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SENATE

Senate Bill No. 875

RECEIVED BY: [Signature]

INTRODUCED BY SEN. JINGGOY EJERCITO ESTRADA

EXPLANATORY NOTE

The maritime industry is an important industry in our country, contributing significantly to the national economy and providing employment to the people. Such an essential industry needs support and promotion for its continued growth and modernization that will respond to the country's requirements in the movement of people and goods in the domestic and international trade.

The "Philippine Marine Act of 2010" proposes to formulate and implement a 10-year Maritime Development Plan (MDP) to cover, among others, adopting a single Philippine registry, and establish an Admiralty Court which shall hear all cases on maritime contracts, torts, injuries and offenses.

This bill aims to establish a National Maritime Authority (NMA) which shall be attached to the Department of Transportation and Communications (DOTC) and shall be the agency responsible and accountable for the implementation of public maritime laws, rules and regulations.

The proposed measure enumerates the powers and functions of the NMA to properly delineate the powers and functions of NMA and the Philippine Coast Guard (PCG). The NMA is the flag state administration while the PCG is the port state administration. Being the flag state, NMA shall be responsible for any matters or concerns involving the ships such as issuance of required certificates and compliance with safety rules and regulations. On the other hand, the PCG, as the port state administration, is empowered to inspect foreign ships entering the Philippine waters.

Further, the bill provides for the creation of the National Maritime Financing Corp. (NMFC) and the Maritime Transportation Safety Board (MTSB). The NMFC is a GOCC to be attached to the NMA which will provide credit facility to duly-registered shipowners and shipbuilders. MTSB shall be organized under the Office of the President and shall investigate all maritime accidents and determine the liability of government agencies, shipowners, masters and crew, and other concerned parties.

In view of the foregoing, the passage of this bill is earnestly sought.


JINGGOY EJERCITO ESTRADA
Senator

FIFTEENTH CONGRESS OF THE REPUBLIC
OF THE PHILIPPINES
First Regular Session

SENATE
OFFICE OF THE SECRETARY

10 JUL -8 AM '19

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Senate Bill No. 875

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INTRODUCED BY SEN. JINGGOY EJERCITO ESTRADA

The PHILIPPINE MARINE ACT OF 2010

*Be it enacted by the Senate and House of Representatives of the Philippines
in Congress assembled.*

CHAPTER 1. – GENERAL PROVISIONS AND DEFINITIONS

Basic Principles

SECTION 1. Declaration of Policy. – The State hereby declares the maritime industry as a key and potent tool in realizing a national economy that provides a more equitable distribution of opportunities, creates income and wealth for the country and its people, and promotes the quality of life of every Filipino. To this end, the State shall endeavor to become a leading maritime country by developing a maritime industry that is independent, sustainable, globally-competitive, gender-sensitive and environmentally-friendly.

The State hereby declares the policy to promote, ensure, and coordinate the economic viability, development and modernization of the maritime industry through a Maritime Development Plan (MDP).

The State shall create a maritime administration that would provide an enabling environment, establish appropriate institutional arrangements, and set up an effective regulatory framework conducive to efficiency, accountability, transparency and competitiveness consistent with internationally accepted standards in the regulation and administration of the maritime industry.

The State recognizes a single flag registry which shall define the conditions upon which a ship engaged in domestic or international trade can be conferred the right to fly the Philippine flag.

The State adopts a progressive and equitable annual tonnage dues system. It recognizes the benefits to the maritime industry that will result to simplicity, certainty, increased cash-flow and options for ship-owners, international compatibility and competitiveness with other significant maritime states, increased training opportunities for Filipino seafarers, and greater modernization and safety of Philippine ships. To this end, the State hereby provides for an annual tonnage dues system, subject to specified qualifications as prescribed by the Authority.

The State declares a policy of that would provide security and priority of ship mortgages and maritime liens for ships which are registered in the Philippines or under construction in the Philippines.

The State hereby declares that safety and security of ships and life at sea is paramount in the provision of an efficient, adequate and economic maritime transport services. The shipowners are enjoined to fully implement all safety laws, rules, regulations and procedures in the operations of their ships with the least possible regulation from the Authority.

The State declares the policy to prevent and control pollution resulting from the operations of ships, which create hazards to human health, harm and destroy living resources and marine life, damage amenities, or interfere with the legitimate uses of the territorial waters and the exclusive economic zone of the Philippines.

The State hereby declares the policy that only competent, properly certificated and medically fit seafarers in accordance with international standards are deployed on board ships, recognizing the importance of seafarers in achieving the goal to become a leading maritime country.

The State, hereby declares the development of the country's shipbuilding, ship repair and ship recycling sector through responsive regulations and attraction of investments for the promotion and maintenance of an adequate Philippine merchant marine fleet.

The State recognizes the need to promote prompt and effective investigation of maritime accidents with a view to preventing as far as possible a recurrence of such accidents. To this end, the State hereby institutes measures that provide for mechanisms, rules and procedures for the investigation of maritime accidents.

SEC. 2. – Declaration of Principles. – The State aims to achieve its avowed policies by:

- (a) providing the necessary support and environment for the continued growth and modernization of the Philippine merchant fleet that is responsive to the country's requirements in the movement of people and goods in the domestic and international trade;
- (b) advancing a culture of safety and environment protection in the management and operation of maritime transportation and services and public ridership;
- (c) ensuring the availability of a pool of qualified, competent and medically-fit seafarers compliant with international standards;
- (d) promoting and encouraging the further development of allied maritime services and products such as, but not limited, to maritime education and training in all sectors, shipbuilding, ship repair and ship recycling, marine survey, ship agency and management, crewing, maritime law, finance and insurance;
- (e) adopting a national strategy for the effective implementation and enforcement of international maritime conventions, laws and standards for safe, secure, efficient maritime transportation and in the protection of the marine environment;

- (f) encouraging the participation of the private sector in the development of the maritime industry by providing an environment for investment through a package of fiscal incentives;
- (g) creating clear, transparent and predictable maritime policy and regulatory framework; and
- (h) rationalizing the institutional and regulatory governance of the maritime industry through the integration of maritime functions into a single Authority.
- (i) adopting a single Philippine flag registry and provide the conditions for registration therefor;
- (j) advocating measures to ensure the integrity of the Philippine flag;
- (k) modernizing coastal shipping by encouraging the new building of ships designed to suit navigation and use in Philippine waters;
- (l) expanding the Philippine registry by providing a competitive environment through incentives to shipowners, streamlined policies and procedures, and global accessibility;
- (m) guarantying the strict implementation of safety rules and standards in the management, operation, crewing and maintenance of all Philippine-registered ships;
- (n) providing the appropriate environment for Filipino seafarers to serve onboard Philippine-registered ships;
- (o) ensuring the implementation and enforcement of rules and regulations for the prevention of pollution from ships in Philippine waters;
- (p) implementing internationally-adopted instruments on maritime safety, security and marine environment protection; and
- (q) establishing an Admiralty Court that will exercise jurisdiction over all cases arising out of maritime contracts, torts, injuries and offences.
- (r) ensuring the availability of a pool of qualified, competent and medically fit seafarers compliant with international standards;
- (s) giving full and complete effect to the requirements of international conventions related to the training and certification of seafarers;
- (t) providing appropriate environment for Filipino seafarers to serve Philippine-flagged ships;
- (u) protecting the interests of seafarers

General Definition of Terms

SEC. 3. *Definitions.* - Unless otherwise defined in other Chapters of this Act, the following terms shall mean –

- (a) "Access" is the process of embarking on or disembarking from a ship by whatever means employed;
- (b) "Accident" is the loss of life or major injury to any person on board, or any person is lost or falls overboard from the ship or one of the ship's boats; or the ship causes any loss of life, major injury or material damage, is lost or is presumed to be lost, is abandoned, is materially damaged by fire, explosion, weather or other cause, grounds, is in collision, is disabled, or causes significant harm to the environment;
- (c) "Alteration" is the substantial change made in the structural design, construction or specification of a ship;
- (d) "Authority" is the National Maritime Authority established under Chapter 3 of this Act;
- (e) "Automation" is the process on how the maritime portal will be addressed through application of information technology;
- (f) "Board" as referred to in Chapter 3, means the governing body of the Authority appointed by the President under Section 8 of this Chapter
- (g) "Chandling" is the provision of equipment and supplies to ships;
- (h) "Class/Ship Classification" is the process performed by a classification organization to ensure that a ship is designed, constructed and maintained in accordance with the rules established by a classification society and applicable international conventions for convention-size ships and High Speed Craft or the Maritime Administration for non-convention-size ships;
- (i) "Crew agreement" is an agreement in writing made between each person employed as a seafarer in a Philippine-registered ship and the person employing the seafarer, which is signed by both, or in behalf of, the parties;
- (j) "Crewing" is proper manning complement of a ship;
- (k) "Dangerously unsafe" is the state of being unfit to go to sea without serious danger to human life or property;
- (l) "Disabled" is the ship not under command for a period of more than twelve (12) hours, or for any lesser period if, as a result, the vessel needs assistance to reach port;
- (m) "Discharge from a ship" in respect of a seafarer means the employment of the seafarer in that ship is terminated;
- (n) "Discharge" is any release, in relation to harmful substances or effluents containing such substances, however, caused, from a ship, and includes any escape, disposal, dumping, spilling, leaking, pumping, emitting or emptying;
- (o) "Flag administration" is the entity which registers and confers nationality to the ship;
- (p) "Foreign Mortgage" is a mortgage which relates to such a ship when it is registered in a country other than the Philippines and shall include

any hypothecation which relates to such a ship, validly executed in accordance with the laws of that foreign country;

- (q) "Going to sea" is the deployment within and outside the Philippines;
- (r) "Grounds" is making involuntary contact with the ground, except for touching briefly so that no damage is caused;
- (s) "Harmful substance" is any substance which if introduced into the sea, is liable to create hazards to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea, as may be declared harmful or hazardous to human and marine life under the laws of the Philippines, and includes any substance subject to control under this Act;
- (t) "Hypothecation" is the act of pledging of securities or assets as collateral to secure a loan;
- (u) "Hypothecation" is the right acquired by the creditor over the immovable property which has been assigned to him/her by his/her debtor as security for his/her debt;
- (v) "IMO Act" is the Act for the Investigation of Marine Casualties and Incidents adopted by the IMO by means of Assembly Resolution A.849 (20) of the 27th of November 1997;
- (w) "IMO" is the International Maritime Organization;
- (x) "Incapacity" is the inability to undertake the full range of activities normally undertaken;
- (y) "Incident" is an event involving the actual or probable discharge into the sea of a harmful substance or effluents containing such substance;
- (z) "Interested party" is an organization, or individual, who, as determined by the investigator or Independent Tribunal has significant interests, right or legitimate expectations with respect to the outcome of an informal investigation carried out by the investigator or a formal investigation conducted by the Independent Tribunal;
- (aa) "Investigator" is an investigator of accidents appointed by the Independent Competent Authority;
- (bb) "Jettisoning" is throwing over board of goods to lighten ships;
- (cc) "Major injury" is any fracture, other than to a finger, thumb or toe; any loss of a limb or part of a limb; dislocation of the shoulder, hip, knee or spine; loss of sight, whether temporary or permanent; penetrating injury to the eye; or any other injury leading to hypothermia or to unconsciousness, requiring resuscitation, or requiring admittance to a hospital or other medical facility as an in-patient for more than twenty four (24) hours;
- (dd) "Marine casualty" is any accident at sea involving a ship which could result in an incident;

- (ee) "Maritime Lien" is a claim constituted by virtue of this Act which attaches as privileged claim upon ship, wherever it may be found, enforceable by an action in rem;
- (ff) "Maritime Portal" is an internet-based system that will contain all relevant information related to the maritime administration;
- (gg) "Master" is a person, having command or charge of any ship;
- (hh) "Modification" is the slight change in form of a ship;
- (ii) "MTSB Board" is the Maritime Transportation Safety Board;
- (jj) "Necessaries" are things incorporated or furnished into the ship because they are required for her ordinary needs after she is built and equipped and starts upon her voyage which includes repairs, needs, services and materials required for the maintenance of operation thereof except those which go into her original construction and which are necessary to her completion;
- (kk) "Oil tanker" is a ship constructed or adapted primarily to carry oil in bulk in its cargo spaces and includes combination carriers and any "chemical tanker" as defined hereunder when it is carrying a cargo or part cargo of oil in bulk;
- (ll) "Passenger ship" is a vessel which carries passengers, whether for profit or not;
- (mm) "Passenger" is any person while embarking on, on board, or disembarking from a ship who are ticketed, unticketed, manifested, unmanifested, minor, paying, non-paying, holding discounted or complimentary tickets and/or accommodated passengers, including those accompanying cargoes, vehicle or animals;
- (nn) "Philippine water" is a body of water, such as but not limited to, seas, gulf, bays around between and connecting each of the islands of the Philippine Archipelago, irrespective of its depth, breadth, length or dimension, and all other waters belonging to the Philippines by historic or legal title, including territorial sea, the seabed, the insular shelves, and other submarine areas over which the Philippines has sovereignty or jurisdiction;
- (oo) "Philippine-registered ship" is a vessel that is registered in the Philippines;
- (pp) "Pleasure vessel" is a ship that is used, or intended to be used, wholly for recreational or sporting activities (whether or not the ship is chartered, or intended to be chartered, for hire);
- (qq) "Preferred Mortgage" is a mortgage validly executed in accordance with provisions of this Act on the ship permanently registered, enrolled or licensed under the laws of the Philippines;
- (rr) "Preliminary examination" is the investigation which may be held to establish the causes and circumstances of an accident for the

purposed of deciding whether a formal investigation by the Independent Tribunal is warranted;

- (ss) "Reception facility" is any facility used for the reception of oil, noxious, liquid substances, sewage or garbage from ships at a port or terminal;
- (tt) "Relief and maintenance" includes the provision of surgical or medical treatment and such dental and optical treatment (including the repair or replacement of any appliance) as cannot be postponed without impairing efficiency;
- (uu) "Seafarer" is any person who is employed or engaged or works in any capacity on board a ship;
- (vv) "Seafaring" is a profession or employment in the field of shipping industry particularly involving the discharge of duties and responsibilities on board the ship;
- (ww) "Segregated ballast" is ballast water introduced into a tank which is completely separated from the cargo oil and oil fuel system and which is permanently allocated to the carriage of ballast;
- (xx) "Senior surviving officer" is the senior surviving officer in the deck department and if there is no surviving officer in the deck department, the senior surviving engineer officer;
- (yy) "Serious injury" is any injury, other than a major injury, to a person employed or carried in a ship which occurs on board or during access which results in incapacity for more than three (3) consecutive days excluding the day of the accident, or as a result of which the person concerned is put ashore and the ship sails without that person, unless the incapacity is known or advised to be of three (3) consecutive days or less, excluding the day of the accident;
- (zz) "Ship Agency" is an entity represented by an authorized person assigned or contracted by the shipowner to facilitate specific business transactions or requirements with other private or government agencies;
- (aaa) "Ship Management" is a business involving the overall management of a ship, including but not limited to, the regular efficient and effective operations of a ship while in a port, during voyage or on dock;
- (bbb) "Ship Recycling" is the activity of complete or partial dismantling of a ship at a ship recycling facility in order to recover components and materials for reprocessing and re-use, while taking care of hazardous and other materials, and includes associated operations such as storage and treatment of components and materials onsite, but not their further processing or disposal in separate ship recycling facilities;
- (ccc) "Ship Repair" is the overhaul, refurbishment, renovation, improvement or alteration of the hull, machineries, equipment, outfits and components of all types of ships;
- (ddd) "Ship's boat" is a life-raft and any boat normally carried by a ship;

(eee) "Ship" means any kind of vessel capable of navigating on water or used in navigation on water, however propelled or moved, and includes, but not limited to –

- (i) a barge, lighter or other floating vessel;
- (ii) a structure that is able to float or be floated and is able to move or be moved as an entity from one place to another;
- (iii) an air-cushion vehicle, or other similar craft, used wholly or primarily in navigation by water; but does not include a vessel, structure, vehicle or craft declared by the regulations promulgated under this Act not to be a ship for the purposes of this definition;

(fff) "Shipbuilder, ship repairer and ship recycling entity" is the citizen of the Philippines, or a commercial partnership owned by majority of Filipinos, or a corporation incorporated under the law of the Philippines, the capital of which is owned or controlled in any proportion by the capital which is owned or controlled in any proportion by Filipinos or foreign nationals, or by corporation whether Filipino or foreign-owned which is duly authorized by the Authority to engage in the business of shipbuilding, ship repair or ship recycling or to otherwise operate a shipyard, graving dock, marine repair yard or ship recycling facility;

(ggg) "Shipbuilding" is the design, construction, launching and outfitting of all types of ships and watercrafts;

(hhh) "Shipowner" is 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;

(iii) "Shipyard" is the shipbuilding or repair facilities which have the capability to lift vessels above the waterline in order to effect ship works on ships, appendages, structure, machinery and equipment

(jjj) "The State" is the Republic of the Philippines; and

(kkk) "Voyage data recorder" is the electronic or mechanical equipment which may be installed on a ship to record key navigational and control information.

CHAPTER 2 - DEVELOPMENT OF THE MARITIME INDUSTRY

PART 1 – The Development Plan

SEC. 4. *Maritime Development Plan (MDP).* – The State shall formulate a ten-year Maritime Development Plan (MDP) that will provide the strategy for implementing the necessary support, incentives, taxation scheme, and policy and regulatory framework to encourage investment in shipping, ship management, ship agency and chandling, shipbuilding, ship repair, ship recycling, and other related maritime activities.

SEC. 5. *Incentives to Promote Development of Maritime Industry.* – The maritime industry shall continue to enjoy the incentives provided for by existing laws and executive issuances, including but not limited to Republic Act No. 9295, otherwise known as the "*Domestic Shipping Development Act of 2004*", Republic

Act 7471 entitled "An Act to Promote the Development of the Philippine Overseas Shipping and For Other Purposes", Republic Act No. 9301, otherwise known as "An Act Amending Certain Provisions of Republic Act 7471, Executive Order 588-*Strengthening The Philippine Ship Building And Ship Repair Sector And Instituting Measures To Promote Its Growth And Development*" and 588-A – Amending Executive Order No. 588 entitled "Strengthening The Philippine Ship Building And Ship Repair Sector And Instituting Measures To Promote Its Growth And Development" and Presidential Decree. No. 894 as amended by Presidential Decree 1466. The State, through the Authority, shall identify additional incentives outside those contained in this Act and ensure the provision of such, provided that, appropriate annual tonnage dues shall be collected by the Authority upon registration.

PART 2 - SHIP FINANCING

SEC. 6. Access to Credit. – The State shall ensure that adequate credit facilities are extended to all duly accredited shipbuilders and shipowners.

SEC. 7. The National Maritime Finance Corporation. (1) A National Maritime Finance Corporation (NMFC) is hereby established as a government-owned and controlled corporation attached to the Authority for the purpose of providing credit and other alternative financing schemes, including leasing, to promote the modernization of the maritime fleet through the acquisition and importation of IACS-classed ships, new local ship constructions, and/or conversion/substitution of existing wooden-hulled ships to other materials approved by the Authority.

(2) Qualified shipyards and shipping companies may avail of the NMFC's financing programs.

(3) NMFC shall provide guidelines to ensure that a comprehensive, rational and progressive financing program for shipbuilders and shipowners is instituted.

(4) An initial funding of Five Billion pesos (P5,000,000,000.00) is hereby appropriated as seed fund and an annual appropriation of Two Billion pesos (P2,000,000,000.00) which will be used as counterpart funding in accessing fund sources such as official development assistance.

(5) The interest rate will be 3-percentage points lower than prevailing market rates.

(6) Ships acquired through facilities provided by NMFC may be used as loan collateral in lieu of real estate mortgage (REM).

(7) NMFC Board shall be chaired by DOTC Secretary. Other members of the Board are (a) DOF Secretary as Vice-Chairperson, (b) DTI Secretary, (c) NMA Director-General, (d) NMFC President and (e) NEDA Director-General and a (f) Private Sector Industry Representative to be appointed by the President for a three (3) -year fixed term.

CHAPTER 3 – THE NATIONAL MARITIME AUTHORITY

PART 1 – Creation of the National Maritime Authority

SEC. 8. Creation of the National Maritime Authority. The National Maritime Authority ("Authority") is hereby established as the Philippine maritime

administration, an independent body attached to the Department of Transportation and Communications. It shall be composed of a governing Board of Directors to be known as the National Maritime Authority Board; and the Management.

SEC. 9. Powers and Functions. - (1) The Authority shall have the general jurisdiction and supervision over all persons, corporations, firms or entities in the maritime industry of the Philippines. It shall prescribe policies and enforce laws, rules and regulations, governing maritime transportation, crewing, seafaring, licensing, certification, shipbuilding, ship repair, ship recycling, maritime education and training, maritime safety and security, environmental protection and other maritime-related activities.

(2) Without derogating from its power generally to perform juridical acts under Section 5 of this Chapter, the Authority has the power, in particular, to do all things necessary or expedient in relation to, or arising out of, the performance of its powers, functions and duties, including the power to –

- (a) enter into contracts;
- (b) acquire, own, lease and dispose of assets;
- (c) levy and collect fees and charges in the discharge of its functions and duties; and
- (d) institute and conduct civil proceedings in all matters relating to its functions and duties.

SEC. 10. Automation of the Operations of the Authority. – (1) The Authority shall establish a maritime portal and shall, by appropriate regulations, ensure a rational administrative framework to reduce transaction costs and processing time in order to promote effective and efficient delivery of services by utilizing appropriate information technology systems.

(2) For this purpose, there is hereby created a position for the Chief Information Officer (CIO) with the rank and emoluments of a Director III, under the direct supervision of the Director General of the Authority.

SEC. 11. Performance of Functions. (1) The Authority shall perform its functions both within and outside the Philippines.

(2) Where the Authority performs a function, it may do so –

- (a) by itself;
- (b) in cooperation with another person or agency;
- (c) by delegating or assigning the power or duty to another person;

(3) For the purposes of this Section, a person includes -

- (a) a natural person or juridical entity;
- (b) a state agency;

(c) the government or an agency of the government of a foreign state.

SEC. 12. Functions to be Performed according to the Objectives and International Agreements and Laws. The Authority shall perform its functions according to –

(a) the policies set forth in this Act; and

(b) the obligations of the Philippines under –

(i) any international agreement to which the Philippines is a party; and

(ii) under international law as provided in Article II Section 2 of the 1987 Constitution.

SEC. 13. Composition of the Board. – The powers of the Authority shall be vested in a Board of Directors, which is composed of eleven (11) regular members:

(a) The Secretary of the Department of Transportation and Communications shall act as Chairman *ex officio*;

(b) The Director General of the Authority who shall automatically be the Vice Chairman of the Board and shall act as the Chairman in the absence of the Secretary of the Department of Transportation and Communications;

(c) The Executive Secretary;

(d) The Secretary of Foreign Affairs;

(e) The Secretary of Justice;

(f) The Secretary of Finance;

(g) The Secretary of the Department of Agriculture;

(h) The Secretary of the Department of Trade and Industry;

(i) The Secretary of the Department of National Defense;

(j) The General Manager of the Philippine Ports Authority; and

(k) The Commandant of the Philippine Coast Guard

Members of the Board listed from item (c) to (k) above may appoint their respective alternates to the Board provided that the alternate shall have a rank not lower than an Assistant Secretary.

The President shall also appoint two (2) representatives from the private sector of known competence in the maritime industry to serve as non-voting members of the Board.

SEC. 14. Powers of the Board. – The Board of Directors shall have the following powers:

- (a) to formulate and issue policies, programs, projects, standards, and guidelines for the promotion, development, regulation and management of the maritime industry, including maritime transportation, crewing, seafaring, licensing, certification, shipbuilding, ship repair, ship recycling, maritime education and training, maritime safety and security, environmental protection and related activities provided for in this Act;
- (b) to formulate and adopt the Maritime Development Plan (MDP) which shall become an integral part of the Medium Term Philippine Development Plan (MTPDP) and Investment Priority Plan (IPP);
- (c) to prescribe the conditions for the acquisition and registration of ships under the Philippine flag;
- (d) to prescribe rules and regulation on the documentation constituting a burden on the title of the ship;
- (e) to prescribe standards, rules and regulations on maritime safety, environment protection and ensure effective enforcement thereof;
- (f) to develop a continuing capacity building program for the employees of the Authority specifically those with technical responsibilities and ensure their competency in their fields of assignment;
- (g) to exercise quasi-judicial functions on the issuance, award, amendment or revocation of certificates of public convenience to shipping companies;
- (h) to develop, formulate, and prescribe standards of training, licensing and certification of all Filipino seafarers consistent with international standards;
- (i) to recommend the ratification of relevant international conventions, treaties or agreements related to the maritime industry and ensure that full and complete effect is given thereto;
- (j) to rationalize and re-engineer maritime-related offices, agencies and functions in accordance with this Act;
- (k) to appoint upon the recommendation of the Director General, Provincial Directors with the rank of Director II, and City and Municipal Officers with the rank of Director I;
- (l) to impose administrative penalties, including dismissal from service of erring government officials appointed by the Board, and revocation of accreditation or recognition over all persons and entities under its supervision;
- (m) to delegate the exercise of any or all its powers to the Director General; and
- (n) to perform such other functions and powers as may be necessary or essential to fully implement the mandates and provisions of this Act.

SEC. 15. Board Meetings. – The Board shall meet regularly once a month and may hold special meetings to consider urgent matters upon call of the Chairman or upon the initiative of seven (7) members, whether voting or non-voting. A majority shall constitute a quorum of at least six (6) voting members for the facilitation and transaction of regular and critical business matters. Internal rules of procedure in the conduct of Board meetings shall be prescribed by the Board.

SEC. 16. Benefits and Privileges of Board Members. – All members of the Board of Directors shall receive honoraria for each meeting actually attended. The honoraria of the members of the Board shall be determined pursuant to a resolution adopted by the Board subject to compliance of the duly existing and applicable guidelines of the Commission on Audit.

SEC. 17. The Director General.– The Chief Executive Officer of the Authority is the Director General with the rank of Department Undersecretary. He or she shall be appointed by the President of the Philippines.

SEC. 18. Qualifications of the Director General. – The Director General must be a citizen and resident of the Philippines, of good moral character and of proven competence in a field relating to the functions and duties of the Authority.

SEC. 19. Powers and Duties of the Director General. - The Director General shall be responsible for the effective implementation of the policies, regulations, rules and standards made by the Authority, and to –

- (a) register ships and exercise its jurisdiction and control in technical, administrative, and social matters on all Philippine-registered ships and issue pertinent ship certificates;
- (b) register and annotate encumbrances constituted on the ship;
- (c) exercise licensing and regulatory functions with respect to shipping, shipbuilding, ship repair, ship recycling, ship lay-up, and other ancillary industries;
- (d) issue all ship certificates, except certificates for communication equipment on board the ship which shall be issued by the appropriate government agency;
- (e) undertake and promote continuous research and development (R&D) in all aspects of the maritime industry to facilitate innovations in technology and regulation, generate an annual economic and accomplishment report on the performance of the maritime industry. In particular, there shall be continuing research to improve ship safety measures and review and analysis of factors that contribute to sea accidents in cooperation with the Maritime Transportation Safety Board under Chapter 10 of this Act;
- (f) enforce standards, rules and regulations on maritime safety and environment protection;
- (g) represent the Philippines in all international bodies with respect to the maritime industry;

- (h) issue certificates of proficiency and/or competency to Filipino seafarers;
- (i) issue Seafarers Identification and Record Book (SIRB) and all relevant seafarer identification documents to all Filipino seafarers;
- (j) provide an effective, and efficient mechanism for inter-agency coordination, complementation and collaboration in the implementation of this Act;
- (k) to enforce and impose administrative penalties on all persons found to be in violation of any provisions of this Act or any rules or regulations to be issued by the Authority;
- (l) coordinate and supervise the activities of the different offices and agencies under the control and/or supervisory jurisdiction of the Authority;
- (m) ensure implementation of the mandates and provisions of this Act;
- (n) report to the Board the operations of the Authority and all offices and agencies attached to it;
- (o) delegate his powers in writing to the Deputy Director Generals or any other ranking officials of the Authority; provided that, he or she informs the Board of such delegation promptly; and
- (p) perform such functions as may be assigned by the Board.

SEC. 20. Deputy Director Generals. – The Director General shall be assisted by the following Deputy Director Generals, all of whom shall have the rank and privileges of an Assistant Secretary:

- (a) Deputy Director General for Shipping and Maritime Ancillary Services; (registry, shipyard, shipbuilding, repair, accreditation)
- (b) Deputy Director General for Maritime Safety, Security and Environmental Protection;
- (c) Deputy Director General for Maritime Manpower; (licensing and cert of seafarers, education and training)
- (d) Deputy Director General for Administration;
- (e) Deputy Director General for Research and Development; and
- (f) The Maritime Attaché/s.

SEC. 21. Qualifications of Deputy Director Generals. – All Deputy Director Generals must be citizens and residents of the Philippines, of good moral character, with advanced educational background, actual professional experience, and proven competence in a field relating to the functions and duties of the field he or she would be assigned to.

SEC. 22. Terms of Office of the Director General and Deputy Director Generals. - The Director General and the Deputy Director Generals, except for the Maritime Attaché, of the Authority shall have a fixed term of six (6) years without re-appointment.

SEC. 23. Removal from Office. – The Director General and the Deputy Director Generals of the Authority shall be removed from office by the President, upon recommendation of the Board, for inefficiency, neglect of duty, malfeasance in office, or for any other legal cause, provided that the President shall appoint a successor, upon recommendation of the Board, within thirty (30) days of the vacancy.

SEC. 24. Vacancy and Replacement. Any permanent vacancy in the positions of the Director General and Deputy Director Generals shall be filled by the President by appointing a successor, upon recommendation of the Board, within thirty (30) days of the vacancy. Such replacement shall serve for the unexpired term of the official and shall be qualified to be appointed for a new term if the unexpired term served is less than three (3) years.

SEC. 25. Regional, Provincial, City and Municipal Directors of the Authority.
– (1) The Authority shall establish field offices in all regions, provinces, and coastal cities and municipalities.

(2) Regional offices shall be established in the following regions: NCR, Region I, II, III, IV-A, IV-B, V, VI, VII, VIII, IX, X, XI, XII and CARAGA. These shall be headed by Regional Directors with the rank of Director III to be appointed by the President. They shall exercise control and supervision over all subordinate field offices within their respective areas of jurisdiction.

(3) Provincial offices shall be headed by Provincial Directors with the rank of Director II to be appointed by the Board, upon recommendation of the Director General. They shall exercise control and supervision over all subordinate field offices within their respective areas of jurisdiction.

(4) City and Municipal offices shall be headed by City and Municipal Officers with the rank of Director I. They shall be appointed by the Board upon recommendation of the Director General.

SEC. 26. Office of the Maritime Attaché. – (1) There shall also be established an Office of the Maritime Attaché (OMA) to be based in London, United Kingdom, or wherever the International Maritime Organization Head Office may hereafter be domiciled. The OMA shall be under the control and supervision of the Authority.

(2) The OMA shall be headed by the Maritime Attaché appointed by the President, upon recommendation of the Board. The Maritime Attaché shall hold office for ten (10) years.

(3) An officer of the Authority shall be assigned to London, United Kingdom three (3) years prior to the return and/or retirement of the Maritime Attaché to serve as understudy prior to assumption of the position.

(4) The Maritime Attaché shall be assisted by two (2) staff members to be appointed by the Board upon the recommendation of the Director General.

(5) The Maritime Attaché shall have the rank of a Director III and shall enjoy the benefits and privileges of a foreign service officer with the rank of a Minister.

(6) The Maritime Attaché shall serve as the alternate permanent representative of the Philippines to the International Maritime Organization (IMO).

(7) The Maritime Attaché shall regularly submit an annual report of its activities, accomplishments and matters related to its mandate to the Director General and the Board. He or she shall also immediately submit reports and policy recommendations to the Director General and the Board after any major IMO meeting or event or as the need may arise.

(8) The Maritime Attaché shall be removed by the President, upon recommendation of the Board or the Director General, for inefficiency, neglect of duty, malfeasance in office, or for any other legal cause, provided that the President shall appoint a successor, upon recommendation of the Director General, within thirty (30) days of the vacancy.

(9) The Department of Foreign Affairs shall extend all necessary assistance to the Office of the Maritime Attaché in the performance of its mandate.

SEC. 27. Conflict of Interest. – (1) The members of the Authority and all its officers and employees are prohibited from being in the employ of any other person, firm, or corporation, or from having any pecuniary interest in or holding any official relationship with any carrier by water, shipbuilder, contractor, or other person, firm, association, or corporation with whom the Authority may have business relations.

(2) The prohibition shall also extend to members of the family of the officers and employees of the Authority with policy making functions and signing authorities up to third degree of relationship by consanguinity.

(3) The prohibition provided in the two previous paragraphs shall extend up to one year after the member of the Board, officer or employee of the Authority shall have severed employment with the Authority, whether voluntarily or involuntarily.

PART 2- Compensation

SEC. 28. Compensation and Other Emoluments of Authority Personnel. - Within ninety (90) days from the effectivity of this Act, the Authority shall determine the new schedule of salaries of the employees of the Authority.

SEC. 29. Standardized Compensation Plan. - All positions of the Authority shall be governed by compensation and position classification systems and qualification standards approved by the Authority based on a comprehensive job analysis and audit of actual duties and responsibilities. The compensation plan shall be comparable with the prevailing compensation plan of the government-owned controlled corporations and other government financial institution and shall be subject to periodic review by the Authority no more than once every two (2) years without prejudice to yearly merit reviews or increases based on productivity and efficiency. The Authority shall, therefore be exempt from laws, rules and regulations on compensation, position classification and qualification standards. The Authority shall, however, endeavor to make its system conform as closely as possible with the principles under the Compensation and Position Classification Act of 1098 (Republic Act No. 6758, as amended).

SEC. 30. Security of Tenure. - No permanent employee, of any existing maritime agency which shall be affected by any restructuring or re-engineering as a consequence of the passage of this Act, shall suffer any diminution in salary, rank, and privileges.

PART 3 - Rationalization of Maritime Agencies

SEC. 31. Rationalization of Maritime Agencies. - (1) Consistent with the Rationalization Program of the government under Executive Order No. 366 of 2004 entitled *Directing a Strategic Review of the Operations and Organizations of the Executive Branch and Providing Options and Incentives for Government Employees who may be Affected by the Rationalization of the Functions and Agencies of the Executive Branch* and the continuing powers of the President to reorganize the executive branch of government pursuant to Presidential Decree 1416, as amended by Presidential Decree 1772, and the Administrative Act of 1987, the President through the Board and the Director General, is hereby authorized to reorganize all offices and agencies with maritime-related functions, including the transfer of personnel, plantilla positions and commensurate budgets of government agencies, to ensure the full implementation of this Act.

(2) Upon effectivity of this Act, the President shall appoint the members of the Board, the Director General and the Deputy Director Generals. The Board and the Director General, acting on behalf of the President, shall issue the Implementing Rules and Regulations establishing the National Maritime Authority, which shall include the initial re-organization plan for maritime agencies, offices and functions, within sixty (60) days upon effectivity of this Act.

(3) All agencies and offices with maritime-related functions shall continue to operate under their respective charters and all their issuances, rules and regulations not contrary to this Act shall remain in force unless the President or the Authority declares otherwise, in accordance with the provisions of this Act.

(4) Subject to existing Civil Service Commission, Commission on Audit and Department of Budget and Management rules and the provisions of Executive Order No. 366 of 2004, the Authority shall provide for an optional retirement system for permanent employees who shall be affected by the reorganization provided under this section.

CHAPTER 4 - REGISTRATION OF SHIPS

SEC. 32. Flag Administration. The Authority shall act as the flag administration and as such shall be responsible for the grant of Philippine nationality to a ship and thereafter enter the same in the Register of Philippine Ships.

PART 1 - Philippine Shipping Company

SEC. 33. Legal Status. Only persons or entities duly established and registered under Philippine laws shall be qualified to register a ship under the Philippine flag.

SEC. 34. Requirements for Philippine Shipping Company. (1) A shipping company operating Philippine-registered ships in the domestic routes shall

comply with the capital structure required by the Securities and Exchange Commission.

(2) A shipping company engaged in the owning and operation of Philippine-registered ships in the overseas trade shall have at least half of its incorporators and shareholders Filipino citizens and permanent residents of the Philippines who owns at least fifty-one percent (51%) of the capital of the company, provided that the transfer of shares from a foreign shareholder to another requires prior notification to the Authority.

(3) The Articles of Incorporation of the company must specifically contain ownership and/or operation of ships as one of the specific purposes of the company.

PART 2 – Conditions of Ownership

SEC. 35. *Who may Acquire Ships.* Persons and shipping companies and other entities established under the laws of the Philippines and the provisions of this Act, provided they are accredited by the Authority, may acquire ships for the purpose of engaging in domestic or overseas shipping operations.

SEC. 36. *Types of Ship Acquisition.* Acquisition of ships under this Section shall include local purchase, importation and bareboat charter.

SEC. 37. *Local Sale/Transfer of Ships.* Local sale/transfer/lease of ships acquired under this Chapter shall require prior approval by this Authority. The requirements herein shall extend to buyers/transferees/successors-in-interest and authority to operate the ship as water transport service shall not be issued unless such requirements by the Authority have been complied with.

PART 3 – Ship Registration

SEC. 38. *Ships Required to be Entered under the Register of Philippine Ships* – (1) All ships, acquired under Part 3 of this Chapter, regardless of size and area of operations, shall be entered in the Philippine Register of Ships subject to conditions set forth by the Authority pursuant to the provisions of this Act.

(2) Foreign-registered ships transiting Philippine waters shall be exempted from the preceding sub-section 1.

SEC. 39. *Nature of Registration.* - Registration of a ship may be permanent, provisional, or temporary in nature.

SEC. 40. *Optional Registration of Ships.*- A ship operated in international voyages and owned by a citizen or corporation or association organized under the laws of the Philippines may be registered in the Philippines under this Chapter subject to conditions which the Authority may impose.

SEC. 41. *Provisional Registration of Ships.* - (1) Ships about to be constructed or under construction abroad, may at the option of the owner, be registered under the Philippine flag. For this purpose, a Provisional Certificate of Philippine Registry may be issued to a Shipyard Hull Number. Upon completion of the ship construction, a new Certificate of Philippine Registry shall be obtained for the ship.

(2) Ships acquired abroad may, for conduction purposes and before being brought to the Philippines, obtain a Provisional Certificate of Philippine Registry and application which shall be filed with the Authority together with supporting documents.

(3) Application for the Provisional Certificate of Philippine Registry shall be filed with the Authority and if found to be in order, the Authority shall issue to the applicant a Provisional Certificate of Philippine registration provided that a Provisional Tonnage Certificate for conduction purposes shall also be obtained for the ship.

SEC. 42. Temporary Registration of Ships. - A ship may be temporarily registered in the Philippines if it is -

(a) about to be built or is under construction in the Philippines; or

(b) owned and/or operated by an enterprise duly registered with the Board of Investments (BOI) under incentive laws whether or not such enterprise is entirely owned by foreign nationals, if such a ship is to be used by the enterprise exclusively to transport its raw materials and/or finished products within Philippine waters as an incident to its manufacturing, processing or business activity registered with the BOI and certified by it as an essential element in the operation of the registered project.

(c) a ship under bareboat charter by a Philippine citizen or corporation regardless of its area of operation. .

SEC. 43. Permanent Registration of Ships. - A ship owned by a Philippine citizen or corporation, other than those covered in Section 11 of this Chapter, may be granted a Certificate of Permanent Registration of Ships.

PART 4 - Registration of Ships under Bareboat Charter

SEC. 44. Registration of Bareboat-chartered Ship. A ship that is registered in a foreign state and bareboat-chartered exclusively to a qualified person as may be determined by the Authority, may be temporarily registered under this Chapter upon written approval by the Authority, provided:

(a) the registration with the foreign state is suspended for the period of the charter party; and

(b) the period of the registration under this Section shall not be less than one year.

SEC. 45. Transfer of Ownership of Ship under Bareboat Charter. - The transfer of ownership of a ship registered under Part 5 of this Chapter shall be governed by the laws of the foreign flag of registry, provided that such transfer of ownership shall be informed to the Authority.

SEC. 46. Mortgage of Ship under Bareboat Charter . - A ship under bareboat charter and registered under Part 5 of this Chapter shall not be constituted as a collateral to a mortgage or any similar arrangement.

SEC. 47. Structural Modification of Ship under Bareboat Charter. The structural modification of a Philippine-registered ship under Part 5 of this Chapter shall not be allowed.

PART 5 - Crewing of Philippine Ships

SEC. 48. Requirements on Crewing of Ships. (1) All Philippine-registered ships operating within Philippine waters shall be completely manned by Filipino crew.

(2) Philippine-registered ships which are specialized in nature, plying international waters shall be allowed to employ expatriate officers only at the Master and Chief Engineer level, subject to rules and regulations prescribed by the Authority.

PART 6 - Effects of Ship Registration

SEC. 49. Effects of Ship Registration.- (1) The sovereignty of the Philippines shall extend to all Philippine-registered ships.

(2) Registration of a ship according to the provisions of this Chapter -

- (a) confers upon it the nationality and status of a Philippine ship;
- (b) entitles it to the protection of the Philippine Government ;
- (c) imposes on it the duty to fly the Philippine flag; and
- (d) obliges it to abide by all applicable laws, decrees, orders, rules and regulations of the Philippines.

PART 7 - Ship Registration Procedures

SEC. 50. Register of Philippine Ships.- (1) A register of Philippine ships shall be kept by the Authority which shall record essential ship information, including but not limited to the following -

- (a) the name of the ship and the previous name and register if any;
- (b) the place or port of registration or home port and the official number or mark of identification of the ship;
- (c) the international call sign of the ship, if assigned;
- (d) the name of the builders, place of build and year of building of the ship;
- (e) the description of the main technical characteristics of the ship, including gross tonnage and net tonnage and main propulsion engine;

- (f) the name, address and, as appropriate, the nationality of the owner;
- (g) the date of deletion or suspension of the previous registration of the ship;
- (h) the name, address and, as appropriate, the nationality of the bareboat charterer and/or operator of the ship; and
- (i) notation of any mortgages or other similar encumbrances and charges upon the ship.

(2) In case of change in any of the ship information under sub-section a, b, c, d, e, f, and h, of this Section, the ship-owner shall obtain a new Certificate of Philippine Registry and the change shall be reflected in the Register of Philippine Ships.

SEC. 51. Deletion of Previous Registration.- (1) Before entering the ship in the Register of Philippine Ships, the Authority shall assure itself that the previous registration, if any, is cancelled.

(2) In the case of a ship acquired through bareboat charter, the Authority shall ensure that the right to fly the flag of the original country of registry is suspended. The production of evidence indicating such suspension of previous registration and indicating particulars of any registered encumbrances shall be condition-precendent to the grant of the right to fly the Philippine flag.

(3) It is the duty of the owner, master or agent of every ship registered in the Philippines to inform the Authority of any change in the facts entered in the register of ships pertaining to the ship.

SEC. 52. Markings, Name and Homeport.- All ships duly registered according to the provisions of this Chapter shall have their respective names and homeports plainly marked upon each side of the bow.

SEC. 53. Correction of Errors in the Register of Ships.- Recording errors made in the register of ships shall be corrected in the following manner -

- (a) slight or clerical errors not affecting the meaning and substance of the documents, such as misspelled words, shall be corrected by writing the correction above the errors and initialing the correction; and
- (b) any mistake or error that might affect the meaning and substance of the documents shall be corrected by order of the Authority after notice to, and hearing of, the interested parties.

SEC. 54. Change of Ownership of Ships. - An executed bill of sale or other certificate indicating the transfer of ownership of a Philippine ship shall be presented by the transferee within fifteen (15) days after the execution of the sale to the Authority for appropriate recording in the register.

SEC. 55. Reconstitution of Lost Certificate.- (1) If the Certificate of Philippine Registry of a ship is lost or damaged, the owner, master or agent thereof may file an appropriate application with the Authority for the issuance of a replacement certificate, which shall indicate that the original shall henceforth be considered cancelled and revoked.

(2) If after the issuance of the replacement certificate, the lost original Certificate of Philippine Registry is found, it shall be the duty of the owner, master, agent or any person having possession of the original certificate to promptly surrender it to the Authority.

SEC. 56. *Inspection of Copies from the Register.*- (1) The register of ships shall be open to public inspection during ordinary business hours.

(2) At the request of any person and on the payment of reasonable fees, extracts from the register of ships and/or authenticated copies of any document or instrument, which is required to be filed under this Chapter and the regulations shall be furnished to such person.

PART 8 –Annual Tonnage Dues System

SEC. 57. *Annual Tonnage Dues System.* - (1) A qualified ship-owner or operator engaging in commercial shipping activities shall file with the Authority for the application of the annual tonnage system.

(2) Qualified ship-owners or operators shall not be subject to the ordinary income tax laws of the Philippines in relation to ship operations provided the application made under subsection (1) of this Section is approved by the Authority.

(3) Qualified ship-owners or operators shall be subject to the annual tonnage dues system for a period of ten (10) years beginning from the date their application for inclusion under the annual tonnage dues system is approved. This period is renewable upon application by the qualified person.

(4) A qualified ship-owner or operator officially approved for inclusion under the annual tonnage dues system cannot withdraw from the annual tonnage system within ten (10) years beginning from the date their application was approved.

(5) Any qualified ship-owner or operator officially registered under the annual tonnage dues system who shall fail to comply with any conditions prescribed for the approval of their inclusion under the annual tonnage dues system be administratively penalized by the Authority, without prejudice to other legal liabilities under this Act or existing laws.

SEC. 58. *Requirements for Tonnage Dues Application.*- An application for inclusion in the annual tonnage dues system shall be approved by the Authority, provided that the applicant -

- (a) is not in violation of any of the provisions of this Act at the time of the application;
- (b) has a training program for Philippine seafarers; approved by the Authority; and
- (c) invests a specified capital amount in the modernization and upgrading of the Philippine-registered ships.

Other conditions and qualifications may be prescribed by the Authority provided that they are in accordance with the declared policies of this Act.

SEC. 59. Computation of Tonnage Dues.- Under the annual tonnage dues system, the qualified shipowner, or operator shall pay the Authority the amount determined by multiplying the net tonnage of the ship registered under the annual tonnage dues system with fixed rate set by the Authority.

SEC. 60. Penalty for Misdeclarations in Filing of Tonnage Dues. – (1) Any qualified shipowner or operator, or officers or operators in case they are corporations, who shall submit, file or allow to be submitted or filed false tonnage dues returns or false information in relation to applications for registration under the annual tonnage dues system shall be criminally liable and penalized with imprisonment for not less than three (3) years but not more than six (6) years and a fine of not less than Two Hundred Thousand pesos (Php 200,000.00).

(2) The prosecution of the criminal action or the imposition of criminal penalties shall not bar any civil and administrative proceedings against the persons responsible for the penalized acts. Neither shall they be barred to prosecution or act based on other existing laws.

SEC. 61. Creation of Maritime Lien for Unpaid Tonnage Dues. - All unpaid tonnage dues shall be secured by a maritime lien on the ship registered under the optional annual tonnage dues system.

SEC. 62. Revocation of Tonnage Dues Approval.- (1) The Authority may revoke any approval granted by it under this Chapter and the regulations made under this Chapter where –

- (a) the person to whom the annual tonnage dues system was granted ceases to be a qualified person;
- (b) the ship to which the annual tonnage dues system was applied ceases to be a qualified ship;
- (c) the shipping activity ceases to be a qualified shipping activity; or
- (d) the qualified ship to which the annual tonnage system was applied is involved in a serious accident solely due to its fault.

(2) Where the Authority revokes its approval under subsection (1) of this Section, the revocation shall be without prejudice to the fees, administrative fines or claims that the person or ship may be liable for under this Act or under any other law, regulation or rule.

SEC. 63. Tonnage Dues Regulations. - (1) The Authority, shall, in so far as it is necessary or expedient, make regulations to give effect to the optional annual tonnage system.

(2) Without prejudice to the generality of subsection (1) of this Section, the regulations may include, but not be limited to, any or all of the following matters -

- (a) the requirements for a person, whether a natural person or corporation, to be qualified for approval under the annual tonnage dues system;
- (b) the requirements for a ship to be qualified for approval under the annual tonnage dues system; and
- (c) the requirements for the shipping activities (of the qualified person and the qualified ship) to be qualified for approval under the annual tonnage system.

(3) All tonnage dues shall accrue to the Authority.

PART 9 - Cancellation of Philippine Registry

SEC. 64. Grounds for Cancellation of Philippine Registry. (1) In any of the following cases, the registration of a Philippine ship shall be cancelled from the Philippine Register of Ships and the Certificate of Philippine Registry revoked -

- (a) if such certificate was illegally or fraudulently obtained;
- (b) if the ship is sold, transferred and/or assigned to an unqualified person to register ships in the Philippines as may be determined by the Authority or as provided under this Chapter;
- (c) if the ship is sold, transferred or assigned and the appropriate application has been made for change of ownership;
- (d) if the ship is sold by the order of the Court;
- (e) if the ship is sold for scrapping or determined by the Authority to be unsafe and unseaworthy beyond repair;
- (f) if the bareboat charter of the ship under Section 7 has expired or has been cancelled or terminated for any reason, in which case the cancellation from the register of ships and revocation of the Certificate of Philippine Registry shall automatically take place; or
- (g) if the ship has been declared lost or missing upon a period of time as determined by the Authority.

(2) For the purposes of subsection 1(1)(g) of this Section, it is the duty of the owner, master, or agent of a ship registered in the Philippines, having reasons to believe that it is lost or missing, to -

- (a) send promptly a written notice, under oath, to the Authority giving advice of such loss and the probable cause therefore, stating the name of the ship and the name of all persons on board, as far as the same can be ascertained; and
- (b) furnish upon request of the Authority such additional information as may be required by the Authority; and such notice of loss shall be duly noted in the register of ships and all persons having any claim or interest in the ship shall be duly notified.

PART 10 - Ship Registration Regulations and Administrative Fines

SEC. 65. Ship Registration Regulations. - (1) The Authority shall by regulations, in so far as it is necessary or expedient, make provision for the registration of ships as Philippine-registered ships.

(2) Without prejudice to the generality of subsection (1) of this Section, the regulations may include, but not be limited to, any of the following matters -

- (a) the persons by whom and the manner in which applications in connection with registration are to be made;
- (b) the information and evidence to be provided in connection with such applications and such supplementary information or evidence as may be required by the Authority;
- (c) the issue of certificates (including provisional and temporary certificates) of registration, their production and surrender;
- (d) restricting and regulating the names of ships registered or to be registered;
- (e) the marking of ships registered or to be registered, including marks for identifying the port to which a ship is to be treated as belonging;
- (f) the period for which registration is to remain effective without renewal;
- (g) the extent of crewing by citizens of the Philippines or persons domiciled or lawfully in permanent residence in the Philippines in Section 3(f);
- (h) the survey and inspection of ships registered or to be registered and the recording of their tonnage as ascertained (or re-ascertained) under the tonnage regulations;
- (i) the refusal, suspension and termination of registration in specified circumstances;
- (j) matters arising out of the expiration, suspension or termination of registration (including the removal of marks and the cancellation of certificates);
- (k) the determination and charging of fees in connection with registration of registered ships;
- (l) the transfer of the registration of ships to and from the register from and to registers or corresponding records in states other than the Philippines;
- (m) the inspection of the register;
- (n) the granting of exemptions or dispensations by the Authority from specified requirements of the regulations, subject to conditions (if any); and
- (o) the making of such transitional, incidental or supplementary provision as appears to the Authority to be necessary or expedient.

SEC. 66. Administrative Fines .- (1) Any person who, in relation to any matter relevant to the Philippine registration of a ship -

- (a) makes a statement which he or she knows to be false or recklessly makes a statement which is false; or
- (b) furnishes information which is false, shall on conviction by the Authority be held liable to an administrative fine.

(2) If at any time there occurs, in relation to a Philippine-registered ship, any change affecting the Philippine registration of the ship the owner of the ship shall, as soon as practicable after the change occurs, notify the Authority of that change; and if he or she fails to do so he or she shall on conviction by the Authority be held liable to an administrative fine.

(3) Any person who intentionally alters, suppresses, conceals or destroys a document that contains information relating to the Philippine registration of a ship and which he or she has been required to produce to the Authority, shall on conviction by the Authority, be held liable to an administrative fine.

(4) A person convicted by the Authority under this Section may be held liable to an administrative fine of not less than Ten thousand pesos (P10,000.00) but not exceeding One hundred thousand pesos (P100,000.00).

CHAPTER 5. - SHIP MORTGAGES AND MARITIME LIENS

PART 1 - Maritime Liens

SEC. 67. Claims Secured by Maritime Liens – (1) Only the following claims and in the following rank give right to a maritime lien attaching on the ship and the freight:

- (a) Legal costs incurred in the common interest of the creditors, dues and charges to which the ship is subject, the taxes relevant to the navigation as well as the expenses for the ship's custody and maintenance as from the ship's arrival to the last port;
- (b) Claims arising from the contract of employment of Master and crew.
- (c) Expenses and awards arising from maritime assistance and salvage; and
- (d) Indemnities due to ships, passengers or cargo by reason of maritime incident.

(2) A ship can still be charged with a maritime lien although she has become derelict or has been reduced to a wreck.

SEC. 68. Priority Between Maritime Liens. - (1) Maritime liens rank in priority over the claim of hypothecation.

(2) Maritime liens set out in Section 3(1) shall rank in the order listed, provided however that maritime liens securing claims for reward for the salvage of the ship shall take priority over all other maritime liens which have attached to the ship prior to the time when the operations giving rise to the said liens were performed.

SEC. 69. Nature of Maritime Liens. - (1) Maritime liens shall arise whether the claims secured by such liens are against the owner or against the demise charterer.

(2) Maritime liens, whether original, assigned or subrogated, shall follow the ship notwithstanding any change of ownership or of registration.

SEC. 70. Assignment or Subrogation .- (1)The assignment of or subrogation to a claim secured by a maritime lien shall entail the simultaneous assignment of or subrogation to such maritime lien;

(2) Claimants holding maritime liens may not be subrogated to the compensation payable to the owner of the ship under an insurance contract.

SEC. 71. Extinction of Maritime Liens. - (1) Maritime liens shall be extinguished after a period of three (3) years from the time when the claims secured thereby arose unless, prior to the expiry of such period, the ship has been arrested, such arrest leading to a forced sale or the provision of a satisfactory security for the release of such ship from arrest.

(2) The three-year (3) period referred to in paragraph 1 shall commence:

- (a) With respect to the maritime lien set out in Section 3, sub-paragraph b, upon the claimant's discharge from the ship;
- (b) With respect to the maritime liens set out in Section 3 , paragraph 1 (a), (c) and (d) when the claims secured thereby arise; and shall not be subject to suspension or interruption: *Provided, however, That time shall not run during the period that the arrest or seizure of the ship is not permitted by law.*

PART 2 – Ship Mortgages

SEC. 72. Application. – The provisions of this Chapter shall apply to every mortgage wherever executed which shall, moreover, be subject to Philippine laws notwithstanding any agreement to the contrary in respect of:

- (a) a ship which is registered in the Philippines; or
- (b) a ship which is under construction in the Philippines.

SEC. 73. Subject of the Mortgage. – Subject to the terms of the mortgage contract:

- (a) a mortgage in respect of a ship shall include all the properties of the mortgagor which is appropriated to the ship and on board at the time when the mortgage contract is entered into, or which is later substituted for such property; and
- (b) a mortgage in respect of a ship under construction shall include all materials, machinery and equipment in the possession of the mortgagor which are within the premises of the builder's yard and distinctly identified as intended to be incorporated in the ship under construction.

SEC. 74. Formal Validity. – A mortgage shall not be valid, except as between the parties, unless it is

- (a) made by or with the consent of the owner of the ship under construction;

(b) made in writing and signed by the mortgagor and mortgagee; and

(c) registered in accordance with Section 11 of this Act.

SEC. 75. Registration of Mortgages – (1) Every mortgage covering a Philippine-registered ship or one which is under construction shall be duly registered in the Authority in order to be valid and enforceable. The application for the registration of the mortgage hereunder shall be accompanied by the following:

(a) An authenticated copy of the mortgage contract or other similar instrument.

(b) Such forms as the Authority, hereinafter referred to as the Administration, shall prescribe, signed by the mortgagor and setting out the following:

- i. the name or description of the ship being mortgaged;
- ii. the name, nationality and place of residence of the owner of the ship;
- iii. the name of each mortgagor and each mortgagee;
- iv. the interest of the mortgagor in the ship being mortgaged;
- v. the date of the mortgage contract;
- vi. the extent of the mortgage as specified in the mortgage contract; and
- vii. the maturity date of the mortgage and the conditions specified in the mortgage contract relating to the termination of the mortgage debt.

(c) In the case of a ship under construction, a declaration stating:

- i. The name and location of the construction yard;
- ii. The intended port of registration;
- iii. The yard number; and
- iv. The dimensions and approximate deadweight of the ship on completion.

(d) No second or third priority mortgages should be recorded without the consent of the prior mortgagee.

If the mortgage is transferred or materially amended as to any of the particulars in paragraphs (2) and (3) hereof, or if one mortgage is substituted for another, the transfer, amendment or substitution shall be registered in the Authority in the same manner as above provided. Any transfer, amendment or substitution which are not registered as aforesaid shall be invalid and unenforceable.

(e) It is prohibited to change the port of registration or the name of a hypothecated ship without the written consent of the creditors who have the hypothecation of the ship.

- (f) Registration of the mortgages under the provisions of this Act shall be exempt from payment of the documentary stamps tax under the appropriate provisions of the law.

SEC. 76. Preliminary Registration. – Application for registration of a mortgage on a Philippine-registered ship may be filed through a Philippine foreign service officer which shall transmit such application to the Authority which in the absence of any legal impediment, communicate to the Consul the authorization to issue a Preliminary Registration Certificate indicating date and time of entry into the register. The preliminary registration shall be valid for a period of six (6) months during which the original mortgage contract should be forwarded to the Authority for permanent registration.

SEC. 77. Annotation of Mortgages. – (1) The Authority shall, at the request of the mortgagee or his authorized agent, cause the annotation upon the Certificate of Philippine Registry of the Ship subject to the mortgage the matters set out in Section 11 of this Act.

(2) If the ship, in respect of which a mortgage has been made, holds only a Provisional Certificate of Philippine Registry and is abroad at the time of the registration of mortgage, the annotation shall be made by such consular officer of the Republic of the Philippines as the Authority shall direct.

(3) If a new certificate or full certificate is issued to a ship by the Authority, any annotation upon the old or provisional certificate of a mortgage, which remains undischarged at the time of the issuance of the new or full certificate, shall be transferred to and annotated upon such new or full certificate.

SEC. 78. Publication of Mortgage. – (1) The Authority shall, upon the registration of mortgage, issue two (2) official copies of the relevant entry in the Record of Transfers and Encumbrances of Ships relating to the mortgage which has been registered, to the mortgagor named in the application. Each official copy of the entry shall bear the official date of the registration of the mortgage.

(2) The mortgagor shall take all reasonable steps to exhibit in a prominent place on board the ship subject of a mortgage:

(a) At least one of the official copies issued under the first paragraph above;
and

(b) An authenticated copy of the ship's Certificate of Philippine Registry duly containing the annotation of the mortgage.

(3) Failure to exhibit the copies as specified above shall not affect the validity or enforceability of the mortgage.

SEC. 79. Prior and Subsequent Maritime Liens on Mortgaged Ships. – (1) The mortgagor upon the request by the mortgagee before the execution of the mortgage to which they are parties, shall give details in writing to the mortgagee of:

(a) any prior mortgage on the ship which is to be the subject of the mortgage;
and

(b) any maritime lien to which the said ship is subject, which is known to the mortgagor; or

(c) any other obligation or liability upon the ship.

(2) The mortgagor, without the consent of the mortgagee, shall not incur, after the execution of such mortgage and before the mortgagee has had a reasonable time in which to record the mortgage and have indorsements in respect thereto made upon the documents of the ships, any contractual obligation creating a lien upon the ship other than a lien for wages of the crew of the ship, or for salvage, including contract salvage, in respect to the ship, tonnage dues and all other charges not to exceed One Hundred Thousand Pesos (Php100,000.00) of the Philippine government in respect to the ship, in an amount not to exceed that which the Authority shall prescribe.

(3) A mortgagor who with intent to defraud, violates the above provisions and if the mortgagor is a corporation or association, the president or the principal executive officer of the corporation or association shall be punished by a fine of not more than Five Hundred Thousand Pesos (Php500,000.00) or imprisonment of not more than two years, or both. The mortgage indebtedness shall thereupon become due and payable at the election of the mortgagee.

SEC. 80. *De-registration of a Ship Subject to a Mortgage* – (1) Except as otherwise provided in this Act, a Philippine registered-ship shall not be deregistered:

(a) unless all registered mortgages, hypothèques or charges are previously deleted; or

(b) the written consent of all holders of such mortgages, hypothèques or liens is obtained.

(2) Where the deregistration of a ship from the Philippine Register of Ships is obligatory in accordance with existing laws and rules and regulations, other than as a result of voluntary sale, the holders of registered mortgages, hypothèques or liens shall be certified of the ending deregistration

(3) No deregistration pursuant to paragraph 2 above shall be effected earlier than three months after the notice to holders had been made.

PART 3 – Enforcement of Maritime Liens and Mortgages

SEC. 81. *Enforcement of a Maritime Lien* – (1) A person having a marine lien under Section 3 hereof may enforce that maritime lien by bringing a proceeding in rem against the ship to which the maritime lien attaches before the court having jurisdiction over the latter, within three (3) years from the time when the claims secured thereby arose. The person bringing such proceedings shall be entitled to apply to the court ex parte for an order for the arrest of the ship subject to the maritime lien.

(2) The court, once the ship subject of the maritime lien has been arrested pursuant to the court's order, shall make an order for the forced sale of the ship: provided, that, the provisions of this Act on the enforcement of ship mortgage shall be followed.

(3) The provisions of this Act on the enforcement of mortgage shall likewise apply in cases involving enforcement of maritime liens in relation to the arrest of a ship subject to the lien: Provided, That when reference is made to the maritime lien

which is being enforced, the debtor or mortgagor and the creditor or mortgagee shall be, the owner of the ship and the lien holder, respectively.

SEC. 82. *Foreclosure, Jurisdiction and Procedure.* – (1) A mortgagee shall be entitled to foreclose on the security represented by the ship under a mortgage if:

- (a) The mortgagor defaults in the discharge of the indebtedness or other obligation secured by the mortgage;
- (b) The mortgagor or any person in possession of the mortgaged property substantially prejudiced the security of the mortgagee by any act of omission; or
- (c) The mortgagor commits any breach of the mortgage contract which, by the terms of the contract entitles the mortgagee to foreclose on the security.

(2) The foreclosure on the security under the mortgage contract in the circumstances referred to in paragraph 1 hereof may be effected by a suit in rem in admiralty where the ship itself may be made a party defendant and be arrested in the manner as provided in Section 20 in order to:

- (a) caused the forced sale of the ships in accordance with this Act; or
- (b) assume management of the ships (in the case of preferred mortgage); or
- (c) in any other manner permitted by the mortgage contract.

(3) Original jurisdiction of all suits granted to Regional Trial Court.

(4) Upon the commencement of any such suit, the mortgagee shall, in such manner as the court may direct:

- (a) give notice by publication;
- (b) give actual notice to the master, other ranking officer of the ship and any person who has recorded a notice of claim of an undischarged lien upon the ship unless after search by the mortgagee satisfactory to the court, such mortgagor, master or other ranking officer or claimant is not found within the Philippines.

(5) Failure to give notice to any such person, as required by this Section, shall not constitute a jurisdictional defect; but the mortgagee shall be liable to such person for damages in the amount of his interest in the ship terminated by the suit.

SEC. 83. *Enforcement of Mortgage in Foreign Country.* – The lien of a preferred mortgage may also be enforced by a suit in rem in admiralty or otherwise in any foreign country in which the ship shall be found, pursuant to the procedure of said country for the enforcement of ship mortgages constituting maritime liens on ships documented under the laws of said country.

SEC. 84. *Arrest Leading to Forced Sale.* – (1) A mortgagee entitled to enforce his mortgage may bring proceedings in rem against the ship, which is the subject of a mortgage before the court having jurisdiction over the ship, within three years from the time when the grounds, which entitle the mortgagee to

enforce the mortgage, arose. The mortgagee shall be entitled in such proceedings to apply to the court *ex parte* for an order for the arrest of the mortgaged ship.

(2) A mortgagee who applies to the court for an order to arrest shall file, in support for his claim, an affidavit stating the circumstances upon which the mortgagee relies as entitling him to enforce the mortgage. If the affidavit establishes this to the satisfaction of the court, the court shall make an order for the arrest of mortgaged ship.

(3) The court shall require the mortgagee applying for an order to provide a guarantee or other security in a form satisfactory to the court as a pre-condition for the issuance of the order sought. The guarantee or security shall be for such sum as the court considers appropriate considering the amount of the mortgage debt being enforced *vis-à-vis* the value of the ship sought to be arrested as well as the damage that may result due to the arrest of the ship.

(4) The mortgagor or any person authorized to act on his behalf or any other person interested in the ship may, at any time after the order of arrest has been granted, apply to the court for an order releasing the ship from arrest. The Court shall not order the release of the ship under this paragraph unless the mortgagor provides a counter-guarantee or security in an amount equivalent to the value of the claim to secure the payment of any judgment that the creditor may recover in the action.

(5) Subject to paragraph (4), the court, once the mortgaged ship has been arrested pursuant to the court's order, shall upon application by the mortgagee, make an order for its forced sale in accordance with this Act.

(6) Where on an application, the mortgagor satisfies the court that the order of arrest was improperly and irregularly made, the court shall order the release of the ship and notwithstanding paragraph (4) shall not require the provision of a counter-guarantee or security.

(7) The Supreme Court, pursuant to this Act, shall provide for the regulation and the procedure to be applied in respect of applications for the arrest and forced sale of the ship under this section, in particular:

- (a) the procedure in relation to the *ex parte* application;
- (b) the procedure in relation to the provision of a guarantee or security, or of a counter-guarantee or security;
- (c) the procedure for the application for the release of a ship from arrest;
- (d) the procedure for application for a forced sale.

(8) After the entry of compulsory arrest on the ship, any registration of hypothecation is null and void.

SEC. 85. Notice of Forced Sale.- (1) After ordering a forced sale, under Section 20 of this Act, and prior to the forced sale of a ship, the Court shall give or cause to be given, fifteen (15) days written notice of the time and place of such forced sale to:

- (a) The Authority;

- (b) All holders of registered mortgages;
- (c) Such holders of maritime liens by virtue of this Act whose claims have been notified to the court;
- (d) All other persons having an interest in the ship which interest has been notified to the court; and
- (e) The registered owner of the ship.

(2) The notice specified in paragraph 1 of this Section shall be given either by registered mail, or by any electronic or other appropriate means which provide confirmation of receipt, to the persons interested as in paragraph 1, if known. In addition, the notice shall be published in a newspaper of a general circulation once a week for three consecutive weeks, immediately prior to the date of the sale.

PART 4 – Rights of Retention

SEC. 86. *Rights of Retention.* – (1) The following persons, when in possession of a ship or one which is under construction, shall have the right to retain possession of the same, as follows:

- (a) a shipbuilder, to secure claims arising out of the construction of, or other work carried out in relation to the ship; and
- (b) a ship repairer, to secure claims arising out of the repair, or other work carried out in relation to the ship, effected during such possession.

(2) The right of retention shall be extinguished when:

- (a) the claim, in respect of which the said right has been exercised, is met or is otherwise discharged, in accordance with the provisions of the New Civil Act on the extinguishment of obligations;
- (b) the ship ceases to be in the possession of the shipbuilder or ship repairer as the case may be; or
- (c) the court issues an order that the ship is to be released.

Part 5 – Forced Sale

SEC. 87. *Effect of the Forced Sale of Ship.* – (1) In the event of the forced sale of the ship, all mortgages except those assumed by the purchaser with the consent of the holders, and all liens and other encumbrances of whatsoever nature, shall cease to attach to the ship but shall be transferred and shall attach to the proceeds of sale: Provided, That:

- (a) at the time of sale, the ship is within the jurisdiction of the Philippines; and

(b) the sale has been effected in accordance with the law of the Philippines.

Any charter party or contract for the use of the ship, in existence at the time of the forced sale, shall be deemed to be terminated, without prejudice to any claim the charterer may have against the owner of the ship, at the time of the sale.

(2) The costs and expenses arising out of the arrest or seizure and subsequent sale of the ship shall be paid first out of the proceeds of sale. Such costs and expenses include, inter alia, the costs for the upkeep of the ship and the crew, as well as wages, other sums and costs referred to in Section 3 paragraph 1(b), incurred from the time of arrest or seizure. The balance of the proceeds shall be distributed in accordance with the provisions of this Act, to the extent necessary to satisfy the respective claims. Upon satisfaction of all claimants, the residue of the proceeds, if any, shall be paid to the owner and it shall be freely transferable.

(3) In the event of the forced sale of a stranded or sunken ship following its removal by a public authority in the interest of safe navigation or the protection of the marine environment, the costs of such removal shall be paid out of the proceeds of the sale, before all other claims secured by a maritime lien on the ship.

(4) If at the time of the forced sale the ship is in the possession of a shipbuilder or of a ship repairer who, under this Act, enjoys a right of retention, such shipbuilder or ship repairer must surrender possession of the ship to the purchaser but is entitled to obtain satisfaction of his claim out of the proceeds of sale after the satisfaction of the claims of holders of maritime liens mentioned in Section 3.

(5) When a ship registered in the Philippines has been the object of a forced sale in the Philippines, the court having jurisdiction shall, at the written request of the purchaser, issue a certificate to the effect that the ship is sold free of all mortgages, all maritime liens and other encumbrances, except those assumed by the purchaser. Upon production of such certificate, the registrar shall be bound to delete all registered mortgages, "hypotheques" or charges, and to register the ship in the name of the purchaser or to issue a certificate of deregistration for the purpose of new registration, as the case may be.

SEC. 88. Priority Between Kinds of Claim. – (1) Claims in relation to maritime liens, rights of retention and mortgages under this Act shall rank in the following order:

- (a) maritime liens
- (b) mortgages registered in accordance with this Act;
- (c) rights of retention; and
- (d) other mortgages.

(2) The claims referred to in paragraphs (a), (b) and (c) of paragraph (1) of this Section shall rank before all other claims on, or respect of, the ship or one under construction to which they relate.

**PART 6 – Maritime Liens and Mortgages in Respect of Claims
Governed by Foreign Law**

SEC. 89. *Maritime Liens in Respect of Claims Governed by Foreign Law.* –

(1) A claim against the owner or, against the demise or other charterer, manager or operator of a ship being a claim which is governed by the laws of a state other than the Philippines and which is recognized by the law as giving rise to a maritime lien, or right of a similar nature shall be recognized by and enforceable in a court of the Philippines in the same manner as the claims set out under this Act.

(2) A claim referred to in paragraph (1) shall not be recognized or enforced by any court in the Philippines unless, according to the laws of the Philippines, that claim constitutes or corresponds substantially to a claim set out under this Act.

(3) Where a claim is recognized and enforced by a court in the Philippines, the provisions of this Act in relation to maritime liens, and in particular, concerning priority, the ranking of liens between themselves and enforcement, shall apply to such a claim as they apply to claims governed by the laws of the Philippines.

SEC. 90. *Foreign Mortgages.* – (1) A foreign mortgage shall be recognized and enforceable in a court of the Philippines: Provided That:

- (a) Such mortgage has been effected and registered or otherwise recorded as valid and existing in accordance with the laws of the state where the ship is registered;
- (b) the registry in which the mortgage is registered or recorded and any instrument or documents which are required to be deposited with the registry in accordance with the laws of the state where the ship is registered, are open to public inspection, and that extracts of the register and copies of such instruments are obtainable from the registrar; and
- (c) either the register or any instrument referred to in paragraph (b) above specifies:
 - (i) the name and address of the person in whose favor the mortgage has been effected or that it has been issued to bearer;
 - (ii) either the amount secured by the mortgage or the manner of calculating such amount;
 - (iii) the date of the mortgage; and
 - (iv) such other particulars which, according to the laws of the state where the ship is registered, determined the rank as regards other registered or recorded mortgages.

(2) The ranking of registered or recorded mortgages as between themselves and their effect with regard to third parties shall be determined according to the laws of the state where the ship is registered.

(3) All matters other than ranking of mortgages relating to the procedure for the enforcement of a foreign mortgage in the Philippines shall be governed by the existing and pertinent laws of the Philippines and the provisions of this Act: Provided, That, mortgages on ships registered in the Philippines pursuant to a bareboat charter agreement but executed prior to such registration may or may not be governed by the laws of the Philippines.

CHAPTER 6. – SAFETY OF SHIPS

Part 1 - Safety Regulations

SEC. 91. Coverage. - All Philippine-registered ships shall be classed by a classification society or by the Authority as seaworthy and shall be covered by the safety provisions of this Chapter and such rules or regulations that the Authority may prescribe.

SEC. 92. Formulation of Safety Standards. Without prejudice to the generality of subsection (1) hereof, the Authority shall prescribe regulations which shall include, but not be limited to, any of the following matters -

- (a) the design, construction, maintenance, repair, alteration, recycling of ships;
- (b) the tonnage measurement of ships;
- (c) the surveying, inspection and marking of ships and their machinery and equipment;
- (d) the safety requirements and the issuance of safety certificates in respect of any ship or class of ship;
- (e) the survey and determination of load lines, including conditions of assignment of freeboard, specifying zones, areas and seasonal periods, and the different descriptions of ships, different areas, different seasons of the year or any other different circumstances;
- (f) the packaging, marking, loading, placing, moving, inspection, testing and measuring of cargo, cargo stowage, cargo securing procedures and anything on a ship which is not cargo, machinery or equipment;
- (g) the carrying out of any operation involving a ship;
- (h) the use of the machinery and equipment of a ship and of anything on a ship which is not cargo, machinery or equipment;
- (i) the crewing complement of ships, including the employment of persons qualified to attend to the health and safety of persons on board ships;
- (j) the arrangements for ensuring communication between persons in different parts of a ship and between persons in the ship and other persons and radio communication stations;
- (k) the arrangement for ensuring ship-to-shore and ship-to-ship communication including persons with disability;

- (l) the access to ingress and egress from different parts of the ship, of persons of any description;
- (m) the ventilation, temperature and lighting of confined space;
- (n) the integrity of submersible and supporting apparatus including all life-saving appliances;
- (o) the steps to be taken to prevent or control noise, vibration and radiation in and from a ship and the emission of smoke, gas and dust;
- (p) the steps to be taken to prevent, detect and deal with outbreaks of fire on a ship;
- (q) the steps to be taken to prevent collision;
- (r) the steps to be taken, in a case where a ship is in distress or stranded or wrecked, for the purpose of saving the ship and its machinery, equipment and cargo and the lives of persons on board ship, including those to be taken by other persons giving assistance in such a case;
- (s) the removal, by jettisoning or otherwise, of equipment and of other things from a ship for the purpose of avoiding, removing or reducing danger to persons or property;
- (t) the steps to be taken, in a case where danger of any kind occurs or is suspected on a ship, for removing or reducing the danger and for warning persons who are not on the ship of the danger or suspected danger;
- (u) the making of records and the keeping of documents relating to ships and the keeping and use on a ship of information to facilitate the navigation including updated charts and electronic charts display of information system;
- (v) the keeping of registers and the issue of certificates;
- (w) the manner and frequency of survey and inspection of ships and the issue, suspension, cancellation, extension and period of validity of certificates or exemption certificates and the recognition of certificates and exemption certificates issued by or under the authority of another state;
- (x) such incidental, supplemental and transitional provisions as the Authority considers appropriate;
- (y) reportorial requirements; and
- (z) the implementation of an international agreement ratified by the Philippines relating to safety, security of the ships, prevention of pollution from ships or the safety, security and health of persons on board ships;

SEC. 93. Safety Management System – All shipowners of Philippine-registered ships shall implement a quality management system in accordance with the *International Safety Management (ISM) Code*, as prescribed by the Authority, and shall be regularly audited by the Authority or its recognized entities to ensure

that safety systems are fully comprehended and implemented by their management.

PART 2 – Marine Insurance

SEC. 94. *Protection and Indemnity Cover and Its Equivalent.* All Philippine-registered ships 500 gross tons and above shall secure Protection and Indemnity Cover, or its equivalent, as prescribed by the Authority, for liabilities arising from:

- (a) Wreck removal;
- (b) Loss of life, illness and personal injury (passenger/third parties/seafarers);
- (c) Collisions; and
- (d) Damage to fixed and floating objects/facilities

PART 3 - Construction of Ship

SEC. 95. *Approval for Construction.* - Ships to be registered under Philippine flag must comply with the Rules for the Construction of Ships as prescribed by the Authority. For this purpose, the ships' plan shall be submitted to the Authority for evaluation and approval prior to construction.

SEC. 96. *Alteration and Modification of Ships.* - In order to preserve the original stability of the ship, alteration and modification of ships whether locally acquired or imported shall be allowed provided that the ship is classed by an international classification society or by The Maritime Safety Society-Philippine Government (MSS-PG) as provided for in this Act, or any classification society accredited or recognized by the Authority.

PART 4 - Ship Survey and Inspection

SEC. 97. *Survey or Inspection of Philippine Registered Ships.* - Every Philippine ship, unless exempted by the Authority, shall be surveyed or inspected in accordance with the schedule as prescribed by the Authority.

SEC. 98. *Safety Certificates of Ships.* – (1) All Philippine-registered ship shall be covered by the relevant and valid safety certificates issued by the Authority.

(2) The Authority shall suspend, withdraw or cancel such certificates on any of the following instances:

- (a) when the ship ceases to be a Philippine-registered ship;
- (b) when the ship is involved in marine casualty;
- (c) when the ship fails to comply with the conditions of the certificates for which they were issued;
- (d) the condition of the ship, its machinery, or its equipment:

- (i) main or auxiliary engine not properly running;
- (ii) the hull is deteriorated;
- (iii) inadequate or defective navigational equipment;
- (iv) insufficient provision of life saving and fire fighting equipment;
- (e) improper or inadequate crewing compliment;
- (f) overloading or unsafe or improper loading;
- (g) any other matter that is likely to make the ship dangerously unsafe; and
- (h) the ship is found to have been employed in the commission of a crime.

PART 5 - Creation Of The Maritime Safety Society – Philippine Government (MSS-PG)

SEC. 99. *Creation of the Maritime Safety Society – Philippine Government.* The Maritime Safety Society - Philippine Government (MSS-PG) is hereby created as a unit of the Authority mandated to class, survey/inspect and audit all Philippine-registered ships in the domestic trade, regardless of size.

SEC. 100. *Purposes and Objectives of the Society.* The Society shall have the following purposes and objectives:

- (a) To provide for the conduct of class, survey, inspection, audit and general structural evaluation of all Philippine-registered ships to include, but not limited to, mobile offshore unit/installations, floating drydock facilities, cable and pipe-laying crafts, floating power barges, passenger and/or cargo vessels.;
- (b) To administer, establish and/or conduct, on its own, or in coordination with other competent agencies training program for the continued enhancement/upgrading of the technical skills and capabilities of maritime surveyors;

PART 6 - Navigational Dangers

SEC. 101. *Duty to Report Navigation Dangers.* - (1) The master of any Philippine ship, on meeting with any of the dangers to navigation specified in subsection (2) of this Section, shall send information of such danger, by any means of communication at his or her disposal, to all ships in the vicinity indicating the nature of the danger, its location and such other information as may be necessary to enable the ship to assess the situation and take the necessary course of action.

(2) The dangers to navigation referred to in subsection (1) of this Section, are -

- (a) a dangerous derelict;
- (b) a tropical storm;

(c) winds of force ten (10) or above on the Beaufort Scale for which no storm warning has been received; or

(d) any other analogous circumstances.

(3) Regulations for the purposes of this Section shall be developed by the Authority.

(4) A master of a ship who fails to comply with the provisions of this Section shall be held liable to an administrative fine of not less than Ten Thousand pesos (P10,000.00.)

SEC. 102. Automatic Adjustment of Penalties and Fines – The fines prescribed in this Act shall be automatically increased by ten per cent (10%) every three (3) years from the effectivity of this Act.

PART 7 – Carriage of Dangerous Goods

SEC. 103. Labeling of Dangerous Goods.- (1) Dangerous goods shall not be carried on board unless it is properly packed and marked in accordance with the International Maritime Dangerous Goods (IMDG) Act.

(2) The master or owner of any ship may refuse to take on board any package or parcel which he or she suspects to contain any dangerous goods, and may require it to be opened to ascertain the fact.

(3) When any dangerous goods, or any goods which, in the judgment of the master or owner of the ship, are dangerous, have been loaded on board ship without the marking or the notice required by subsection (2) hereof, the master or owner of the ship may cause the goods, together with any packaging or container thereof, to be unloaded immediately or at the next port of call when the ship is on voyage. Neither the master nor the owner of the ship shall be subject to any liability, civil or criminal, in any court in respect thereof.

(4) Where any dangerous goods have been sent or carried, or attempted to be sent or carried, on board a ship -

(a) without being marked as required by safety regulations;

(b) without such notice having been given as is required by safety regulations;

(c) under a false description; or

(d) with a false description of their sender or carrier;

the competent court may declare the goods, and any package or receptacle in which they are contained, to be forfeited.

(5) On a declaration of forfeiture being made, the goods shall be forfeited and they shall be disposed of as the competent court directs.

(6) The competent court may exercise the powers conferred by subsections (4) and (5) hereof, notwithstanding-

(a) that the owner of the goods concerned has not committed any violation in respect of the goods, or is not before the competent court, or has no notice of the proceedings; or

(b) that there is no evidence to show to whom the goods belong, but the competent court may, in its discretion, require such notice as it may direct to be given to the owner or shipper of the goods before they are forfeited.

(7) The Authority may make regulations and rules in so far as they are necessary or expedient for the purpose of this Section.

SEC. 104. *Duty to Carry Charts and other Information.*- (1) All Philippine-registered ships shall carry copies of the charts, directions or information as prescribed by the Authority.

(2) If a ship goes to sea without carrying copies of the charts, directions or information that it is required to carry by regulations made by the Authority under this Section, the master and owner shall be liable to an administrative fine of not less than Ten Thousand pesos (P10,000.00).

SEC. 105. *Automatic Adjustment of Penalties and Fines* – The fines prescribed in this Act shall be automatically increased by ten per cent (10%) every three (3) years from the effectivity of this Act.

PART 8 - International Safety Conventions

SEC. 106. *Implementation of International Safety Conventions.*- With regard to the international conventions, protocols and resolutions in subsection (2) of this Section, the Authority shall:

(a) give full and complete effect to the international obligations of the Philippines; and

(b) ensure that the international conventions, protocols and resolutions are properly disseminated and translated into national law

CHAPTER 7 - MARINE POLLUTION PREVENTION

SEC. 107. *Coverage.* (1) All Philippine-registered ships, except warships and naval auxiliary ships, shall be subject to the rules and regulations governing the prevention of pollution from ships as prescribed by the Authority and consistent with the International Convention on the Prevention of Pollution from Ships (MARPOL) 73/78; Provided, that government ships shall be exempted from the coverage of this Act during emergency response cases; Provided, further that the Authority shall ensure that appropriate measures shall be adopted, not impairing the operational capabilities of such ships, that such ships operates in a manner consistent, so far as reasonable and practicable with this Act.

(2) All ships operating within the territorial waters or Exclusive Economic Zone of the Philippines shall likewise be covered by the provisions of this Act.

PART 1 – Prevention of Pollution from Ships Regulations

SEC. 108. Formulation of Pollution Prevention Regulations and Standards.

Without prejudice to the generality of Section 1 hereof, the Authority shall for, all Philippine-registered ships:

- (a) formulate guidelines for approval of ships' plans for installation of any fitting, material, appliance or apparatus deemed appropriate and effective for the prevention of any discharge of pollutant to be fitted in a ship;
- (b) review and revise, where appropriate, existing system of certification, survey, inspection and monitoring of ships, including registration of fixed, floating and drilling rigs and other platforms, with respect to pollution prevention;
- (c) survey and accordingly issue the certificate as to the ship's structure, equipment, fittings, arrangements and materials in compliance with the requirements and guidelines for purposes of preventing pollution from ships;
- (d) modify, suspend or revoke at any time, any certificate it may have issued to a ship upon finding that the ship failed to comply with the requirements of the rules and regulations issued in pursuance of this Act;
- (e) recommend detention of ships;
- (f) hear and adjudicate any violation of rules and regulations of the Authority issued in pursuance of the Act;
- (g) impose such fines and penalties based on causes as may be prescribed by the Authority;
- (h) impose, fix, collect and receive such fees necessary for the survey and certification of ships pursuant to this Act, provided that such fees shall be imposed and collected;
- (i) issue such rules and regulations necessary to implement the provisions of this Act;
- (j) provide its officers and personnel with adequate training and continuing education to ensure an efficient and professional pollution regulatory machinery;
- (k) exercise such powers and perform such other functions as may be necessary to carry out its duties and responsibilities under this Act.

SEC. 109. Reception facilities. All Philippine-registered ships shall comply with the requirements on the use of reception facilities for wastes from ships provided by the Port Authorities.

SEC. 110. Shipboard Garbage Management System. – All Philippine-registered ships shall adopt and implement a shipboard management system to ensure that oil residues, sewage and solid wastes are properly disposed of in accordance with the regulations prescribed by the Authority.

SEC. 111. *Duty to Make Immediate Report of an Accident.* Whenever an accident occurs to a ship or a defect is discovered which substantially affects the integrity of the ship or the efficiency or completeness of its equipment, the master or the owner of a Philippine-registered ship shall report such incident to the Authority and the Philippine Coast Guard; in the case of a foreign-registered ship in Philippine territory, such incident shall be reported to the port state authority.

SEC. 112. *Obligations of the Shipowner.* – The shipowner is required to:

- (a) Install appropriate devices or facilities on board ships for the storage or processing of waste, such as oil, noxious liquid substances, garbage and sewage, as may be required by regulations pursuant to this Act;
- (b) Comply with the requirements as to the carriage of harmful substances in packaged form as may be required by the regulations issued pursuant to this Act;
- (c) Follow procedures or take action for the prevention of pollution from ships as may be required by regulations issued pursuant to this Act;
- (d) Undertake immediate cleaning operations in the event of oil spill within the country's territorial sea pursuant to applicable laws; and
- (e) Secure adequate marine insurance cover arising from pollution as prescribed by the Authority

PART 2 - Regulation of Oil Pollution

SEC. 113. *Discharge of Oil, Oily Mixture and Oil Residues.* – Any discharge into territorial waters or Exclusive Economic Zone of the Philippines of oil or oily mixture from or out of any ship, vessel, barge or any other floating craft, or other man-made structures at sea, by any method, means or manner, is prohibited, except in the following instances:

- (a) when the discharge is necessary for the purpose of securing the safety of the ship and those on board or saving life at sea; or
- (b) if the discharge into the sea of oil or oily mixture results from damage to ship or its equipment, provided that all reasonable precautions have been taken after the occurrence of the damage or the discovery of the discharge for the purpose of preventing or minimizing the discharge; and except if the owner or the master acted either with intent to cause damage, or recklessly and with knowledge that damage would probably result; or
- (c) if the discharge is for the purpose of combating specific pollution incidents in order to minimize the damage from pollution.

SEC. 114. *Allowable Discharge of Oil.* – The Authority shall issue guidelines on allowable discharge of oil, oily mixture and oil residues and requirements relating to the prevention of pollution by oil from ships including, but not limited to, retention of oil, oily wastes and oil residues or sludge, shipboard oil pollution

emergency plan, unloading arrangements, consistent with the provisions of this Act and in consonance with MARPOL 73/78.

SEC. 115. Discharge of Clean or Segregated Ballast or Unprocessed/Processed Oily Mixtures. – Prohibition provided for in the preceding section shall not apply to the discharge of clean or segregated ballast or unprocessed oily mixtures which without dilution have oil content within the allowable standards under applicable laws and which do not originate from cargo pump-room bilge and are not mixed with oil cargo residues. The prohibition shall not apply when the ship has in operation adequate oil filtering equipment required under this Act.

SEC. 116. On-board Retaining and Discharge to Reception Facility of Oil Residues. – Oil residues prohibited to be discharges from ships under the two immediately preceding sections shall be retained on board and discharged to reception facilities in accordance with this Act.

SEC.117. Oily-water Separating Equipment and Oil Discharge Monitoring and Control System. – For existing ships and ships of less than 400 gross tons, alternative equipment or system approved by the Authority may be provided in lieu of the oily-water separating equipment or unit. All new ships of 400 gross tons and above shall be equipped with efficient oily-water separating equipment or unit, provided, that ships of 10,000 gross tons and above shall be fitted with oil discharge monitoring and control system and oil filtering equipment, in addition to oily-water separating equipment.

SEC. 118. Oil Record Book. – (1) All oil tankers and other passenger-cargo vessels above 400 gross tons shall be provided on board with an Oil Record Book which shall be maintained and updated every after reception or transfer operation of oil on board.

(2) The Authority shall prescribe regulations requiring oil record books to be carried in Philippine-registered ships and requiring the Master of any such ship to record in the oil record book carried by it -

(a) the carrying out, on board or in connection with the ship, of such of the following operations as may be prescribed relating to –

- (i) the loading of oil cargo;
- (ii) the transfer of oil cargo during a voyage;
- (iii) the discharge of oil cargo;
- (iv) the ballasting of oil tanks (whether cargo or bunker fuel tanks) and the discharge of ballast from, and cleaning of, such tanks;
- (v) the separation of oil from water, or from other substances, in any mixture containing oil;
- (vi) the disposal of any oil or water, or any other substance, arising from operations relating to any of the matters specified in (i) to (v) above, or
- (vii) the disposal of any other oil residues;

(b) any occasion on which oil or a mixture containing oil is discharged from the ship for the purpose of securing the safety of any ship, or of preventing damage to any ship or cargo, or of saving life;

(c) any occasion on which oil or a mixture containing oil is found to be escaping, or to have escaped, from the ship in consequence of damage to the ship, or by reason of leakage.

(2) The Authority shall prescribe regulations requiring the keeping of records relating to the transfer of oil to and from Philippine or foreign registered ships while they are within Philippine waters; and the requirements of any regulations made under this subsection shall be in addition to the requirements of any regulations made under subsection (1) of this Section.

(3) Any records required to be kept by regulations made under subsection (2) of this Section shall be kept by the Master of the ship.

(4) If any ship fails to carry such an oil record book as it is required to carry under this Section the owner or master shall on conviction by the Authority be held liable to an administrative fine of not less than Ten Thousand pesos (*P10,000.00*) but not exceeding Fifty Thousand pesos (*P50,000.00*).

SEC. 119. Prohibition of Discharge of Oil from Ships into Philippines Waters.- (1) If any oil or mixture containing oil is discharged as mentioned in the following paragraphs into Philippine waters which are navigable by sea-going ships, then the following persons shall on conviction by the Authority be held liable to an administrative fine -

(a) if the discharge is from a ship, the owner or master of the ship, unless he or she proves that the discharge took place and was caused as mentioned in subsection (1)(b) of this Section;

(b) if the discharge is from a ship but takes place in the course of a transfer of oil to or from another ship or a place on land and is caused by the act or omission of any person in charge of any apparatus in that other ship or that place, the owner or master of that other ship or, as the case may be, the occupier of that place.

(2) Subsection (1) of this Section, does not apply to any discharge which -

(a) is made into the sea; and

(b) is of a kind or is made in circumstances for the time being permitted by any regulations made by the Authority under this Act.

(3) If a person fails to comply with the provisions of this section, he or she shall on conviction by the Authority be held liable to an administrative fine of not less than Twenty Thousand pesos (*P20,000.00*) but not exceeding Two hundred and fifty Thousand pesos (*P250,000.00*).

(4) Where a person is charged with an offense under this Section as the owner or Master of a ship, it shall also be a defense to prove -

(a) that the oil or mixture escaped as a result of damage to the ship, and that as soon as practicable after the damage occurred all reasonable steps were taken for preventing, or (if it could not be prevented) for stopping or reducing, the escape of the oil or mixture; or

(b) that the oil or mixture escaped by reason of leakage, that neither the leakage nor any delay in discovering it was due to any want of reasonable care, and that as soon as practicable after the escape was discovered all reasonable steps were taken for stopping or reducing it.

SEC. 120. *Restrictions on Transfer of Oil at Night.*- (1) No oil shall be transferred between sunset and sunrise to or from a ship in any port in the Philippines unless the required notice has been given in accordance with this Section or the transfer is for the purposes of a fire brigade.

SEC. 121. *Automatic Adjustment of Penalties and Fines* – The fines prescribed in this Act shall be automatically increased by ten per cent (10%) every three (3) years from the effectivity of this Act.

PART 3 - Regulations on Pollution by Noxious and Liquid Substances in Bulk

SEC. 122. – *Discharge of Noxious or Liquid Substances.* Any discharge of noxious liquid substances into the territorial sea or on the bank of territorial sea whether or not the same shall float or be washed into such water is prohibited except in cases provided for under the first paragraph of Section 9 and subject to the conditions provided under this section and the rules and regulations issued by the Authority pursuant to this Act.

SEC. 123. *Cargo Record Book.* – Every Philippine-registered ship must possess a Cargo Record Book in the form specified by the Authority.

PART 4 – Carriage of Harmful Substances in Packaged Form

SEC. 124. *Discharge of Harmful of Substances in Packaged Form.* Any discharge by jettisoning of harmful substances carried in packaged forms, freight containers, portable tanks, or road and rail tank wagons into territorial sea, or on the bank of territorial sea, whether or not the same shall float or be washed into such water is prohibited except in cases provided for under the first paragraph 9.

SEC. 125. – *Carriage of Harmful Substances in Packaged Form.* – The carriage of harmful substances in packaged forms, or in freight containers, portable tanks or road and rail tank wagon is prohibited except in accordance with Republic Act No. 6969 and other applicable laws, rules and regulations. For the purposes of this article, “harmful substances” are those substances which are identified as marine pollutants by the Department of Environment and Natural Resources (DENR) in consonance with international standards.

SEC. 126. *Guidelines for the Identification of Harmful Substances.* For the purposes of this Act, the DENR shall issue guidelines for the identification of harmful substances in packaged form taking into account the following criteria:

- (a) bio-accumulated to a significant extent and known to produce a hazard to aquatic life or to human health;
- (b) bio-accumulated with attendant risk to aquatic organisms or to human health with a short retention of the order of one week or less;
- (c) liable to produce tainting of seafood; and
- (d) highly toxic to aquatic life, defined by a LC50/96 hour less than 1 ppm.

SEC. 127. Packing, marking labelling, documentation, stowage quantity limitations and exceptions. - The Philippine Ports Authority (PPA) shall issue detailed requirements on packing, marking, labelling, documentation, quantity limitations and exceptions for preventing or minimizing pollution of the marine environment by harmful substances from ships. Such packing, marking, labelling, documentation, quantity limitations and exceptions of harmful substances shall be undertaken by the shipper in coordination with the shipping company.

SEC. 128. Washing of Leakage Overboard. – Philippine-registered ships shall conduct the washing of leakage overboard based on appropriate measures as prescribed by the Authority; Provided, that the compliance with such measure would not impair the safety of the ship and persons on board.

PART 5 – Pollution by Sewage and Garbage from Ships

SEC. 129. Discharge of Sewage. – The discharge of sewage into territorial, or on the bank of territorial water, whether or not the same shall be washed into such navigable water, is prohibited, except in the following cases, in addition to exceptions provided for in the first paragraph of Section. 9:

- (a) the sewage escaped from the ship in consequence of unintentional damage to the ship or its equipment, and all reasonable precautions are taken before and after the occurrence of the damage for the purpose of preventing or minimizing the discharge;
- (b) the ship is discharging comminuted and disinfected sewage at a distance of more than four (4) nautical miles from the nearest land, or sewage which is not comminuted or disinfected at a distance of more than twelve (12) nautical miles from the nearest land; Provided, that in any case the sewage that has been stored in holding tanks shall not be discharged instantaneously at a moderate rate when the ship is en route and proceeding at not less than 4 knots; the proper rate of discharge shall be approved by the Authority based on international standards; and
- (c) the ship has in operation an approved sewage treatment plant or alternative arrangements to meet the operational requirements of the Philippine Coast Guard (PCG) and other concerned agencies issued pursuant to this Act and other applicable laws.

SEC. 130. Marine Sewerage Sanitation Devices. All new ships certified to carry more than 50 persons or new ships of 200 tons gross and above shall be provided with marine sewage sanitation devices and sewage treatment plant system in accordance with the rules and guidelines issued by the Department of

Environment and Natural Resources (DENR). For existing ships of 200 gross tons and above, and carrying more than 50 persons, they may utilize and maintain holding tanks unless otherwise disallowed under this Act and subject to the guidelines prescribed by the DENR.

SEC. 131. *Disposal of Garbage.* – Except in cases provided under this Act, the disposal into territorial water, or tributary, or on the bank of territorial and tributary of any navigable water, whether or not the same shall afloat or be washed into such navigable water, of garbage is prohibited. All garbage from ships shall be disposed of to port reception facilities provided by the Port Authorities.

SEC. 132. *Garbage Comminuter and Grinder.* – The disposal into the sea of garbage may be permitted when it has passed through a comminuter or grinder, whenever possible, and made, as far as practicable, from the nearest land.

PART 6 - Air Pollution from Ships

SEC. 133. *Ozone Depleting Substances.* – Any deliberate emission of ozone depleting substances (ODS) shall be prohibited. Deliberate omissions include emissions occurring in the course of maintaining, servicing, repairing or disposing of systems or equipment, except minimal releases associated with the recapture of recycling of an ODS; Provided, that emissions resulting from leaks are likewise prohibited.

SEC. 134. *Setting Allowable Standards.* The Authority shall, in the formulation of regulations to implement this Chapter, take into account the allowable emission standards for ships as may be provided by DENR in consonance with MARPOL 73/78.

PART 7 – Prevention of Pollution from Fixed and Floating Drilling Rigs and other Platforms

SEC. 135. *Applicable Requirements for Offshore Platform.* – Fixed and floating drillings rigs when engaged in the exploration, exploitation and associated offshore processing of seabed mineral resources and other platforms shall comply with the requirements of this Act applicable to ships of 400 gross tons and above other than oil tankers subject to the requirements and guidelines issued by the Authority pursuant to this Act in consonance with MARPOL 73/78.

SEC. 136. *Offshore Platform Discharges of Garbage.* – The disposal of sewage and garbage from fixed and floating drilling rigs referred by the immediately preceding section, and from all other ships when along or within 500 meters of such platforms, is prohibited; Provided, that the disposal into navigable water of food wastes may be permitted when they have been passed through a comminuter or grinder from such platforms located more than 12 nautical miles from the land and all other ships when along or within 500 meters of such platforms in accordance with the rules and regulations issued therefor.

PART 8 – Prohibited Acts and Administrative Sanctions

SEC. 137. Prohibited Acts and Administrative Sanctions. – The Authority, unless otherwise provided in the Act, shall impose fines and penalties on any person of entity found to have committed the acts herein prohibited by this Act, according to the following schedule:

- (a) Discharge of Oil, Noxious or Liquid Substances and other Harmful Substances – Fine not exceeding Ten Million pesos (Php10,000,000.00), without prejudice to the filing of the appropriate criminal cases under applicable laws.
- (b) Dumping of Garbage or Sewage – Fine not exceeding Ten Million pesos (Php 10,000,000.00) without prejudice to the filing of the appropriate criminal cases under applicable laws.
- (c) Carriage of Harmful Substances in Packaged Form - Fine not exceeding Ten Million pesos (Php 10,000,000.00) on either both the shipowner or the owner;
- (d) Absence of Shipboard Garbage Management System – Fine not exceeding One Hundred Thousand pesos (Php100,000.00).
- (e) Unauthorized change in the ship's structure, equipment, fittings, arrangements and materials – Fine not exceeding One Hundred Thousand Pesos (Php100,000.00) to be imposed by the Director General.
- (f) Operating without the required certification- A fine not exceeding One Million pesos (Php 1,000,000.00) to be imposed by the Director General.
- (g) Absence of Oily-water Separating Equipment and Oil Discharge Monitoring System – A fine not exceeding Ten Million pesos (Php10,000,000.00) to be imposed by the Director General.
- (h) Failure to Maintain an Oil Record Book. – A fine not exceeding One hundred Thousand pesos (Php 100,000.00) to be imposed by the Director General.
- (i) Failure to Maintain Cargo Record Book – A fine not exceeding One Hundred Thousand Pesos (Php100,000.00) to be imposed by the Director General.
- (j) Absence of Marine Sewage Sanitation Device or Sewage Treatment Plant System – A fine not exceeding One Million pesos (Php1,000,000.00) to be imposed by the Director General.
- (k) Deliberate emission of Ozone Depleting Substances. – A fine not exceeding Ten Million pesos (Php10,000,000.00).

SEC. 138. Violations of Rules and Regulations – Any person found in violation of rules and regulations issued by Authority shall be liable to the following fines:

- (a) first violation – a fine not to exceed One hundred thousand pesos (Php 100,000.00);

- (b) second violation – a fine more than One Hundred thousand pesos (Php100,000.00) but not to exceed Two hundred thousand pesos (Php200,000.00);
- (c) third violation – a fine of at least Two Hundred Thousand pesos (Php200,000.00) but not to exceed One Million pesos (Php1,000,000.00) and suspension of vessel registration for six (6) months to one (1) year;

SEC. 139. Sanctions on Crew. – The Authority may order the cancellation or revocation of the license or Seaman's Identification and Record Book (SIRB) of any ship captain or crew who has committed more than three violations under this Act.

SEC. 140. Automatic Adjustment of Penalties and Fines – The fines prescribed in this Act shall be automatically increased by ten per cent (10%) every three (3) years from the effectivity of this Act.

PART 9 - Compensation for Pollution Damage

SEC. 141. Incorporation of the 1992 Civil Liability Convention and 1992 Fund Convention. - This Part adopts and implements the provisions of the 1992 International Convention on Civil Liability for Oil Pollution Damage and the 1992 International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage.

CHAPTER 8 – SEAFARERS

PART 1 – Competency, Education And Training Programs

SEC. 142. Competency and Training Programs for Seafarers. - The Authority, in partnership with the private sector, shall ensure that there are adequate competency and training programs to develop and enhance the skills of Filipino seafarers.

SEC. 143. Private Sector Participation in Seafarer Education and Training.- The Authority shall adopt measures to encourage private sector participation in education and training of Filipino seafarers.

SEC. 144. Tripartite Responsibility in Education and Training Development - The development of seafaring education and training shall be the responsibility not only of the State but of the industry stakeholders and academe as well. The Authority shall formulate regulations to give effect to this Section.

SEC. 145. Scholarships and Subsidies. - (1) The Authority shall, within the limits of its resources, establish a system of Philippine government scholarships and subsidies for qualified students in maritime courses and for seafarers seeking further skills and competency enhancement. Recipients of such Philippine government scholarships or subsidies, including but not limited to graduates of the Philippine Merchant Academy and the National Maritime

Polytechnic shall be required to serve onboard Philippine-registered ships, equivalent to one year of service for every two years of education or training funded by such Philippine government scholarship or subsidy. For purposes of this section, six months but less than one year of training shall be considered as one year. Less than six months of training shall merit six months of the required service.

(2) In lieu of the mandatory service, the recipient of the scholarship or subsidy may reimburse the appropriate government agency of the actual amount awarded to the recipient. The reimbursed amounts, under this Section, shall be used by the maritime institution or training center to fund a new scholar, the award of which shall be covered by the same provisions under this Chapter.

SEC. 146. *Alternative Education and Training Systems* - The Authority shall encourage the development and institutionalization of alternative systems in seafarer education and training including but not limited to, distance learning, bridging programs and ladderized competency certification in accordance with international standards.

SEC. 147. *Maritime Faculty Development*. - The Authority, in partnership with the academe and the private sector shall, within the limits of its resources, develop a system of rewards and incentives to encourage highly qualified persons to teach maritime courses in the Philippines and ensure that the Philippines has a pool of qualified and competent maritime educators.

SEC. 148. *Rationalized Certification Systems*. - (1) The Authority shall rationalize seafaring skills and the competencies certification systems in compliance with international standards and conventions. It shall make regulations to harmonize and rationalize examinations, course development and qualification requirements for seafarers.

(2) The Authority shall endeavor to consolidate all seafarer certificates and licenses into one electronic card with a minimal fee, readable by all pertinent government agencies and other domestic and international entities including ports states and coastal states, who may be given full or limited access to the data stored. The Authority shall draft the terms of reference and implementing rules and regulations to effect this provision within one hundred eighty (180) days.

PART 2 - Offenses.

SEC. 149. *Conduct Endangering Ships, Structures Or Individuals*. -

(1) This Section applies -

(a) to seafarers employed in a Philippine-registered ship; and

(b) to seafarers employed in a ship which -

(i) is registered under the law of any state outside the Philippines; and

(ii) is in a port in the Philippines or within Philippine waters while proceeding to or from any such port.

(2) If a person to whom this Section applies, while on board his or her ship or in its immediate vicinity -

(a) does any act which causes or is likely to cause -

(i) the loss or destruction of or serious damage to his or her ship or its machinery, navigational equipment or safety equipment, or

(ii) the loss or destruction of or serious damage to any other ship or any structure, or

(iii) the death of or serious injury to any person, or

(b) omits to do anything required -

(i) to preserve his or her ship or its machinery, navigational equipment or safety equipment from being lost, destroyed or seriously damaged, or

(ii) to preserve any person on board his or her ship from death or serious injury, or

(iii) to prevent his or her ship from causing the loss or destruction of or serious damage to any other ship or any structure, or the death of or serious injury to any person not on board his or her ship, and either of the conditions specified in subsection (3) of this Section, is satisfied with respect to that act or omission, he or she shall (subject to subsections (6) and (7) of this Section) on conviction by the Authority be held liable to an administrative fine of not less than Ten thousand pesos (*P10,000.00*) but not exceeding One hundred thousand pesos (*P100,000.00*).

(3) The conditions referred to in subsection 2 of this Section are -

(a) that the act or omission was deliberate or amounted to a breach or neglect of duty; or

(b) that the seafarer in question was under the influence of alcohol or a drug at the time of the act or omission.

(4) If a person to whom this Section applies -

(a) discharges any of his or her duties, or performs any other function in relation to the operation of his or her ship or its machinery or equipment, in such a manner as to cause, or to be likely to cause, any such loss, destruction, death or injury as is mentioned in subsection (2)(a) of this Section, or

(b) fails to discharge any of his or her duties, or to perform any such function, properly to such an extent as to cause, or to be likely to cause, any of those things, he or she shall (subject to subsections (6) and (7) of this Section) on conviction by the Authority be held liable to an administrative fine not less than Ten thousand pesos (*P10,000.00*) but not exceeding One hundred thousand pesos (*P100,000.00*).

(5) In proceedings for an offense under this Section, it shall be a defense to prove -

(a) in the case of an offense under subsection (2) of this Section, where the act or omission alleged against the accused constituted a breach or neglect of duty, that the accused took all reasonable steps to discharge that duty;

(b) in the case of an offense under subsection (2) of this Section, that at the time of the act or omission alleged against the accused he or she was under the influence of a drug taken by him or her for medical purposes and either that he or she took it on medical advice and complied with any directions given as part of that advice or that he or she had no reason to believe that the drug might have the influence it had;

(c) in the case of an offense under subsection (4) of this Section, that the accused took all reasonable precautions and exercised all due diligence to avoid committing the offense; or

(d) in the case of an offense under either of those subsections -

(i) that he or she could have avoided committing the offense only by disobeying a lawful command, or

(ii) that in all the circumstances the loss, destruction, damage, death or injury in question, or (as the case may be) the likelihood of it being caused, either could not reasonably have been foreseen by the accused or could not reasonably have been avoided by him or her.

SEC. 150. Prohibition of Going to Sea Undermanned.- (1) If a ship goes to sea or attempts to go to sea without carrying such officers and other seamen as it is prescribed by regulations made under this Chapter, the owner or master shall on conviction by the Authority be held liable to an administrative fine of not of less than Thirty thousand pesos (P30,000.00) but not exceeding One hundred thousand pesos (P100,000.00), and the ship, if in the Philippines, may be detained by the Authority.

(2) This Section shall, in its application to ships which are not sea-going ships, have effect as if for the words "goes to sea or attempts to go to sea" there were substituted the words "goes on a voyage or excursion or attempts to do so" and the words "if in the Philippines" were omitted.

SEC. 151. False Statements.- If a person makes a statement which he or she knows to be false or recklessly makes a statement which is false in a material related to the purpose of obtaining for himself or herself or another person a certificate or other document from the Authority, he or she shall on conviction by the Authority be held to an administrative fine not of less than Ten thousand pesos (P10,000.00) but not exceeding One hundred thousand pesos (P100,000.00).

SEC. 152. Production of Certificates and other Documents of Qualification.- (1) Any seafarer serving or engaged to serve in a ship and holding any certificate or other document proving that he or she is qualified for such service shall on demand produce it to the Authority.

(2) If, without reasonable excuse, a person fails to comply with subsection (1) of this Section, he or she shall on conviction by the Authority be held liable to an administrative fine of not less than One thousand pesos (P1,000.00) but not exceeding Five thousand pesos (P100,000.00).

SEC. 153. Concerted Disobedience and Neglect of Duty.- (1) If a seafarer employed in a ship connives with other seafarers employed in that ship -

(a) to disobey lawful commands which are required to be obeyed at a time while the ship is at sea;

(b) to neglect any duty which is required to be discharged at such a time; or

(c) to impede, at such a time, the progress of a voyage or the navigation of the ship, he or she shall be liable on conviction by the Authority may be held liable to an administrative fine of not less than Ten thousand pesos (P10,000.00) but not exceeding One hundred thousand pesos (P100,000.00).

(2) For the purposes of this Section, a ship shall be treated as being at sea at any time when it is not securely moored in a safe berth.

SEC. 154. Automatic Adjustment of Penalties and Fines – The fines prescribed in this Act shall be automatically increased by ten per cent (10%) every three (3) years from the effectivity of this Act.

SEC. 155. Inquiry into Fitness or Conduct of Seafarer.- (1) If it appears to the Authority that a seafarer -

(a) is unfit to discharge his or her duties, whether by reason of incompetence or misconduct or for any other reason; or

(b) has been seriously negligent in the discharge of his or her duties;

the Authority may cause an inquiry to be held by one or more persons appointed by the Authority and may suspend, pending the outcome of the inquiry, any certificate issued to the seafarer and require the seafarer to deliver it to the Authority.

(2) The persons holding an inquiry under this Section into the fitness or conduct of a seafarer -

(a) may cancel or suspend any certificate issued to the officer or censure the officer;

(b) may make such order with regard to the costs of the inquiry as they think just; and

(c) shall make a report on the case to the Authority;

and if the certificate is cancelled or suspended the seafarer shall deliver it forthwith to the persons holding the inquiry or to the Authority.

(3) Any costs which a person is ordered to pay under this Section, may be recovered from the person by the Authority.

(4) A seafarer may appeal to the Admiralty Court with respect to any decision of an inquiry held under this Section and the decision of the Admiralty Court on such an appeal shall be final.

SEC. 156. Power to Restore Certificate.- Where a certificate has been cancelled or suspended under this Chapter, the Authority, if of the opinion that the justice of the case requires it, may re-issue the certificate or, as the case may be, reduce the period of suspension and return the certificate, or may grant a new certificate of the same or a lower grade in place of the cancelled or suspended certificate.

SEC. 157. Power to Summon Witness to Inquiry into Fitness or Conduct of Officer or other Seafarer.- (1) The persons holding an inquiry under Section 10 may -

(a) by summons require any person to attend, at a time and place stated in the summons, to give evidence or to produce any documents in his or her custody or under his or her control which relate to any matter in question at the inquiry; and

(b) take evidence on oath (and for that purpose administer oaths) or, instead of administering an oath, require the person examined to make a solemn affirmation.

(2) If on the failure of a person to attend such an inquiry in answer to a summons under this Section -

(a) the persons holding the inquiry are satisfied by evidence on oath -

(i) that the person in question is likely to be able to give material evidence or produce any document which relates to any matter in question at the inquiry,

(ii) that he or she has been duly served with the summons, and

(iii) that a reasonable sum has been paid or tendered to him or her for costs and expenses, and

(b) it appears to them that there is no just excuse for the failure,

they may issue a warrant to arrest him or her and bring him or her before the inquiry at a time and place specified in the warrant.

(3) If any person attending or brought before such an inquiry refuses without just excuse to be sworn or give evidence, or to produce any document, the persons holding the inquiry may refer the matter to the Authority which shall on conviction of the person hold the person liable to an administrative fine of not less than Ten thousand pesos (*P10,000.00*) but not exceeding One hundred thousand pesos (*P100,000.00*).

SEC. 158. Unqualified Persons Going to Sea as Qualified Seafarers.- (1) If a person goes to sea as a qualified seafarer of any description without being such a qualified seafarer as may be provided under this Act or prescribed by the Authority, he or she shall on conviction by the Authority be held liable to an administrative fine of not less than Ten thousand pesos (*P10,000.00*) but not exceeding One hundred thousand pesos (*P100,000.00*).

SEC. 159. Civil Liability for Absence Without Leave.- (1) The following provisions of this Section shall apply with respect to the liability of a seafarer employed in a ship to damages for being absent from his or her ship at a time when he or she is required under his or her contract of employment to be on board.

(2) If the seafarer proves that his or her absence was due to an accident or mistake or some other cause beyond his or her control and that he or she took all reasonable precautions to avoid being absent his or her absence shall not be treated as a breach of contract.

(3) Where subsection (2) of this Section, does not apply, then the liability of the seafarer shall not be more than Ten thousand pesos (P10,000.00).

SEC. 160. Automatic Adjustment of Penalties and Fines – The fines prescribed in this Act shall be automatically increased by ten per cent (10%) every three (3) years from the effectivity of this Act.

Part 3 – Protection of Seafarers And Their Benefits

SEC. 161. Crew Agreements.- (1) A written agreement shall be made between each person employed as a seafarer in a Philippine ship and the persons employing the seafarer and shall be signed both by the seafarer and by or on behalf of them.

(2) An agreement made under this Section shall be contained in one document, which is referred to as a crew agreement, except that the Authority may approve that a crew agreement be contained in more than one document.

(3) The provisions and form of a crew agreement must be of a kind approved by the Authority and different provisions and forms may be so approved for different circumstances.

(4) A crew agreement shall be carried in the ship to which it relates whenever the ship goes to sea.

SEC. 162. Insurance Coverage for Seafarers.- No seafarer shall be deployed overseas without adequate Protection and Indemnity Club cover. Seafarers deployed in domestic shipping shall likewise have adequate cover from Protection and Indemnity Club or equivalent. The insurance cover/policy must be submitted to the Authority.

SEC. 163. Obligation of Shipowners as to Seaworthiness.-(1) In every contract of employment between the owner of a Philippine-registered ship and the master of or any seafarer employed in the ship there shall be implied an obligation on the shipowner that -

- (a) the owner of the ship,
- (b) the master of the ship, and
- (c) every agent charged with -
 - (i) the loading of the ship,

(ii) the preparing of the ship for sea, or

(iii) the sending of the ship to sea,

shall use all reasonable means to ensure the seaworthiness of the ship for the voyage at the time when the voyage commences and to keep the ship in a seaworthy condition for the voyage during the voyage.

(2) The obligation imposed by subsection (1) of this Section applies notwithstanding any agreement to the contrary.

SEC. 164. Wages.- (1) In any proceedings by the master of a ship or a person employed in a ship for the recovery of any sum due to him or her as wages the Admiralty Court, unless it appears to it that the delay in paying the sum was due to -

(a) a mistake;

(b) a reasonable dispute as to liability;

(c) the act or default of the person claiming the amount; or

(d) any other cause, not being the wrongful act or default of the persons liable to make the payment or their servants or agents,

may order them to pay, in addition to the sum due, interest on it at the rate of twenty percent (20%) annually or such lower rate as the Admiralty Court may specify for the period after the sum became due and ending when the sum is paid.

(2) The wages due or accruing to a seafarer employed in a Philippine ship shall not be subject to attachment.

(3) Where a Philippine-registered ship is wrecked or lost a seafarer whose employment in the ship is thereby terminated before the date contemplated in the agreement under which he or she is so employed shall be entitled to wages at the rate payable under the agreement at the date of the wreck or loss.

(4) A seafarer's maritime lien, remedy for the recovery of wages, right to wages in case of the wreck or loss of the ship, and any other right the seafarer may have or obtain in the nature of salvage shall not be capable of being renounced by any agreement.

(5) Subsection (4) of this Section, does not affect the terms of any agreement made with the seafarer belonging to a ship which, according to the agreement, is to be employed on salvage service as provided for in the remuneration to be paid to the seafarers for salvage services rendered by that ship.

SEC. 165. Account of Wages to be Provided to Every Seafarer.- The master of every ship shall provide every seafarer employed in the ship under a crew agreement an account of the wages due to the seafarer under that crew agreement and of the deductions subject to which the wages are payable.

SEC. 166. Remedies of Master for Wages, Disbursements and Liabilities.- The master of a ship shall have the same maritime lien for his or her wages and

all disbursements or liabilities properly made or incurred by him or her on account of the ship as a seafarer has for his or her wages.

SEC. 167. Allotment Notes.- (1) Subject to the following provisions of this Section, a seafarer may, by means of an allotment note issued according to regulations made by the Authority, allot to any person or persons part of the wages to which he or she will become entitled in the course of his or her employment in a Philippine-registered ship or ships.

(2) A seafarer's right to make an allotment under this Section shall be subject to such limitations as may be imposed by regulations made by the Authority.

(3) A person to whom any part of a seafarer's wages has been allotted by an allotment note issued according to regulations made under this Chapter shall have the right to recover in the Admiralty Court that part in his or her own name and for that purpose shall have the same remedies as the seafarer has for the recovery of his or her wages.

SEC. 168. Complaints about Provisions or Water.- (1) If three or more seafarers employed in a ship consider that the provisions or water provided for them in that ship are not according to safety regulations containing requirements as to the provisions and water to be provided on ships (whether because of bad quality, unfitness for use or deficiency in quantity) they may complain to the master, who shall investigate the complaint.

(2) If the seafarers are dissatisfied with the action taken by the master as a result of his or her investigation or by his or her failure to take any action they may state their dissatisfaction to him or her and complain to the Authority.

(3) The Authority to which a complaint has been made under this Section shall investigate the complaint and may examine the provisions or water or cause them to be examined and direct the master to provide appropriate provisions and water.

SEC. 169. Expenses of Medical and other Treatment during Voyage.- (1) If a person, while employed in a ship, receives outside the Philippines any surgical or medical treatment or such dental or optical treatment as cannot be postponed without impairing efficiency, the reasonable expenses thereof shall be borne by the persons employing the seafarer.

(2) If a person dies while employed in a ship and is buried or cremated outside the Philippines, the expenses of his burial or cremation shall also be borne by the persons employing the seafarer.

SEC. 170. Medical Treatment On Board Ship.- Where a ship does not carry a doctor among the seafarers employed in it, the master shall make arrangements for securing that any medical attention on board the ship is given either by him or her or under his or her supervision by a person appointed by him or her for the purpose.

SEC. 171. Relief, Maintenance and Return of Seafarers Shipwrecked Abroad.- Where a person employed as a seafarer in a ship is left behind in any state outside the Philippines or is taken to such a state on being shipwrecked, the persons who last employed him or her as a seafarer shall provide for his or her return and for his or her relief and maintenance until that return.

SEC. 172. *Handing Over of Documents by Master.*- (1) If a person ceases to be the master of a ship during a voyage of the ship he or she shall deliver to his or her successor all the documents relating to the ship and its crew which are in his or her custody.

(2) If, without reasonable excuse, the master of such a ship fails to comply with subsection (1) of this Section, he or she on conviction by the Authority be held liable to an administrative fine of not less than Ten thousand pesos (P10,000.00) but not exceeding Fifty thousand pesos (P50,000.00 which shall be reviewed by the Authority and revise as necessary every five (5) years..

SEC. 173. *Tax Incentives.* - All seafarers, whether employed overseas or domestic, shall be exempted from annual income tax. The Authority shall continually identify additional incentives for seafarers.

PART 4 - Regulations

SEC. 174. *Regulations.*- (1) The Authority shall by regulations, in so far as it is necessary or expedient, make provision for any matter that arises out of, or is related to, the employment of seafarers in Philippine ships that are necessary or expedient for the –

(a) health and safety of seafarers on board Philippine-registered ships; or

(b) the safety of Philippine-registered ships as it may be affected by the seafarers.

(2) Without prejudice to the generality of subsection (1) of this Section, the regulations may include, but not be limited to, the following -

(a) any matter that may relate to or arise out of a crew agreement, seafarers' book, or allotment note;

(b) crew accommodation, or its approved equivalencies, with regard to the minimum space per seafarer which must be provided by way of sleeping accommodation for seafarers and the maximum number of persons by whom a specified part of such sleeping accommodation may be used;

(c) the position in the ship in which the crew accommodation, or its approved equivalencies, or any part thereof may be located and the standards to be observed in the construction, equipment and furnishing of any such accommodation;

(d) the submission to a surveyor of ships of plans and specifications of any works proposed to be carried out for the purpose of the provision or alteration of any crew accommodation, or its approved equivalencies, and the authorization of the surveyor to inspect any such works;

(e) the maintenance and repair of any crew accommodation, or its approved equivalencies and the prohibition or restriction on the use of any crew accommodation for purposes other than those for which it is designed;

(f) different provisions with respect to different descriptions of ship or with respect to ships which were registered in the Philippines at different dates

or the construction of which was begun at different dates and with respect to crew accommodation provided for seafarers of different types;

(g) the conduct of inspections of the crew accommodation;

(h) the number of qualified officers of any description, qualified doctors and qualified cooks and such number of other seamen or qualified seamen of any types to be carried by ships;

(i) the specification of standards of competence to be attained and other conditions to be satisfied (subject to any exceptions allowed by or under the regulations) by officers and other seafarers of any type;

(j) the manner in which the attainment of any standard or the satisfaction of any other condition is to be evidenced;

(k) the conduct of any examinations, the conditions for admission to them and the appointment and remuneration of examiners;

(l) the issue, form and recording of certificates and other documents;

(m) the procedure to be followed, and notice to be given, in connection with the discharge of a seafarer from a ship;

(n) the manner in which wages due to a seafarer under a crew agreement are to be or may be paid in any conditions or circumstances, including shipwreck and discharge from the ship;

(o) the circumstances in which allotments may or may not be made;

(p) the manner in which wages are to be dealt with and accounted for in circumstances where a seafarer leaves his or her ship in the Philippines otherwise than on being discharged therefrom;

(q) the record of the discharge of a seafarer from a ship;

(r) the repatriation of a seafarer employed in a Philippine-registered ship who is left behind outside the Philippines otherwise than on being discharged from the ship;

(s) the maintenance of discipline on board *Philippine-registered ships*; and

(t) the establishment of a "disciplinary body" for the hearing on shore in the Philippines by the disciplinary body, of a complaint by the master or owner of a Philippine-registered ship, other than a fishing vessel, against a seafarer alleging that during his or her employment onboard the ship the seafarer violated a provision of a Act of conduct approved by the Authority.

(2) Regulations under this Section may exempt ships of any description from any requirements of the regulations and the Authority may grant other exemptions from any such requirement with respect to any ship.

PART 5- Application Of Certain International Conventions

SEC. 175. *Full and Complete Effect of Certain International Conventions.-*

(1) With regard to the international conventions, protocols and resolutions in subsection (2) of this Section, the Authority shall make regulations in order to -

- (a) give full and complete effect to the international obligations of the Philippines;
- (b) ensure that the international conventions, protocols and resolutions are given due publicity and the force of law in the Philippines;
- (c) provide for the efficient, effective and economical institutional implementation of the international conventions, protocols and resolutions; and a regulation made under this Section may incorporate by reference material produced by an international body of which the Philippines is a member.

(2) For the purposes of subsection (1) of this Section, the conventions, protocols and resolutions are the:

- (a) International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended;
- (b) Article 94 of the United Nations Convention on the Law of the Sea, 1982; and
- (c) Maritime Labour Convention, 2006.

CHAPTER 9 - SHIPBUILDING, SHIP REPAIR AND SHIP RECYCLING

PART 1 - General Provisions

SEC. 176. *Registration of Shipbuilding, Ship Repair and Ship Recycling Entities.* – The business of constructing, repairing and recycling ships or parts thereof shall not be considered a public utility and no Certificate of Public Convenience shall be required therefor. However, no shipyard, boatyard, graving dock, marine railway, marine repair shop, ship recycling facility, and no person or enterprise shall engage in the construction, repair and/or recycling of any ship, or any phase or part thereof, without a valid Certificate of Registration for this purpose from the Authority, except those owned or operated by the Armed Forces of the Philippines, Philippine Coast Guard and PNP

SEC. 177. *Supervision and Regulation.* – The Authority is hereby empowered to exercise the following functions and responsibilities:

- (a) Approve the plans of shipbuilding, ship repair and/or ship recycling facilities and the plans and specifications for the construction, repair, improvement, alteration and/or reconditioning of any watercraft by shipyards in the country;

- (b) Regulate the activities of the shipbuilding, ship repair and the ship recycling yards including determination of standards and capacities to be required for the operation and registration;
- (c) Evaluate and determine the progressive capability of registered shipyards to build and construct new ships for the domestic trade and implement a program on the progressive restriction of ship importations;
- (d) Promulgate and implement development plan and incentives program for the sector; and
- (e) Enforce rules and regulations governing shipyard operations and perform other administrative supervision over the sector.

SEC. 178. *Drydocking, Repair and Recycling of Philippine-Registered Ships.* – All Philippine- registered ships shall undertake repairs, improvement, alteration, reconditioning or drydocking when engaged the services of Philippine shipyards registered by the Authority.

SEC. 179. *Incentives-* To encourage investments and to ensure the development of a competitive and viable shipbuilding, ship repair and ship recycling industry, the following incentives are hereby granted:

- (a) Exemption on value-added tax on the importation of capital equipment, machinery, spare parts, life saving and navigational equipment, steel plates and other metal plates, including marine-grade aluminum plates to be used in the construction, repair, renovation or alteration of any ship operated in the domestic trade, subject to specific guidelines for availment and administration thereof to be issued by the Authority;
- (b) Exemption from import duties and taxes on the importation of machineries, equipment and materials for shipbuilding, ship repair, ship recycling and/or alteration, including indirect imports, as well as replacement and spare parts for the repair and overhaul of ships, such as, but not limited to steel plates, electrical machinery and electronic parts, subject to specific guidelines for availment and administration thereof to be issued by the Authority;
- (c) Net operating loss carryover. A net operating loss in any taxable year immediately preceding the current taxable year, which had not been previously offset as a deduction from gross income shall be carried over as a deduction from gross income for the next three (3) consecutive taxable years immediately following the year of such loss, subject to the pertinent provisions of the National Internal Revenue Act of 1997, as amended;
- (d) Accelerated depreciation. Industrial facilities and equipment may at the option of the shipbuilder, ship repairer and ship recycling entity, be

depreciated for any number of years between five (5) years and the expected economic life; and

- (e) Exemption from contractor's percentage tax. The gross receipt derived by shipbuilders, ship repairers and ship recycling entities from their registered activities shall be exempt from the Contractor's tax provided in Sec. 91 of the National Internal Revenue Act, provided, that any and all amounts which would otherwise have been paid as contractor's tax shall be set aside as a separate fund, to be known as "Shipyard Development Fund", by the contractor for the purpose of expansion, modernization and/or improvement of the contractor's own facilities, provided, that, for this purpose, the contractor shall submit an annual statement of its receipt to the Authority, and provided, further, that any disbursements from such fund for any of the purposes herein above stated shall be subject to approval of the Authority.

CHAPTER 10 - ACCIDENT INVESTIGATIONS

PART 1 - General Regulations on Accidents and Accident Investigation

SEC. 180. Scope and Coverage. – (1) This Chapter applies to accidents involving or occurring on board any Philippine ship.

(2) This Chapter also covers any other ship within Philippine waters at the time of the accident.

(3) Accidents involving solely Navy ships and other maritime and water vessels of the Armed Forces and the Philippine National Police shall be excluded from the provisions of this Chapter, however if the accident shall involve a non-military or non-police vessel, the provisions of this Chapter shall apply.

SEC. 181. Duty to Report Accidents. - (1) When an accident occurs the following persons associated with the ship shall send a report to the Maritime Transportation Safety Board (MTSB) within twenty-four (24) hours, or as soon as is practicable, following the accident and by the quickest means available-

(a) the master or, if he or she has not survived, the senior surviving officer, and

(b) the ship's owner, unless he or she has ascertained to his or her satisfaction that the master or senior surviving officer has not already reported the accident in accordance with subsection (1) (a) of this Section; and

(c) the Philippines Coast Guard or Port Authority or the Local Government Unit concerned, if it is aware of the accident.

(2) A person making a report pursuant to subsection (1) of this Section, shall in so far as practicable, include the following information:

(a) name of the ship and the IMO official or fishing vessel number;

- (b) name and address of the owner;
- (c) name of the master, skipper or person in charge;
- (d) date and time of the accident;
- (e) where from and where to the ship was bound;
- (f) latitude and longitude or geographical position in which the accident occurred;
- (g) part of the ship where accident occurred if on board;
- (h) the weather conditions;
- (i) the name and port of registry of any other ship involved;
- (j) the number of people killed or injured, together with their names, addresses and sex;
- (k) brief details of the accident, including, where known, the sequence of events leading to the accident, the extent of damage and whether the accident caused pollution or a hazard to navigation; and
- (l) if the ship is fitted with a voyage data recorder, the make and model of the recorder.

(3) In addition to making a report under this Section, the persons specified in subsection(1)(a) and (b) of this Section, shall, so far as is reasonably practicable, ensure that the circumstances of every accident are examined and that a report giving the findings of such examination, stating any measures taken or proposed to prevent a recurrence, shall be provided to the Maritime Transportation Safety Board as soon as is practicable.

(4) The master and ship's owner shall, so far as is reasonably practicable, ensure that the circumstances of every serious injury are examined and one of them shall, within twenty four (24) hours, provide the Maritime Transportation Safety Board with a marine protest giving the findings of such examination and stating any measures taken or proposed to prevent a recurrence.

SEC. 182. Preservation of Evidence.- (1) Following an accident involving a Philippine ship which is reportable under Section 4, the master or, if he or she has not survived, the senior surviving officer, and the ship's owner shall so far as is practicable ensure that all charts; log books; electronic and magnetic recording and video tapes, including information from a voyage data recorder or recording system relating to the period preceding, during and after the accident; and all documents or other records which might reasonably be considered pertinent to the accident are kept and that no alteration is made on any recordings or entries in them.

(2) The duty under subsection (1) of this Section, to ensure that documents, information or records are kept and not altered and to ensure that information is saved and preserved, or that equipment is left undisturbed, shall continue until-

- (a) notification is received from the Maritime Transportation Safety Board that no investigation is to take place or that the investigation has been completed;

(b) thirty (30) days have passed since the Maritime Transportation Safety Board received the report referred to in Section 3 and no notice has been sent by the Maritime Transportation Safety Board that he or she has decided to have the accident investigated; or

(c) the Maritime Transportation Safety Board or its duly authorized investigator or investigators carrying out the investigation gives written notification that the Board no longer requires them.

(3) Following an accident in Philippine waters involving a ship which is not a Philippine ship, the persons mentioned in Section 4 shall comply with the requirements of subsection (1) and (2) of this Section, if requested to do so by, or on behalf of the Maritime Transportation Safety Board.

(4) An investigator of the Maritime Transportation Safety Board may, pending investigation, prohibit persons from gaining access to, or interfering with, any ship, ship's boat or other equipment involved in an accident.

(5) Following an accident, the Maritime Transportation Safety Board may, if it considers it reasonably necessary for the collection or preservation of evidence in connection with any investigation, including preliminary examination, relating to the accident, require the master or, if he or she has not survived, the senior surviving officer and the ship's owner to ensure that a ship is accessible within Philippines waters to any investigator engaged in the investigation of such accident, until the process of collecting or preserving the evidence has been completed to the investigator's satisfaction.

(6) The Maritime Transportation Safety Board shall not require a ship to remain in Philippine waters any longer than is necessary for the collection or preservation, as the case may be, of the evidence mentioned in this Section and shall take all reasonable steps to ensure that such evidence is collected or preserved expeditiously.

(7) No requirement under subsection (5) of this Section, shall be made unless the Maritime Transportation Safety Board has reasonable grounds for concern that if the ship leaves Philippine waters, access to it, to any member of the crew, or to any evidence on board relating to the investigation may subsequently be denied to him or her or any investigator conducting such investigation.

SEC. 183. Objectives of Investigation.- (1) The objectives of the investigation of an accident by the Maritime Transportation Safety Board under this Chapter shall be the prevention of future accidents through the ascertainment of its causes and circumstances, the determination of administrative liability and imposition of administrative penalties of government agencies, officers and employees arising from the accident, and the recommendation of appropriate administrative fines and sanctions against shipowners, masters and crew for proper action/execution by the National Maritime Authority.

(2) A person is not excused from answering a question or producing evidential material in a formal investigation before the Maritime Transportation Safety Board on the ground that the answer, or the production of the material, might tend to incriminate the person or make the person liable to a penalty.

(3) The National Maritime Authority has jurisdiction to cancel or suspend the certificate of competency of an officer of a ship as a result of an investigation conducted by the Maritime Transportation Safety Board.

SEC. 184. *Compulsory Exercise of Jurisdiction of the Maritime Transportation Safety Board.*- A formal investigation shall be held by the Maritime Transportation Safety Board into any accident where there is loss of life or major injury to any person on board, or any person is lost or falls overboard from the ship or one of the ship's boats; or the ship causes any loss of life or major injury.

PART 5 – The Maritime Transportation Safety Board

SEC. 185. *Creation of the Board.* The Maritime Transportation Safety Board (MTSB) is hereby created under the Office of the President. It shall be the independent competent authority mandated to investigate all maritime accidents and incidents.

SEC. 186. *Composition.* (1) The Board shall be composed of five permanent members consisting of: a maritime lawyer acting as chairperson, a ship master, a chief marine engineer, a naval architect, and a maritime investigation expert as members. They shall be appointed by the President.

(2) The Board may appoint interim members depending on the nature of the accident or incident to be investigated.

SEC. 187. *Rank and Emoluments.* The Chairperson shall have the rank, emoluments and privileges of an Undersecretary. The four other permanent members shall have the rank, emoluments and privileges of an Assistant Secretary.

SEC. 188. *Board Secretariat.* (1) The Board shall have a Secretariat to be headed by an Executive Director who shall be appointed by the President upon the recommendation of the Chairperson and shall have the following functions and responsibilities:

- (a) provide technical and administrative support;
- (b) execute and administer the policies and decisions of the Board; and
- (c) manage the day-to-day operations thereof.

(2) The Chairperson shall have the authority to appoint, promote and discipline the personnel of the Secretariat.

SEC. 189. *Purposes and Objectives of the Board.* The Board shall have the following purposes and objectives:

- (a) To make maritime transportation safer and determine the probable cause of accidents and develop safety recommendations aimed at preventing similar accidents;
- (b) To conduct independent investigations, including when necessary, public inquiries to identify transportation occurrences and make findings as to their causes and contributory factors;

- (c) To recommend improvements and advancement of maritime transportation safety and propose measures designed to eliminate or reduce maritime transportation safety deficiencies; and
- (d) To instill confidence in the public regarding maritime transportation accident investigation process.

SEC. 190. Powers, Functions and Responsibilities of the Board. The Board shall have the following powers, functions and responsibilities:

- (a) Establish procedures on maritime accident reporting, investigation and analysis;
- (b) To analyze and recommend proper actions on critical safety issues and concerns;
- (c) Recommend the establishment of new maritime safety legislation, rules and regulations and maritime transportation system procedure based on accident investigations, special studies and actual incidents;
- (d) Conduct investigations on maritime transportation occurrences and accidents;
- (e) Publish results of investigation in the interest of maritime transport safety;
- (f) Determine administrative liability and impose administrative penalties against government agencies, officers and employees arising from the accident investigated;
- (g) Recommend appropriate administrative fines and sanctions against shipowners, masters and crew for proper action/execution by the National Maritime Commission;
- (h) File and prosecute, in coordination with the National Prosecution Service, appropriate criminal action in the proper court; and
- (i) Such other powers, functions and responsibilities as may be mandated in this Act.

SEC. 191. Funding. Funds for the operation of the Board shall be initially sourced from the Office of the President and from such other funding sources as may be recommended by the Department of Budget and Management amounting to One Hundred Fifty Million pesos (P150,000,000.00). Congress of the Philippines shall thereafter provide an annual budget for the personnel, operations and capital outlay requirements of the Board.

SEC. 192. Implementing Rules and Regulations. The Board shall formulate rules and regulations in relation to its mandated functions within sixty (60) days from the effectivity of this Act.

PART 6 – Investigation

SEC. 193. Investigation of Accidents.- The Maritime Transportation Safety Board shall, for the purpose of the investigation of any accident, directly conduct such investigation or appoint such competent person or persons as it may determine to be the investigator or investigators of marine accidents.

SEC. 194. Ordering of Preliminary Investigation.- (1) The Maritime Transportation Safety Board may cause any accident to be subjected to an investigation.

(2) Where a report has been received under Section 3, the Maritime Transportation Safety Board shall decide whether or not an investigation should be carried out and shall notify the parties to the accident of his or her decision within fifteen (15) days following receipt by him or her of the report.

(3) Before deciding whether an investigation should be carried out and if so, what form it should take, the Maritime Transportation Safety Board may cause to be obtained such information as it considers necessary concerning the accident and any remedial action taken as a result; and any person mentioned in Section 3, as well as any other person who is in possession of it and has been requested to do so by an investigator, shall provide such information to the best of his or her ability and knowledge.

(4) The Maritime Transportation Safety Board may decide not to have an investigation carried out if it is satisfied, or it is otherwise established to its satisfaction, that any loss of life resulted from suicide or natural causes, or any major injury resulted from attempted suicide, and in such circumstances he or she may discontinue any investigation which has already been commenced.

(5) Public notice that an investigation is to be commenced may be given in such manner as the Maritime Transportation Safety Board may deem fit, and it may invite any persons to present relevant evidence to the Maritime Transportation Safety Board or its duly authorized investigator or investigators in such a manner and within such a time as is specified in the notice.

(6) The Maritime Transportation Safety Board may investigate any accident or expand the scope of an investigation to include any further consequences of an accident, including salvage and pollution aspects; or the conduct of search and rescue operations and, in such circumstances, it may conduct an investigation into the further consequences of an accident, which may be separate and distinct from the investigation into the initial accident.

SEC. 195. Service of Documents.- Any notice or other document required for the purposes of an investigation shall be served -

- a. by delivering it to that person;
- b. by leaving it at the person's usual or last-known residence or place of business, whether in the Philippines or elsewhere;
- c. by sending it to the person by post at that address; or
- d. by sending it to the person's address by telex, facsimile, or other means which produces a document containing a text of the communication, or by electronic mail in which event the document shall be regarded as having been served when it is sent.

SEC. 196. Conduct of Investigation.- The conduct of an investigation shall be undertaken as follows.

- a. If the Maritime Transportation Safety Board decides that an investigation shall be carried out, it shall undertake to conduct such

investigation at such times and places and in such manner as appear to them most conducive to achieving the objective set out in Section 5.

- b. An investigation shall, if it is necessary, be extended to cover all events and circumstances preceding the accident together with subsequent events and circumstances which in the opinion of the investigator or investigators may have been relevant to its cause or outcome.
- c. Every person required to appear before the Board or its investigator shall be allowed the reasonable expenses of appearance payable by the Maritime Transportation Safety Board.
- d. Any document, record or information properly required by the Board or its investigator to be produced for the purposes of an investigation (whether on board the ship involved or otherwise), may be retained by the Board until the investigation is completed.
- e. In relation to any investigation where a preliminary examination has been conducted, the Maritime Transportation Safety Board may decide, with reference to Section 5, whether it is appropriate in all the circumstances to conduct a further investigation into the accident, leading to the publication of a report. The Maritime Transportation Safety Board may subsequently decide to stop the further investigation at any time and shall make its reasons for doing so publicly available.

SEC. 197. Reports of Investigations. - The Maritime Transportation Safety Board shall make a report of an investigation into an accident and shall submit it to the Commission. The report shall be made available to the public in the shortest time possible and in such a manner as the Maritime Transportation Safety Board thinks fit, provided that the interested parties have first been furnished with the report. The report shall set out conclusions relating to the facts of the accident; where the facts cannot be clearly established, analysis and professional judgment as to the cause of the accident, recommendations, if any, for future safety so as to prevent accidents as far as possible, imposition of administrative penalties upon liable government agencies, officials and employees and recommendations for the imposition of appropriate administrative fines and sanctions against shipowners, masters and crew by the National Maritime Commission.

SEC. 198. Recommendations to Prevent Future Accidents. - (1) The Maritime Transportation Safety Board may as a result of one or more investigations, whether or not completed, at any time make recommendations to the National Maritime Commission and other appropriate agencies or entities as to how future accidents may be prevented. The actions recommended shall be addressed to those persons or agencies which, in the opinion of the Maritime Transportation Safety Board, are most competent to implement them.

(2) Recommendations shall be publicly disclosed if the Maritime Transportation Safety Board considers that this is in the interest of safety of life and property or the prevention of pollution. Any person to whom a recommendation is addressed shall, without delay take that recommendation into consideration and officially inform the Maritime Transportation Safety Board of the concrete actions it has taken regarding such. The recipient of the recommended actions of the Maritime Transportation Safety Board shall report to the Board details of the measures the person, office or entity has taken or proposes to take if any, to implement the recommendation. In a case in which the Maritime Transportation Safety Board

proposes to implement measures, the recommendation shall include the timetable for securing that implementation. In a case when the recipient decides not to implement the measures, he or she or it shall explain why the recommendation is not to be implemented.

SEC. 199. *Subsequent or Reopened Investigation.* Notwithstanding a decision by the Maritime Transportation Safety Board under Section 10 not to investigate an accident, it may at any later time undertake a preliminary investigation if he or she believes there is good reason to do so for public safety. The Maritime Transportation Safety Board may re-open an investigation if, following its completion, in the opinion of majority of the members of the Maritime Transportation Safety Board new and important evidence would be discovered that could have a material effect on any safety recommendations made. Any investigation may be re-opened either in whole or in part. Any re-opened investigation shall be subject to and conducted according to the provisions of this Chapter.

SEC. 200. *Remedies for Adverse Findings.* Any person or entity adversely affected by the findings, report, resolution or decision of the Maritime Transportation Safety Board may challenge such findings, report, resolution or decision by proper action with the Court of Appeals.

SEC. 201. *Publications other than Reports of Investigations.* – The Maritime Transportation Safety Board under its discretion may publish collective short reports of accidents to promote lessons learned. These reports must not be previously published under Section 12. The Maritime Transportation Safety Board shall also submit to the National Maritime Commission any matter arising from his or her analysis of accident investigations.

SEC. 202. *Filing of Criminal Action.* – The Board shall cause the filing and prosecution, in coordination with the National Prosecution Service, of appropriate criminal actions against any persons found to be criminally liable based on its investigation.

SEC. 203. *Co-operation with other States.* - Where there is a “substantially interested State” that falls within the terms of the IMO Act, the Maritime Transportation Safety Board may enable a substantially interested State to participate or co-operate in the preliminary investigation according to the IMO Act.

PART 4 - Penalties

SEC. 204. *Penalties.*- A person shall be guilty of an offense if he or she fails without reasonable cause to comply with any requirement, duty or prohibition under this Chapter, or if he or she falsely claims to have any additional information or new evidence pertaining to any accident, and shall on conviction be held liable to an administrative fine of an amount prescribed by the Commission through regulation.

PART 5 – Appropriations

SEC. 205. *Appropriations.* – (1) All fees and charges levied in the discharge of the functions and duties of the Authority shall be retained by it and used solely to fund the functions, duties and operations of the Authority, in addition to the continuing annual allocation by Congress amounting to Two Billion Pesos (P2,000,000,000.00) until which the Authority shall have reached a revenue level

to make it self-funding. A budget shall be prepared by the Authority annually for approval by the Congress of the Philippines.

(2) The exercise of the revenue generation powers of the Authority shall be guided by the principle that revenue generation shall be primarily for purpose of sufficiently covering the capital and operating expenses of the Authority. In line with this, the Authority shall endeavor to decrease the annual budget allocated to it by Congress annually.

(3) No part of the Authority's revenue shall be used for any other purposes except those related to the powers, functions and duties of the Authority.

SEC. 206. Repealing Clause.- Republic Act No. 1937 otherwise known as *An Act To Revise And Codify The Tariff And Customs Laws Of The Philippines*, Book II, Title II Registration Of Vessels, Coastwise Trade And Licensing Of Marine Officers, parts of RA No. 1937 only in so far as they are inconsistent with this Act; and Republic Act No. 7471 otherwise known as *An Act to Promote the Development of Philippine Overseas Shipping* shall be repealed only in so far as they are inconsistent with this Act.

All laws, orders issuances, rules and regulations or parts thereof inconsistent with the provisions of this Act are hereby repealed, modified or amended accordingly.

SEC. 207. Separability Clause. – If any provision of this Act, or any parts thereof, is declared unconstitutional, the same shall not affect the validity and effectivity of the other portions.

SEC. 208. Effectivity. – This Act shall take effect after fifteen (15) days from its complete publication in the Official Gazette or in a newspaper of general circulation in the Philippines, whichever comes earlier.

Approved,