety bond in the amount of P200,000.00 from a reputable bonding company duly accredited by the Insurance Commission the validity of which should be co-terminus with the validity of special registration;

Section 2. Action Upon the Application. The Administration shall issue certificate of enlistment to the Philippine shipping company within twenty-four (24) hours from receipt of application provided all the requirements are met by the applicant.

Section 3. Validity Period of Enlistment. Enlistment shall be co-terminus with its MARINA accreditation.

Section 4. Requisites for Renewal. The applicant shall submit an application for renewal of enlistment, which shall be acted upon by the Administration within four (4) hours from receipt of application upon submission of the following:

- a. Copy of Certificate of Accreditation by MARINA; and
- b. Renewed surety bond in the amount of Two Hundred Thousand Pesos (P200,000.00)

RULE IV DOCUMENTARY PROCESSING OF SEAFARERS

Section 1. Documentation of Seafarers. The following requirements shall be submitted for the documentation of seafarers:

- a. Request for processing indicating the names, positions and salaries of workers using the prescribed form of the Administration;
- b. Three (3) copies of the full text of applicable standard employment contract aside from a copy provided to the applicant by the manning agency;
- c. Information Sheet;
- d. Valid Seafarers Identification and Record Book;
- e. Seafarers Registration Certificate;
- f. Other documents which the Administration may find necessary.

Section 2. Payment of Processing Fees. The required processing fees shall be paid to the Administration upon submission of the request for processing.

Section 3. Period to Deploy. An agency shall deploy its hired seafarers within sixty (60) days from the date of issuance of the overseas employment certificate.

Section 4. Cancellation of the Seafarer's Documents. If the deployment of the seafarer does not materialize within thirty (30) days from the lapse of the period to deploy, the agency shall report the non-deployment and reasons thereof and apply to the Administration for cancellation of the seafarer's processed documents.

If the deployment of the seafarer does not materialize due to his fault, the agency may charge the seafarer for actual expenses incurred in connection with his documentation and processing, duly supported by official receipts.

Section 5. In-House processing Facility. The Administration shall extend to qualified manning agencies an in-house processing facility for the documents of seafarers who are scheduled for deployment. Agencies that qualify to enjoy the privilege shall comply with the documentary requirements.

The agencies shall be subject to regular audit and/or inspection by the Administration to ensure compliance with the prescribed guidelines on in-house processing facility and shall be required to submit a monthly report on the utilized or missing overseas employment certificates to the Administration.

The Administration reserves the right to recall the privilege and incentive being enjoyed by an agency should there be an established case of violation of POEA rules and regulations. Automatic preventive suspension shall be imposed in case of violation of the prescribed guidelines.

PART IV EMPLOYMENT STANDARDS

RULE I FORMULATION OF STANDARD EMPLOYMENT CONTRACTS

Section 1. Standard Employment Contracts. The Administration, through tripartite consultation involving the seafarers and the private sector, shall determine, formulate and establish minimum separate and distinct standard employment contracts for seafarers in accordance with accepted

international standard and maritime practice. These standard employment contracts, which shall be reviewed periodically to keep them attuned to international requirements and demands, shall be the minimum requirement in every individual contract approved by the Administration.

Section 2. Freedom to Stipulate. Parties to the individual employment contract are allowed to stipulate and mutually agree to other terms and conditions more than the minimum standards; provided that the stipulation are mutually beneficial to both parties and are not contrary to law, public policy and morals.

PART V
RECRUITMENT VIOLATION AND RELATED CASES
RULE I
LEGAL ASSISTANCE
AND ENFORCEMENT MEASURES

Section 1. Acts Constituting Illegal Recruitment. 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 a non-licensee or non-holder of authority. 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 committed by any person whether or not a holder of a license or authority:

- a. Charging or accepting directly or indirectly any amount of money, goods or services, or any fee or bond for any purpose from an applicant seafarer;
- b. Furnishing or publishing any false notice or information or document in relation to recruitment or employment;
- c. Giving any false notice, testimony, information or document or committing any act of misrepresentation for the purpose of securing a license or authority under the Labor Code;
- d. Inducing or attempting to induce a seafarer already employed to quit his employment in order to offer him another unless the transfer is designed to liberate the seafarer from oppressive terms and conditions of employment;
- e. Influencing or attempting to influence any person or entity not to employ any seafarer who has not applied for employment through his agency;
- f. Engaging in the recruitment or deployment of seafarers in jobs harmful to public health or morality or to the dignity of the Republic of the Philippines, as may be prohibited by law or duly constituted authority;
- g. Obstructing or attempting to obstruct inspection by the Secretary or by his duly authorized representative;
- h. Failure 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 under penalty of law;
- i. Substituting or altering to the prejudice of the seafarer, employment contracts approved and verified by the Department from the time of actual signing thereof by the parties up to and including the period of expiration of the same without the approval of the Department;

- j. For an officer or agent of a manning 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 a travel agency;
- k. Withholding or denying travel documents from applicant seafarer before departure for monetary or financial considerations other than those authorized under the Labor Code and its implementing rules and regulations;
- l. Failure to actually deploy without valid reasons as determined by the Department; and
- m. Failure to reimburse the expenses incurred by the seafarer in connection with his documentation and processing for purposes of deployment, in cases where the deployment does not actually take place without the seafarer's fault.

Section 2. Independent Administrative Action. The institution of criminal action is without prejudice to any administrative action against the licensee or holder of authority cognizable by the Administration, which could proceed independently of the criminal action.

Section 3. Anti-Illegal Recruitment Programs. The Administration shall adopt policies and procedures, prepare and implement programs toward the eradication of illegal recruitment activities such as but not limited to the following:

- a. Providing assistance to victims of illegal recruitment and related cases;
- b. Assistance in the processing of suspected illegal recruiters;
- c. Special operations such as surveillance of persons and entities suspected to be engaged in illegal recruitment; and
- d. Information and education campaign.

Whenever necessary, the Administration shall coordinate with other appropriate entities in the implementation of said programs.

Section 4. Legal Assistance. The Administration shall provide free legal assistance to victims of illegal recruitment and related cases including but not limited to legal advice, assistance in the preparation of complaints and supporting documents, institution of criminal actions and whenever necessary, provide counseling assistance during preliminary investigation and hearings.

Section 5. Receiving Complaints for Illegal Recruitment. Victims of illegal recruitment and related cases may file with the Administration a report or complaint in writing and under oath for assistance purposes.

In regions outside the National Capital Region, complaints and reports involving illegal recruitment may be filed with the appropriate regional office of the Administration or the Department.

Section 6. Action on the Complaint/Report. Where the complaint/report alleges that illegal recruitment activities are on-going, surveillance shall be conducted. If illegal recruitment activities are confirmed, issuance of closure order may be recommended to the Administrator through the Director of the Licensing and Regulation Office (Director – LRO).

If sufficient basis for criminal action is found, the case shall be immediately forwarded to the appropriate office for such action.

Section 7. Surveillance. The Administrator and/or designated official in the DOLE regional offices may, on his own initiative, conduct surveillance on the alleged illegal recruitment activities.

Within two (2) days from the termination of surveillance, a report supported by an affidavit, shall be submitted to the Director – LRO or the Regional Director concerned as the case may be.

Section 8. Issuance of Closure Order. The Secretary or the Administrator or the DOLE Regional Director of the appropriate regional office outside the National Capital Region, or their duly authorized representatives may conduct an ex-parte preliminary examination to determine whether the activities of a non-licensee constitute a danger to national security and public order or will lead to further exploitation of job seekers. For this purpose, the Secretary, Administrator or Regional Director concerned or their duly authorized representatives, may examine personally the complainant/s and/or their witnesses in the form of searching questions and answers and shall take their testimony under oath. The testimony of the complainant/s and/or witnesses shall be reduced in writing and signed by them.

If upon preliminary examination or surveillance, the Secretary, Administrator or DOLE Regional Director is satisfied that such danger or exploitation exists, a written order may be issued for the closure of the establishment being used for illegal recruitment activity.

In case of a business establishment whose license or permit to operate a business was issued by the local government, the Secretary, Administrator or Regional Director concerned shall likewise recommend to the granting authority the immediate cancellation/revocation of the license or permit to operate its business.

Section 9. Implementation of Closure Order. Closure order shall be served upon the offender or the person in charge of the establishment subject thereof. The closure shall be effected by sealing the establishment and posting a notice of such closure in bold letters in a conspicuous place in the premises of the establishment. Whenever necessary, the assistance and support of the appropriate law enforcement agencies may be requested for this purpose.

Section 10. Report on Implementation. A report on the implementation of the closure order executed under oath, stating the details of the proceedings undertaken shall be submitted to the Director-LRO or the Regional Director concerned, as the case may be, within two (2) days from the date of implementation.

Section 11. Institution of Criminal Action. The Secretary, Administrator or the Regional Director concerned, or their duly authorized representatives or any aggrieved person, may initiate the corresponding criminal action with the appropriate office.

Where a complaint is filed with the Administration and the same is proper for preliminary investigation, it shall file the corresponding complaint with the appropriate officer, with the supporting documents.

Section 12. Motion to Lift a Closure Order. A motion to lift a closure order which has already been implemented may be entertained only when filed with the LRO within ten (10) calendar days from the date of implementation thereof. The motion shall clearly state the grounds upon which it is based, attaching thereto the documents in support thereof. A motion to lift which does not conform with the requirements herein set forth shall be denied.

Section 13. Who May File. The motion to lift a closure order may be filed only by the following:

- a. Owner of the building or his duly authorized representative;
- b. Building administrator or his duly authorized representative;
- c. The person or entity against whom the closure order was issued and implemented or the duly authorized representative; or

- d. Any other person or entity legitimately operating within the same premises closed/padlocked whose operations/activities are distinct from the recruitment activities of the person/entity subject of the closure order.

Section 14. Grounds for Lifting/Re-Opening. Lifting of the closure order and/or re-opening of the office closed or padlocked may be granted on any of the following grounds:

- a. That the office is not the subject of the closure order;
- b. That the contract of lease with the owner of the building or the building administrator has already been cancelled or terminated. The request to re-open shall be duly supported by an affidavit of undertaking either of the owner of the building or the building administrator that the same will not be leased/rented to any other person/entity for recruitment purposes without the necessary license from POEA;
- c. That the office is shared by a person/entity not involved in illegal recruitment activities, whether directly or indirectly; or
- d. Any other ground that the POEA may consider as valid and meritorious.

Lifting of a closure order is without prejudice to the filing of a criminal complaint with the appropriate office against the person alleged to have conducted illegal recruitment activities.

Section 15. Appeal. The order of the Administrator denying the motion to lift may be appealed to the Secretary within ten (10) calendar days from the service of receipt hereof.

Section 16. Re-Padlocking of Office. Where a re-opened office is subsequently confirmed to be used for illegal recruitment activities, a new closure order shall be issued which shall no longer be subject to a motion to lift.

RULE II RECRUITMENT VIOLATIONS AND RELATED CASES

Section 1. Jurisdiction. The Administration shall exercise original and exclusive jurisdiction to hear and decide all cases which are administrative in character, involving or arising out of violation of recruitment laws, rules and regulations or violation of the conditions for issuance of license to recruit seafarers, including refund of fees collected from seafarers.

Section 2. Grounds for imposition of administrative sanctions:

- a. Charging, imposing or accepting directly or indirectly, any amount of money goods or services, or any fee or bond for any purpose from an applicant seafarer;
- b. Engaging in act/s of misrepresentation, such as furnishing or publishing any false or deceptive notices or information in connection with the recruitment and employment of seafarers;
- c. Inducing or attempting to induce an already employed seafarer to transfer from or leave his employment for another unless the transfer is designed to liberate the seafarer from oppressive terms and conditions or employment;
- d. Influencing or attempting to influence any person or entity not to employ any seafarer who has not applied for employment through his agency;
- e. Obstructing or attempting to obstruct inspection by the Secretary, the Administrator or their duly authorized representatives;

- f. Substituting or altering to the prejudice of the seafarer employment contracts and other documents approved and verified by the Department from the time of actual signing thereof by the parties up to and including the period of expiration of the same without the Department's approval;
- g. Failure to submit reports related to overseas recruitment and employment within the specified time, as may be required by the Secretary or the Administration;
- h. For the owner, partner, or officer/s of any licensed agency to become an officer or member of the Board of any corporation or partnership engaged directly or indirectly in the management of a travel agency;
- i. Withholding or denying travel or other pertinent documents from seafarers for reasons other than those authorized under existing laws and its implementing rules and regulations;
- j. Engaging in recruitment activities in places other than that specified in the license without previous authorization from the Administration;
- k. Appointing or designating agents, representatives or employees without prior approval from the Administration;
- l. Falsifying or altering travel documents of applicant seafarer;
- m. Deploying seafarers whose employment and travel documents were not processed by the Administration or those agencies authorized by it;
- n. Deploying seafarers to principals not accredited by the Administration or to vessels not enrolled with the deploying agency;
- o. Failure to deploy a seafarer within the prescribed period without valid reason;
- p. Disregard of lawful orders, notices and other processes issued by the Administration;
- q. Coercing a seafarer to accept prejudicial arrangements in exchange for certain benefits that rightfully belong to the seafarer;
- r. Withholding of seafarers' salaries or remittances without justifiable reasons or shortchanging of remittances;
- s. Engaging in act/s of misrepresentation for the purpose of securing a license or renewal thereof, such as giving false testimonies or information or falsified documents;
- t. Engaging in the recruitment or deployment of seafarers in jobs harmful to public health or morality or to dignity of the Republic of the Philippines;
- u. Allowing persons who are otherwise disqualified to participate in the overseas employment program under existing laws, rules and regulations to participate in the management and operation of the agency;
- v. Transfer or change of ownership of a single proprietorship licensed to engage in overseas employment;
- w. Failure to comply with its undertaking to provide Pre-Departure Orientation Seminar to its seafarers;
- x. Failure to comply with the undertaking to deploy the required number of seafarers within the period provided in these Rules;

- y. Non-compliance with any other undertaking in connection with the issuance or renewal of the license;
- z. Failure to reimburse expenses incurred by the seafarer in connection with his documentation and processing for purposes of deployment, where deployment does not take place without the seafarer's fault; and
- aa. Violation of other pertinent provisions of the Code and other relevant laws, rules and regulations, guidelines and other issuance on recruitment and deployment of seafarers for overseas employment and the protection of their welfare;

RULE III FILING OF COMPLAINTS

Section 1. Who May File a Complaint. Any aggrieved person may file a complaint in writing and under oath for violation of the provisions of the Labor Code, POEA rules and regulations and other issuances relating to recruitment.

For this purpose, an aggrieved person is one who is prejudiced by the commission of a violation.

However, the Administration, on its own initiative, may conduct proceedings based on reports of violation of the Labor Code, these rules and other issuances, subject to preliminary evaluation.

Section 2. Venue. Any complaint arising out of recruitment violation or violation of the conditions of license may be filed with the Adjudication Office of this Administration or in the nearest POEA Regional Centers/Extension Units or the DOLE Regional Office exercising territorial jurisdiction over the place where the complainant was recruited at the option of the complainant. The office to which complaint was first filed shall take cognizance of the case.

Where the complainant was recruited within the National Capital Regions, the complaint shall be filed with the Adjudication Office of the Administration.

In the case of reports received by the Administration, the same shall be investigated by the Adjudication Office, this Administration or at the appropriate Regional Office/POEA Regional Center/Extension Unit.

However, the venue of cases filed with the Adjudication Office may be transferred to the Regional Office/POEA Regional Center/Extension Unit before the respondent files its answer and upon request of either party and upon approval by the Administration.

For purpose of hearing and receiving of evidence, the DOLE Regional Office exercising territorial jurisdiction over the place where the complainant was recruited may be deputized by the Secretary of Labor to take cognizance of the case for submission of its findings and recommendations to the Administrator.

Section 3. Contents of Complaint. All complaints must contain, among others, the following:

- a. The name/s and address/es of the complainant/s;
- b. The name/s and address/es of the respondent/s;
- c. The nature of the complaint;
- d. The substance, cause/grounds of the complaint;
- e. When and where the action complained of happened;
- f. The amount of claim, if any;
- g. The relief/s sought.

The complaint shall be under oath and shall, whenever possible, be accompanied by supporting documents, together with a certificate of non-forum shopping.

Section 4. Docket and Assignment of Cases. Complaints duly received shall be docketed and raffled for investigation and hearing.

RULE IV ACTION UPON COMPLAINT

Section 1. Answer. Upon receipt of the complaint, the Administration shall issue an order, attaching thereto a copy of the complaint and supporting documents, if any, directing the respondent/s to file a verified Answer and not a Motion to Dismiss within ten (10) calendar days from receipt, attaching proof that a copy was sent to the complainant.

Section 2. Failure to File Answer. In case of failure to file Answer, the investigation/hearing shall proceed ex-parte.

An Answer filed out of time shall not be admitted except on meritorious grounds and upon motion.

Section 3. Motion for Extension. Only one motion for extension of time to file Answer shall be allowed. The Overseas Employment Adjudicator, upon receipt of such motion, may, upon meritorious grounds, grant a non-extendible period of ten (10) calendar days, except where allegations in the complaint refer to facts or circumstances which occurred abroad making it necessary to verify with the concerned foreign principal, a longer period may be granted. A ruling on the motion may be made by the Overseas Employment Adjudicator during the proceedings and entered in the minutes or sent by personal service or by registered mail.

Section 4. Proof and Completeness of Service. The contents of the return shall be proof of the facts stated therein. Service by registered mail is complete upon receipt by the addressee or agent; but if the addressee or agent fails to claim his mail from the postmaster, service shall take effect after the date of the last notice. Where the present location of the addressee is unknown, service made at the last known address shall be sufficient.

Personal service made to any officer or personnel of the manning agency shall likewise be sufficient.

Section 5. Nature of Proceedings. The proceedings shall be comply with the requirements of due process without strictly adhering to the technicalities of procedure and evidence applicable to judicial proceedings. The Overseas Employment Adjudicator may avail himself of reasonable means to ascertain the facts of the case.

Section 6. Preliminary Hearing. The Overseas Employment Adjudicator shall set the date, time and place of the preliminary hearing with due notice to the parties with the end view of arriving at an amicable settlement and for purposes of simplifying the issues, marking of evidence and stipulation of facts.

Section 7. Clarificatory Questions. At any stage of the proceedings and prior to the submission by the parties of the case for resolution, the Overseas Employment Adjudicator may initiate clarificatory questions to the parties or their witnesses to further elicit relevant facts or information.

The Overseas Employment Adjudicator may set a hearing where the parties shall be given an opportunity to be present but without right to examine or cross-examine. If the parties so desire, they may submit questions to the Overseas Employment Adjudicator who may ask the question to the parties or witnesses concerned.

Section 8. Service of Order to Appear /To Produce Documents. The Administration shall issue an order to appear/to produce documents. The process server who personally served the order to appear/to produce documents, notice order, resolution or decision shall submit his return within five (5) calendar days from the date of his service thereof, stating legibly in his return his name, the mode/s of service, the name/s of the other person/s served and the date/s of receipt. If no service was effected, the serving officer shall state the reason therefore. The return shall form part of the records of the case.

Section 9. Failure or Refusal to Obey Order To Appear/To Produce Documents. The license of an agency whose officers or employers fail or refuse to comply with an order to appear/to produce documents without justifiable reason shall be suspended until otherwise lifted. This is without prejudice to the outcome of the investigation where the proper penalty may be imposed.

Section 10. Summary Judgment. Should the Overseas Employment Adjudicator find, upon consideration of the complaint, answer and evidence submitted, that resolution/decision may be rendered, the case shall be deemed submitted and a summary judgment shall be issued.

Section 11. Effects of Withdrawal of Complaint/Desistance. The withdrawal/desistance of the complaining witness shall not bar the Administration from proceeding with the investigation of the recruitment violation/s. The Administration shall resolve the case on the merits and impose the appropriate penalties.

Section 12. Resolution of the Case. Except in cases of preventive suspension, the Overseas Employment Adjudicator shall, within ninety (90) calendar days from the filing of the case, submit his findings and recommendations in the form of a draft order.

Section 13. Who May Issue Orders/Resolutions. The Administrator may issue orders of reprimand, suspension of documentary processing, suspension, cancellation or revocation of license, or dismissal on the merits of the case.

All other orders or resolutions shall be signed by the Director of the Adjudication Office.

Section 14. Contents of Orders/Resolutions. Orders/Resolutions issued by the Administration shall be clear and concise and shall include a brief statement of the following:

- a. Facts of the case;
- b. Issue/s involved;
- c. Applicable laws/s or rule/s;
- d. Conclusions and reasons therefore; and
- e. Specific remedy/ies or relief/s granted or imposable sanction/s.

Section 15. Suspension of Documentary Processing. The Administration may order the suspension of the processing of documents of a respondent agency for violation of any provision of these Rules, POEA Orders and other issuances. This is without prejudice to the outcome of the investigation wherein the proper penalty may be imposed.

Section 16. Preventive Suspension. Pending investigation of the recruitment violation/s, the license of the respondent agency may be suspended for a period not exceeding the imposable penalties under the revised schedule of penalties, on the following grounds:

- a. There exist reasonable grounds to believe that the continued operation of the agency will lead to further violation or exploitation of the workers being recruited or adversely affect friendly relations with any country or otherwise prejudice national interest; and

- b. There is a prima facie evidence of a case for violation of the pertinent provisions of the Labor Code, its implementing rules and regulations, POEA Rules and Regulations or any issuance of the Administration, where the evidence of guilt is strong.

The Administrator may issue an order lifting or modifying the order of preventive suspension as the circumstances may warrant. Where an Order of Preventive Suspension is issued by the Administration, the Overseas Employment Adjudicator shall, within sixty (60) calendar days from filing of the case, submit his findings and recommendation in the form of a draft order.

Section 17. Effects of Orders of Suspension, Revocation or Cancellation of License. An order of suspension, cancellation or revocation of license shall have the effect of suspending or terminating all activities of the agency which fall under the definition of recruitment and placement.

Section 18. Fines. The Administrator may also impose additional fines for failure to comply with a final order.

**RULE V
CLASSIFICATION OF OFFENSES
AND SCHEDULE OF PENALTIES**

Section 1. Classification of Offenses. Administrative offenses are classified into serious, less serious and light, depending on their gravity. The Administration shall impose the appropriate administrative penalties for every recruitment violation.

A. The following are serious offenses with their corresponding penalties:

1. Engaging in act/s of misrepresentation for the purpose of securing a license or renewal thereof, such as giving false information or documents

1st Offense – Cancellation of License

2. Engaging in the recruitment or placement of seafarers in jobs harmful to public health or morality or to dignity of the Republic of the Philippines

1st Offense – Cancellation of License

3. Transfer or change of ownership of a single proprietorship licensed to engage in overseas employment

1st Offense – Cancellation of License

4. Charging or accepting directly or indirectly any amount of money, goods or services, or any fee or bond for any purpose from the seafarers

1st Offense - Cancellation of License

The penalty shall carry the accessory penalty of refund of the fee charged or collected from the worker.

B. The following are less serious offenses with their corresponding penalties:

1. Engaging in act/s of misrepresentation in connection with recruitment and placement of seafarers, such as furnishing or publishing any false notice, information or document in relation to recruitment or employment

1st Offense – Suspension of License (Two Months to Six Months)

2nd Offense – Suspension of License (Six Months and One day to One year)

3rd Offense - Cancellation of License

2. Obstructing or attempting to obstruct inspection by the Secretary, the Administrator or their duly authorized representatives

1st Offense – Suspension of License (Two Months to Six Months)

2nd Offense – Suspension of License (Six Months and One day to One year)

3rd Offense - Cancellation of License

3. Substituting or altering to the prejudice of the seafarer, employment contracts approved and verified by the Department 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

1st Offense – Suspension of License (Two Months to Six Months)

2nd Offense – Suspension of License (Six Months and One day to One year)

3rd Offense - Cancellation of License

4. Withholding or denying travel or other pertinent documents from seafarers for reasons other than those authorized under existing laws and regulations.

1st Offense – Suspension of License (Two Months to Six Months)

2nd Offense – Suspension of License (Six Months and One day to One year)

3rd Offense - Cancellation of License

The penalty shall carry the accessory penalty for immediate return of the documents withheld.

5. Engaging in recruitment activities in places other than that specified in the license without previous authorization from the Administration

1st Offense – Suspension of License (Two Months to Six Months)

2nd Offense – Suspension of License (Six Months and One day to One year)

3rd Offense - Cancellation of License

6. Appointing or designating agents, representatives or employees without prior approval from the Administration

1st Offense – Suspension of License (Two Months to Six Months)

2nd Offense – Suspension of License (Six Months and One day to One year)

3rd Offense - Cancellation of License

7. Falsifying or altering travel documents of an applicant seafarer in relation to recruitment activities.

1st Offense – Suspension of License (Two Months to Six Months)

2nd Offense – Suspension of License (Six Months and One day to One year)

3rd Offense - Cancellation of License

8. Deploying seafarers whose employment and travel documents were not processed by the Administration or those agencies authorized by it.

1st Offense – Suspension of License (Two Months to Six Months)

2nd Offense – Suspension of License (Six Months and One day to One year)

3rd Offense - Cancellation of License

9. Deploying seafarers to principals not accredited by the Administration or to vessels not enrolled to the deploying agency.

1st Offense – Suspension of License (Two Months to Six Months)
2nd Offense – Suspension of License (Six Months and One day to One year)
3rd Offense - Cancellation of License

10. Withholding of seafarers' salaries or remittances without justifiable reasons or shortchanging of remittances.

1st Offense – Suspension of License (Two Months to Six Months)
2nd Offense – Suspension of License (Six Months and One day to One year)
3rd Offense - Cancellation of License

The penalty shall carry the accessory penalty of release of the salaries or remittances being claimed

11. Allowing persons who are otherwise disqualified to participate in the overseas employment program under existing laws, rules and regulations to participate in the management and operation of the agency

1st Offense – Suspension of License (Two Months to Six Months)
2nd Offense – Suspension of License (Six Months and One day to One year)
3rd Offense - Cancellation of License

12. Failure to reimburse expenses incurred by the seafarers in connection with his documentation and processing for purposes of deployment, where deployment does not take place without the seafarer's fault

1st Offense – Suspension of License (Two Months to Six Months)
2nd Offense – Suspension of License (Six Months and One day to One year)
3rd Offense - Cancellation of License

The penalty shall carry the accessory penalty of immediate refund of expenses incurred by the worker.

13. Failure to comply with the undertaking to provide Pre-Departure Orientation Seminar to seafarers

1st Offense – Suspension of License (Two Months to Six Months)
2nd Offense – Suspension of License (Six Months and One day to One year)
3rd Offense - Cancellation of License

14. Non-compliance with any other undertaking in connection with the issuance or renewal of the license

1st Offense – Suspension of License (Two Months to Six Months)
2nd Offense – Suspension of License (Six Months and One day to One year)
3rd Offense - Cancellation of License

C. The following are light offenses with their corresponding penalties:

1. For the owner, partner, or officer/s of any licensed agency to become an officer or member of the Board of any corporation or partnership engaged directly or indirectly in the management of a travel agency

- 1st Offense – Reprimand
 - 2nd Offense – Suspension of License (One Month to Three Months)
 - 3rd Offense – Suspension of License (Three Months and One day to Six Months)
 - 4th Offense - Cancellation of License
2. Inducing or attempting to induce an already employed seafarer to transfer from or leave his employment for another unless the transfer is designed to liberate a seafarer from oppressive terms and conditions or employment
- 1st Offense – Reprimand
 - 2nd Offense – Suspension of License (One Month to Three Months)
 - 3rd Offense – Suspension of License (Three Months and One day to Six Months)
 - 4th Offense - Cancellation of License
3. Influencing or attempting to influence any person or entity not to employ any seafarer who has not applied for employment through his agency
- 1st Offense – Reprimand
 - 2nd Offense – Suspension of License (One Month to Three Months)
 - 3rd Offense – Suspension of License (Three Months and One day to Six Months)
 - 4th Offense - Cancellation of License
4. Failure to deploy a seafarer within the prescribed period without valid reason
- 1st Offense – Reprimand
 - 2nd Offense – Suspension of License (One Month to Three Months)
 - 3rd Offense – Suspension of License (Three Months and One day to Six Months)
 - 4th Offense - Cancellation of License
5. Coercing seafarers to accept prejudicial arrangements in exchange for certain benefits that rightfully belong to them
- 1st Offense – Reprimand
 - 2nd Offense – Suspension of License (One Month to Three Months)
 - 3rd Offense – Suspension of License (Three Months and One day to Six Months)
 - 4th Offense - Cancellation of License
6. Disregard of orders, notices and other legal processes issued by the Administration
- 1st Offense – Reprimand
 - 2nd Offense – Suspension of License (One Month to Three Months)
 - 3rd Offense – Suspension of License (Three Months and One day to Six Months)
 - 4th Offense - Cancellation of License
7. Failure to submit reports related to overseas recruitment and employment within the specified time as may be required by the Secretary or the Administration
- 1st Offense – Reprimand
 - 2nd Offense – Suspension of License (One Month to Three Months)
 - 3rd Offense – Suspension of License (Three Months and One day to Six Months)
 - 4th Offense - Cancellation of License
8. Violation of other pertinent provisions of the Code and other relevant laws, rules and regulations, guidelines and other issuances on recruitment and placement of seafarers for overseas employment and the protection of their welfare
- 1st Offense – Reprimand
 - 2nd Offense – Suspension of License (One Month to Three Months)

- 3rd Offense – Suspension of License (Three Months and One day to Six Months)
- 4th Offense - Cancellation of License

Money claims arising from recruitment violation may be awarded in addition to the administrative penalties imposed.

Section 2. Imposition of Fines. In addition or in lieu of the penalty of suspension of license, the Administration may impose the penalty of fine which shall be computed at P10,000.00 for every month of suspension.

Section 3. Mitigating, Aggravating or Alternative Circumstances. In the determination of the penalties to be imposed, mitigating, aggravating and alternative circumstances attendant to the commission of the offense shall be considered.

- a. First Offender;
- b. Admission of guilt and voluntary restitution, where applicable;
- c. Good faith;
- d. Exemplary Performance;
- e. Recidivism;
- f. Prejudice to the worker;
- g. Gross negligence;
- h. Other analogous circumstances.

Section 4. Manner of Imposition. When applicable, the imposition of the penalty may be made in accordance with the manner provided below:

- a. The minimum of the penalty shall be imposed where only mitigating and no aggravating circumstances are present.
- b. The medium of the penalty shall be imposed where no mitigating and aggravating circumstances are present.
- c. The maximum of the penalty shall be imposed where only aggravating and no mitigating circumstances are present.
- d. Where aggravating and mitigating circumstances are present, paragraph (a) shall be applied where there are more mitigating circumstances present; paragraph (b) shall be applied when the circumstances equally offset each other; and paragraph (c) shall be applied where there are more aggravating circumstances.

Section 5. Penalty for Cases Involving Five or More Complainants. A respondent found guilty of committing an offense, regardless of the number or nature of charges, against five (5) or more complainant shall be imposed the penalty of cancellation of license.

RULE VI APPEAL/PETITION FOR REVIEW

Section 1. Jurisdiction. The Secretary shall have exclusive jurisdiction to act on appeals/petitions for review of recruitment violation cases and other related cases decided by the Administration.

Section 2. Period to Appeal. The party aggrieved by a decision of the Administration may appeal the same to the Secretary of Labor and Employment within fifteen (15) calendar days from receipt of a copy of the decision. Failure of the aggrieved party to perfect his appeal within the reglementary period shall render the decision of the Administration final and executory.

Section 3. Requirements for Appeal. The appealing party shall file a Notice of Appeal and an Appeal Memorandum with the Adjudication Office or the Regional Office of the Administration, as the case may be. In case a fine and/or a monetary award is imposed against the appealing party, he shall also file a supersedeas bond in the amount of such fine and/or monetary award, in cash or in surety bond posted by a surety company acceptable to the Administration. The Appeal Memorandum shall clearly point out the errors of law and/or fact in the decision appealed from and shall be verified. Any appeal which does not comply with these requirements shall not be acted upon and the Administration shall issue forthwith an order for the execution of the decision for which the appeal is sought.

Section 4. Transmittal of the Records of the Case on Appeal. Within twenty-four (24) hours from receipt of the appeal seasonably filed with the corresponding requirements, the Adjudication Office, shall transmit the entire records of the case to the Office of the Secretary of Labor and Employment.

Section 5. Stay of Execution. The decision of the Administration shall be stayed during the pendency of the appeal; Provided that where the penalty imposed carries the maximum penalty of twelve months suspension or cancellation of license, the decision shall be immediately executory despite the pendency of the appeal.

Provided further that where the penalty imposed is suspension of license for one month or less, the decision shall be immediately executory and may only be appealed on ground of grave abuse of discretion.

Section 6. Period to Resolve the Appeal. Appeals from the decision of the Administrator shall be resolved by the Office of the Secretary for Labor and Employment within sixty (60) calendar days from receipt of the transmittal of the entire records of the case.

RULE VII EXECUTION OF DECISIONS

Section 1. Issuance of Writ of Execution. Unless otherwise provided in these Rules, after the Order has become final and executory, the Administration upon motion or on its own initiative, shall issue a writ of execution requiring the Enforcement Officer to enforce a monetary award or fine imposed in the decision.

Section 2. Form and Contents of a Writ of Execution. The writ of execution must be issued in the name of the Republic of the Philippines, requiring the Enforcement Officer to execute the Orders of the Administrator or the Secretary or his duly authorized representative, as the case may be.

The writ of execution must contain the dispositive portion of the order or decision sought to be executed. It must require the Enforcement Officer to serve the writ upon the losing party or upon any other person required by law to obey the same before proceeding to satisfy the judgment.

Execution shall proceed against the assets of the losing party in the following order:

- a. Escrow deposit
- b. Surety bond
- c. Personal property
- d. Real property

A writ of execution shall not be necessary for the enforcement of Orders in the following cases:

- a. For the return of travel and other related documents. A copy of the order served upon the losing party or upon any other required by law to obey such order is sufficient; and

- b. Where the agency had earlier posted a cash or surety bond in relation to an appeal/petition for review. Certified copies of the final and executory order and official receipt of the bond shall be sufficient basis for the preparation of the voucher for the release of the amount to be refunded, or for the confiscation/forfeiture of the amount equivalent to the fine.

The writ of execution shall be valid and effective for a period of sixty (60) calendar days from issuance thereof.

Section 3. Motion to Cancel Writ of Execution. Within five (5) days from receipt of a copy of Writ of Execution, the judgment debtor may file a Motion to Cancel the Writ of Execution on meritorious ground. The filing of such motion shall not stay the execution of the writ unless a cash or surety bond is posted equivalent to the judgment award which shall answer for the claims in the event that the motion is denied.

An Order denying a Motion to Quash the Writ of Execution is final and no further motions of similar nature shall be entertained.

Section 4. Enforcement of Writs. In executing an Order, the Enforcement Officer shall be guided strictly by the Manual of Instructions for Enforcement Officers of the POEA which the Administration will adopt.

Section 5. Garnishment. In cases where several writs of execution are issued against the same agency, satisfaction of the claims of the workers against the escrow deposit or surety bond shall be on a "first-come, first-served" basis, irrespective of the date of filing of the case or date of the decision or date of the writ of execution. Provided that where the orders of garnishment are served simultaneously, the escrow or surety bond shall be pro-rated among the claimants.

Section 6. Return of Writ of Execution. The Enforcement Officer implementing the writ of execution shall submit his return immediately upon the satisfaction of the claim. Regardless, however, of the outcome of his implementation, he shall submit his return not later than sixty (60) calendar days from the date of issuance thereof. The return shall state the mode/s of service, the name/s of the person/s served and the date/s of receipt. The return shall also indicate legibly the full name of the serving officer. The return shall form part of the records of the case.

Section 7. Execution Pending Petition for Certiorari. Once a petition for certiorari has been filed with and given due course by the appellate court the execution of the order insofar as the monetary award to private claimant is concerned shall be stayed.

**PART VI
DISCIPLINARY ACTION CASES**

**RULE I
JURISDICTION AND VENUE**

Section 1. Jurisdiction. The Administration shall exercise original and exclusive jurisdiction to hear and decide disciplinary action cases against seafarers, foreign employers, and principals which are administrative in character.

Section 2. Venue. Any complaint involving disciplinary action cases shall be filed with the Adjudication Office of the Administration.

**RULE II
DISCIPLINARY ACTION AGAINST SEAFARERS**

Section 1. Grounds for Disciplinary Action and their Penalties. Commission by a seafarer of any of the offenses enumerated below or of similar offenses shall be a ground for disciplinary action for which the corresponding penalty shall be imposed:

A. Pre-Employment Offenses

1. Submission/furnishing or using false information or documents or any form of misrepresentation for purpose of job application or employment.

1st Offense: One year to two years suspension from participation in the overseas employment program

2nd Offense: Two years and one day suspension from participation in the overseas employment program to Delisting from the POEA Registry

2. Unjust refusal to join ship after all employment and travel documents have been duly approved by the appropriate government agencies.

1st Offense: One year to two years suspension from participation in the overseas employment program

2nd Offense: Two years and one day suspension from participation in the overseas employment program to Delisting from the POEA Registry

B. Offenses During Employment

1. Smuggling or violation of any custom rules and regulations of the Philippines and of foreign ports

a. Smuggling any taxable item

1st Offense: One year to Two years suspension from POEA Registry

2nd Offense: Two years and one day suspension to Delisting from POEA Registry

b. Possession or use of prohibited drugs, narcotics and other contraband

1st Offense: Delisting from POEA Registry

c. Gun-running or possession of explosives and the like

1st Offense: Delisting from POEA Registry

d. Misdeclaration of or failing to declare articles leading to their seizure and fine to vessel

1st Offense : One year to Two years suspension

2nd Offense: Two years and one day suspension to Delisting from POEA Registry

e. Misdeclaration of or failing to declare articles leading to their seizure but vessel is not implicated

1st Offense : One year to Two years suspension

2nd Offense: Two years and one day suspension to Delisting from POEA Registry

f. Possession of pornographic materials leading to its seizure and fine to vessel

1st Offense : One year to Two years suspension

2nd Offense: Two years and one day suspension to Delisting from POEA Registry

- g. Any other violation which will not implicate the vessel
 - 1st Offense : One year to Two years suspension
 - 2nd Offense : Two years and one day suspension to Delisting from POEA Registry
- h. Any violation which will implicate the vessel
 - 1st Offense: Three (3) years suspension to Delisting from POEA Registry
- 2. Desertion
 - a. Deserting or attempting to desert employment
 - 1st Offense: Delisting from POEA registry
 - b. Advising, assisting or persuading another to desert employment
 - 1st Offense: Five (5) years suspension to Delisting from POEA Registry
- 3. Absence without leave
 - a. Abandoning the post or duty without being properly relieved
 - 1st Offense : One year suspension to Two years suspension
 - 2nd Offense: Two years and one day suspension to Delisting from POEA registry
 - b. Leaving the vessel without permission from responsible officers during working hours
 - 1st Offense : One year suspension to two years suspension
 - 2nd Offense: Two years and one day suspension to Delisting from POEA registry
 - c. Entrusting to others assigned duties without authority of the department head
 - 1st Offense : Six (6) months to one (1) year suspension
 - 2nd Offense: One (1) year and one (1) day to Two (2) years suspension
 - 3rd Offense : Two (2) years and one (1) day suspension to Delisting from POEA registry
 - d. Leaving the vessel without permission
 - 1st Offense : Six (6) months to one (1) year suspension
 - 2nd Offense: One (1) year and one (1) day to Two (2) years suspension
 - 3rd Offense : Two (2) years and one (1) day suspension to Delisting from POEA registry
- 4. Sleeping on post while on duty
 - 1st Offense : One (1) year suspension to two (2) years suspension
 - 2nd Offense: Two (2) years and one (1) day suspension to Delisting from POEA registry
- 5. Insubordination
 - a. Any act of disobedience to lawful orders of a superior officer
 - 1st Offense : One (1) year suspension to two (2) years suspension

2nd Offense : Two (2) years and one (1) day suspension to Delisting from POEA registry

b. Attempting to assault a superior officer

1st Offense : Six (6) months to one (1) year suspension

2nd Offense: One (1) year and one (1) day to Two (2) years suspension

3rd Offense : Two (2) years and one (1) day suspension to Delisting from POEA Registry

c. Assaulting a superior officer/other persons on business with the ship without the use of deadly weapon

1st Offense : One (1) year suspension to two (2) years suspension

2nd Offense: Two (2) years and one (1) day suspension to Delisting from POEA Registry

d. Assaulting a superior officer/other persons on business with the ship with the use of deadly weapon

1st Offense: Delisting from POEA Registry

e. Behaving with disrespect towards a superior officer

1st Offense : Six (6) months to one (1) year suspension

2nd Offense: One (1) year and one (1) day to Three (3) years suspension

3rd Offense: Three (3) years and one (1) day suspension to Delisting from POEA Registry

f. Insulting a superior officer by words or deed

1st Offense : Six (6) months to one (1) year suspension

2nd Offense: One (1) year and one (1) day to Three (3) years suspension

3rd Offense: Three (3) years and one (1) day suspension to Delisting from POEA Registry

g. Inciting another to commit insubordination

1st Offense : Six (6) months to one (1) year suspension

2nd Offense: One (1) year and one (1) day to Three (3) years suspension

3rd Offense: Three (3) years and one (1) day suspension to Delisting from POEA registry

6. Drunkenness

a. Being drunk while on duty

1st Offense : Two (2) years to Three (3) years suspension

2nd Offense: Three (3) years and one (1) day suspension to Delisting from POEA Registry

b. Creating trouble on board due to intoxication

1st Offense : Six (6) months to one (1) year suspension

2nd Offense: One (1) year and one (1) day to Three (3) years suspension

3rd Offense: Three (3) years and one (1) day suspension to Delisting from POEA Registry

c. Failure to perform assigned jobs due to intoxication

- 1st Offense : Six (6) months to one (1) year suspension
- 2nd Offense: One (1) year and one (1) day to Three (3) years suspension
- 3rd Offense: Three (3) years and one (1) day suspension to Delisting from POEA Registry

7. Creating trouble outside the vessel's premises

- 1st Offense : Six (6) months to one (1) year suspension
- 2nd Offense: One (1) year and one (1) day to Three (3) years suspension
- 3rd Offense: Three (3) years and one (1) day suspension to Delisting from POEA Registry

8. Gambling

a. Which results in fighting or any incident as to upset the harmonious relationship on board the vessel

- 1st Offense : One (1) year to two (2) years suspension
- 2nd offense : Two (2) years and one (1) day suspension to Delisting from POEA Registry

b. Any other form of gambling which is not purely recreational

- 1st Offense : Six (6) months to one (1) year suspension
- 2nd Offense: One (1) year and one (1) day to Three (3) years suspension
- 3rd Offense: Three (3) years and one (1) day suspension to Delisting from POEA Registry

9. Violation of company policies and regulations

a. Pilferage or theft of ship's store or cargo

- 1st Offense : One (1) year to two (2) years suspension
- 2nd Offense: Two (2) years and one (1) day suspension to Delisting from POEA Registry

b. Embezzlement of company funds or monies and/or properties of a fellow worker entrusted for delivery to kin or relatives in the Philippines

- 1st Offense : One (1) year to two (2) years suspension
- 2nd Offense : Two (2) years and one (1) day suspension to Delisting from POEA Registry

c. Unauthorized disposal of company vessel's properties for personal gain

- 1st Offense : One (1) year to two (2) years suspension
- 2nd Offense: Two (2) years and one (1) day suspension to Delisting from POEA Registry

d. Any act of dishonesty with intention to defraud the company

- 1st Offense : One (1) year to two (2) years suspension
- 2nd Offense: Two (2) years and one (1) day suspension to Delisting from POEA Registry

- e. Gross negligence and failure to observe proper storage and cargo handling procedures resulting in delay of vessels and/or damage to cargoes
 - 1st Offense : One (1) year to two (2) years suspension
 - 2nd Offense: Two (2) years and one (1) day suspension to Delisting from POEA Registry
 - f. Failure to observe and comply with regulation and non-baggage shipment and acceptance of parcels on board
 - 1st Offense : Six (6) months to one (1) year suspension
 - 2nd Offense: One (1) year and one (1) day to Two (2) years suspension
 - 3rd Offense : Two (2) years and one(1) day suspension to Delisting from POEA Registry
 - g. Failure to observe regulations on expiration of shore liberty
 - 1st Offense : Six (6) months to one (1) year suspension
 - 2nd Offense: One (1) year and one (1) day to Two (2) years suspension
 - 3rd Offense : Two (2) years and one(1) day suspension to Delisting from POEA Registry
 - h. Being left behind by vessel in foreign port without justifiable reason
 - 1st Offense : Six (6) months to one (1) year suspension
 - 2nd Offense: One (1) year and one (1) day to Two (2) years suspension
 - 3rd Offense : Two (2) years and one(1) day suspension to Delisting from POEA Registry
 - i. Disorderly conduct and/or disrespect towards passengers
 - 1st Offense : One (1) year to Two (2) years suspension
 - 2nd Offense: Two (2) years and one (1) day to Delisting from POEA Registry
 - j. Immorality so as to cast aspersion on the good name of the vessel and company
 - 1st Offense : One year to Two years suspension
 - 2nd Offense: Two years and one day to Delisting from POEA Registry
 - k. Willfully inflicting harm or injury to others
 - 1st Offense : One year to Two) years suspension
 - 2nd Offense: Two years and one day to Delisting from POEA Registry
10. Incompetency and inefficiency
- 1st Offense : Two years to Three years suspension
 - 2nd Offense : Three years and one day suspension to Delisting from POEA Registry
11. Inciting mutiny, malicious destruction of ship's property at any activity which will hamper the efficient operation of the vessel
- 1st Offense : Two years to Three years suspension
 - 2nd Offense: Three years and one day suspension to Delisting from POEA Registry

12. Concerted action to breach approved contracts
 1st Offense : Two years to Three years suspension
 2nd Offense: Three years and one day suspension to Delisting from POEA Registry
13. Any activity which tends to destroy harmonious relationship of the company
 1st Offense : One year to Two years suspension
 2nd Offense: Two years and one day to Delisting from POEA Registry
14. Grave abuse of authority
- a. Grave abuse of authority (with the use of deadly weapon) resulting in harm or injury to subordinate
 1st Offense: Delisting from POEA Registry
- b. Grave abuse of authority (without the use of deadly weapon) resulting in harm or injury to subordinate
 1st Offense : Two years to Three years suspension
 2nd Offense: Three years and one day suspension to Delisting from POEA Registry
- c. Any other case of abuse of authority
 1st Offense : One year to Two years suspension
 2nd Offense : Two years and one day to Three years suspension
 3rd Offense : Three years and one day suspension to Delisting from POEA Registry
15. Other gross misbehaviors prejudicial to good order and discipline
 1st Offense : One year to Two years suspension
 2nd Offense : Two years and one day suspension to Delisting from POEA Registry
16. Negligence causing, damage, loss, spoilage or deterioration of vessel's stocks and property
 1st Offense : One year to Two years suspension
 2nd Offense: Two years and one day suspension to Delisting from POEA Registry
17. Connivance with or cuddling of stowaway
 1st Offense : One year to Two years suspension
 2nd Offense : Two years and one day suspension to Delisting from POEA Registry
18. Willfully making false statement, reports, certification or spurious seafarer's documents for personal gain or with intent to mislead or defraud the company
 1st Offense : One year to Two years suspension

2nd Offense : Two years and one day suspension to Delisting from POEA Registry

19. Any other case as to cast aspersion on the good name of the company and vessel

1st Offense : One year to Two years suspension

2nd Offense : Two years and one day suspension to Delisting from POEA Registry

20. Violation of safety and environmental rules/regulations

1st Offense : One year to Two years suspension

2nd Offense : Two years and one day suspension to Delisting from POEA Registry

21. Failure to observe the drug and alcohol policy of the company

1st Offense : One year to Two years suspension

2nd Offense : Two years and one day suspension to Delisting from POEA Registry

Section 2. Who May File. Any person may file with the Administration a complaint in writing and under oath for disciplinary action against a seafarer.

The Administration may, on its own initiative, conduct proceedings against a seafarer on the basis of verifiable or official reports.

Section 3. Contents and Form of Complaint. All complaints shall be under oath and must contain, among others, the following:

- a. Name/s and address/es of the complainant/s;
- b. Name/s and address/es of the respondent/s;
- c. Specific act/s or omission/s constituting the alleged offense;
- d. Place where the offense was committed;
- e. Date when the offense was committed;
- f. The relief/s sought.

All supporting documents must be attached to the complaint, whenever possible.

Section 4. Exempting Circumstances. The following considerations shall be legitimate reasons for the refusal of a seafarer to depart for the worksite, or to abandon or withdraw from employment:

- a. Exposure to hazardous or demeaning working and living conditions;
- b. Refusal of the employer or principal to grant, release or remit wages and other benefits due the seafarer;
- c. War, plague or other calamities at the worksite; and
- d. Violation of labor laws of the Philippines, the host country, international labor and maritime laws;

Section 5. Temporary Disqualification from Maritime Employment. A respondent seafarer subject of a pending complaint for disciplinary action, as provided for in Section 1 (A&B), Rule II, Part VI of these Rules, or those against whom a warrant of arrest or hold departure order is issued by competent authority shall be disqualified from maritime employment program until jurisdiction over the respondent is properly acquired by the Administration.

Section 6. Effect of Filing an Answer. Upon filing of an answer, the respondent shall be qualified for maritime employment without prejudice to the outcome of the investigation wherein the proper penalty may be imposed.

Section 7. Disqualification of Maritime Employment. A seafarer against whom suspension or disqualification has been imposed through a final order, decision, or resolution shall be disqualified from maritime employment unless cleared by the Administration or the penalty imposed had been lifted.

Section 8. Preventive Suspension. A seafarer may be preventively suspended when the evidence of guilt is strong and the charge involves a serious offense.

RULE III DISCIPLINARY ACTION AGAINST PRINCIPALS/EMPLOYERS

Section 1. Grounds for Disciplinary Action Against Foreign Principals/Employers:

- a. Default on its contractual obligations to the seafarer and/or to its Philippine agent;
- b. Gross violation of laws, Rules and Regulations on overseas employment;
- c. Grave misconduct;
- d. Conviction of an offense involving moral turpitude;
- e. Gross negligence leading to serious injury or illness or death of the seafarer;
- f. Any other case analogous to the foregoing.

Section 2. Who May File. Any aggrieved person may file a complaint in writing and under oath for disciplinary action against a principal/employer with the Administration.

The Administration may, on its own initiative, conduct proceedings against principals/employers based on verifiable or official reports.

Section 3. Contents and Form of Complaint. All complaints shall be under oath and must substantially contain the following:

- a. Name/s and address/es of the complainant/s;
- b. Name/s and address/es of the respondent/s;
- c. Specific acts or omissions constituting the alleged offense;
- d. Place where the offense was committed;
- e. Date when the offense was committed;
- f. Relief sought.

All supporting documents must be attached to the complaint, whenever possible.

Section 4. Temporary Disqualification. A foreign employer/principal against whom a complaint for disciplinary action has been filed shall be temporarily disqualified from participating in the maritime employment program until the respondent submits to the jurisdiction of the Administration.

Section 5. Effect of Filing an Answer. Upon filing of an answer, the respondent employer shall be qualified to participate in the maritime employment program without prejudice to the outcome of the investigation wherein the proper penalty may be imposed.

Section 6. Preventive Suspension. A principal/employer may be suspended from participating in the overseas employment program pending investigation of the disciplinary action case when the evidence of guilt is strong and there is reasonable ground to believe that the continued deployment to the principal/employer will result to further violation or exploitation of seafarers.

The OE Adjudicator shall, within sixty (60) calendar days from the filing of the case, submit his findings and recommendations in the form of a draft order.

Section 7. Disqualification of Foreign Employers/Principals. Foreign employers/principals against whom the penalty of suspension or disqualification has been imposed through a final order, decision or resolution shall be disqualified from participating in the maritime employment unless cleared by the Administration or the penalty imposed is lifted.

RULE IV APPEALS

Section 1. Jurisdiction on Appeal. The Secretary shall have the exclusive jurisdiction to act on appeals of disciplinary action cases decided by the Administration.

Section 2. When to File. Appeals shall be filed with Office of the Secretary with proof of service to the Administration and the adverse party within fifteen (15) calendar days from receipt by the parties of their respective copies of the Order.

RULE V COMMON PROVISIONS

Section 1. Records of Proceedings. The Overseas Employment Adjudicator shall summarize in writing all the records of all proceedings before him, including the substance of the evidence presented. The minutes of proceedings shall be signed by the parties and shall form part of the records. Where any of the parties refuse to sign, the refusal and reason/s given must be indicated by the Overseas Employment Adjudicator in the minutes, which must be chronologically arranged and appropriately paged.

Section 2. Appearances. An attorney appearing for a party is presumed to be properly authorized for that purpose.

Appearances may be made orally or in writing. In both cases, the complete name and office address of both parties shall be made of record and the adverse party or his counsel/representative properly advised.

Any change in the address of counsel/representative should be filed with the records of the case and furnished the adverse party or counsel.

Any change or withdrawal of counsel /representative shall be made in accordance with the Rules of Court.

Section 3. Action on Motions. The OE Adjudicator shall have the authority to rule on motions which may be done in writing or orally during the proceedings/conferences.

Section 4. Consolidation of Cases. Where there are two (2) or more cases pending before different OE Adjudicators, involving the same respondent/s and issues, the case which was filed last may be consolidated with the first to avoid unnecessary cost or delay. Such cases shall be handled by the OE Adjudicator to whom the first case was assigned.

Section 5. Discovery of Another Offense. When in the course of investigation on the alleged recruitment violation/s on pre-employment cases, another offense is uncovered, the Administration may issue the necessary show cause order or inform the respondent/s of the change/s during the investigation and enter the same in the minutes. The Administration shall allow the parties the requisite period within which to file an Answer.

Section 6. Discovery of Another Respondent. When in the course of the investigation on recruitment violation/s alleged and/or uncovered, another agency or person is found to have committed a violation, the OE Adjudicator shall automatically implead said agency or person in the records of case subject of investigation. For this purpose, a show cause order shall be issued to the agency or person in accordance with the Rules.

Section 7. Prescription. All recruitment violation cases enumerated in these Rules shall be barred if not commenced or filed with the Administration within three (3) years after such cause of action accrued.

Likewise, disciplinary action shall be barred if not commenced or filed with the Administration within three (3) years after such cause of action occurred.

Section 8. Disqualification of Erring Bonding Companies. Bonding companies found not to be complying with orders issued against the surety bond, shall be recommended to the Licensing and Regulation Office for disqualification.

Section 9. Applicability of the Rules of Court. The Revised Rules of Court of the Philippines shall, whenever practicable, supplement these Rules in similar or analogous character in proceedings brought before the Administration.

PART VII ASSISTANCE TO SEAFARERS

Rule I VOLUNTARY ARBITRATION

Section 1. Voluntary arbitration. Unresolved disputes involving seafarers and their employers-principals with Collective Bargaining Agreements, arising from the interpretation or implementation of the Standard Employment Contract, the Shipping Article, Collective Bargaining Agreement and the interpretation, enforcement of company personnel policies at the worksite and other employer-employee relations cases involving Filipino seafarers, on the one hand, and the employers, principals and contracting partners, on the other hand, including but not limited to contractual, disciplinary action and other tort cases, shall be submitted to voluntary arbitration for resolution.

Where the parties, although they have no existing collective bargaining agreement, agrees to adopt voluntary arbitration as an option to settle their conflicts, the POEA shall assists them in submitting their respective cases to voluntary arbitration.

Section 2. Finality of Settlement/Decision. Any settlement reached by the parties in the course of the arbitration shall be final and binding upon them. Where such amicable settlement is not agreed upon, the Voluntary Arbitrator chosen by the parties shall resolve the conflict on the basis of the evidence and issue his decision which shall likewise be final and binding upon the parties.

Section 3. Implementing Guidelines. The Administration shall issue the necessary implementing guidelines to carry out this provision.

RULE II REPATRIATION OF SEAFARERS

Section 1. Repatriation of Seafarers. The repatriation of the seafarer and the transport of his personal belongings shall be the primary responsibility of the principal and/or agency which recruited or deployed the seafarer overseas. All costs attendant to the repatriation shall be borne or charged to the principal and/or agency concerned. Likewise, the repatriation of remains and transport of the personal belongings of the deceased seafarer and all costs attendant thereto

shall be borne by the principal and/or the agency. However, in cases where the termination of the employment is due solely to the fault of the seafarer, the principal or agency shall not in any manner be responsible for the repatriation of the former and/or his belongings.

Section 2. Repatriation Costs When Employment is Terminated. The principal or agency shall advance the cost of plane fare without a prior determination of the cause of the termination of the seafarers' employment. However, the principal/agency may recover the cost of repatriation from the seafarer upon his return to the Philippines if termination of employment is due solely to seafarers' fault.

Section 3. Repatriation Procedure. When the need for repatriation arises and the principal fails to provide for the costs, the Philippine Embassy / Consulate / Overseas Labor Office at worksite shall simultaneously notify the Administration and OWWA of such need. The Administration shall require the agency to provide the plane ticket or a pre-paid ticket advice to the Philippine Embassy / Consulate Overseas Labor Office and to report its compliance to the Administration which shall advise OWWA accordingly.

Section 4. Administrative Sanction for Non-Compliance. If the employment agency fails to provide the ticket or pre-paid advice within 48 hours from receipt of notice, the Administration shall suspend the documentary processing of the agency or impose such sanctions, as it deem necessary. The Administration may request OWWA to advance the costs of repatriation with recourse to the agency and/or employer. The administrative sanction shall be lifted after the agency or employer shall have reimbursed OWWA of the costs of repatriation.

RULE III WAR RISK AREAS AND PREMIUM PAY

Section 1. Declaration of War Risk Areas. In order to protect seafarers from the hazards of war or war-like operations, the Administration shall, pursuant to prior declaration by the competent authorities, declare specific areas, territorial waters or portions of the high seas as war risk.

Section 2. War Risk Premium Pay. Seafarers who sail for work on areas declared by the Administration as war risk areas shall be entitled to premium pay or its equivalent, the form of which shall be determined by the Administration.

RULE IV EDUCATION PROGRAM

Section 1. Education Program. In accordance with the policy of full disclosure, the Administration shall provide a comprehensive and integrated education program on seafarers' employment and shall be undertaken in partnership with other relevant organizations and government entities. Such education program shall cover all stages of recruitment and employment.

Section 2. Program Development Administration and Linkages. The Administration shall develop and administer the program in partnership with concerned government agencies, industry associations, civic-oriented groups and non-government organizations.

Section 3. Information Campaign. The Administration shall conduct a nationwide, multi-media and sustainable grassroots information campaign to create public awareness on the realities of employment involving seafarers.

Section 4. Orientation of Licensed Manning Representatives. The Administration shall provide orientation programs to officers and staff of licensed manning agencies.

Section 5. Responsibility of Agencies Relative to PDOS. It shall be the responsibility of every licensed manning agency to provide an appropriate and comprehensive pre-departure orientation

seminar to their selected seafarers before deployment to ensure that their documents are in order, they are well-informed on travel, arrival and remittance procedures as well as what to do and where to ask for assistance during any form or post-arrival problem.

**RULE V
MANPOWER RESEACH AND DEVELOPMENT**

Section 1. Research Studies. The Administration, in coordination with other entities, shall conduct periodic researches and studies on labor supply especially as it relates to the monitoring of the supply of seafarers vis-à-vis the demand for them in international shipping.

Section 2. Manpower Development Program. The Administration shall extend technical support and establish linkages with government agencies and other concerned sectors in the development and provision of assistance programs in the training of seafarers.

Section 3. Training Programs and Standards. The Administration shall coordinate with private entities, government agencies and employers concerned in the formulation of training programs and standards.

**PART VIII
TRANSITORY PROVISIONS**

Section 1. Transfer of Welfare Services Provisions to OWWA. All provisions pertaining to the welfare of seafarers shall be transferred to OWWA upon effectivity of these rules. In the meantime, POEA shall continue to perform welfare services.

**PART IX
GENERAL AND MISCELLANEOUS PROVISIONS**

Section 1. Authority to Administer Oaths. The Administrator, or any person designated by him to handle cases or disputes, shall have the authority to administer oaths and require the attendance of witnesses or the production of any book, paper, correspondence, memoranda and other documents relevant or material to the case or inquiry.

Section 2. Construction. These Rules shall be liberally construed to carry out the objectives of the Constitution, the Labor Code of the Philippines and the laws pertaining to overseas employment and to assist the parties in obtaining just, expeditious and inexpensive settlement of disputes.

All doubts in the implementation or interpretation of these Rules shall be resolved in favor of labor.

Section 3. Transfer of Cash Bond. Manning agencies shall be allowed to withdraw their existing cash bonds so that the same may be used to comply with the escrow deposit requirement under Section 4, Rule II, Part II of these Rules.

Section 4. Separability Clause. The provisions of these Rules and Regulations are declared to be separable and if any provision or the application thereof is held invalid or unconstitutional, the validity of the other provisions shall not be affected.

Section 5. Repealing Clause. All policies, issuances, rules and regulations inconsistent with these Rules and hereby repealed or modified accordingly.

Section 6. Effectivity. These Rules shall take effect fifteen (15) days from publication in a newspaper of general circulation.

Done in the City of Manila, Republic of the Philippines, this ___ day of _____ 2003.

APPROVED:

PATRICIA A. STO. TOMAS
Chairperson

ROSALINDA DIMAPILIS-BALDOZ
Board Member

LUZVIMINDA L. ELBINIAS
Board Member

EZEKIEL T. ALUNEN
Board Member

VICENTE F. ALDANESE, JR.
Board Member

GREGORIO S. OCA
Board Member