

DOLE issues IRR on Seafarer's Protection Act

The Department of Labor and Employment, pursuant to the directive from Congress, has issued on 19 April 2016 Department Order No. 153, Series of 2016 regarding the Implementing Rules and Regulations (IRR) of the Seafarers Protection Act.

It should be recalled the Seafarers Protection Act prohibits ambulance chasing and imposition of excessive fees in seafarer's/heirs' claim for disability and/or death benefits. The IRR details the elements on when ambulance chasing is committed and when excessive fees are imposed.

According to the IRR, ambulance chasing is committed when the following elements concur:

- a. That a person or his agent solicits from seafarers or his heirs, the pursuit of any claim against the employer of the seafarer.
- b. That such claim is for the purpose of recovery of any monetary award or benefits arising from accident, illness or death including legal interest, and
- c. That the pursuit of the claim is in exchange of an amount or fee which shall be retained or deducted from the monetary award or benefit granted to or awarded to the seafarers or their heirs.

The key element here is the act of soliciting the pursuit of the claim. The term "soliciting" was defined as the act of instigating, inducing, encouraging, advising or requesting a seafarer or his/her heirs to pursue any claim against the employer for purposes of recovery of monetary claim or benefit.

The act of ambulance chasing is considered a criminal offense with a penalty of fine ranging from PHP50,000 – PHP100,000, or imprisonment ranging from 1 year – 2 years or both fine and imprisonment.

Likewise, the IRR states that there is imposition of excessive fees if the person representing the seafarer or heirs of the seafarer would stipulate the imposition of fees of more than 10% of the total compensation to be awarded. This applies to monetary claims arising from accident, illness or death of the seafarer and such claim is filed

before the NLRC, Labor Arbiters, NCMB, POEA, DOLE or its regional offices or other quasi-judicial bodies handling labor disputes. Violation of this provision shall be subject to the Civil Code of the Philippines and other related laws and regulations.

To ensure compliance with the above provision, the NLRC, Labor Arbiters, NCMB, POEA, DOLE or its regional offices or other quasi-judicial bodies handling labor disputes shall clearly indicate in their decisions, orders, judgment or awards that the total compensation of the person who appears for or represents the seafarer or his/her heirs shall not exceed 10% of the compensation or benefit awarded.

The IRR was published in newspapers on 6 May 2016 and become effective after 15 days of the publication.

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