



JAPAN P&I NEWS

To the Members

Significant Points in the Magna Carta of Filipino Seafarers: Philippines' newest rules on "Third Doctor Referral" and "Execution of Judgment Awards"

On 23 September 2024, the Philippines enacted Republic Act No. 12021 otherwise known as Magna Carta of Filipino Seafarers. In accordance with Section 97 of the law, the DMW and MARINA in coordination with the relevant government agencies have promulgated the necessary rules and regulations by signing the Implementing Rules and Regulations on 8 January 2025. The new law aims to improve all aspects of maritime sector concerning seafarers – from maritime schools, training, welfare and handling of crew claims.

The Implementing and Regulations has clarified some of the provisions of the Magna Carta to ensure that the letters and spirit of the new law are carried into effect. While some of the provisions are reiterations of the current rules stipulated under the POEA Standard Employment Contract (POEA SEC), two important items were updated and expected to be game changers. Del Rosario and Del Rosario Law offices, our correspondents in Manila, have provided the following advice:

1. Third Doctor Referral (Section 57)

The current rule under the POEA SEC is found under Section 20.A, par. 3 which states that: *"If a doctor appointed by the seafarer disagrees with the assessment, a third doctor may be agreed jointly between the Employer and the seafarer. The third doctor's decision shall be final and binding on both parties."* Most collective bargaining agreements (CBAs) also provide for the same wordings.

Under the Magna Carta, there are amendments introduced aimed to improve the process. Here are the notable changes:

- a. Within thirty (30) days from receipt of the findings of the seafarer's doctor, the seafarer must file a written request with the Department of Migrant Workers (DMW) to refer the conflicting medical grading to a third doctor
- b. The third doctor shall be mutually selected by the employer and seafarer from a pool of Department of Health (DOH)-accredited medical specialists relevant to the injury or illness of the seafarer. The third doctor should be duly trained in the determination of maritime disability grading.
- c. The third doctor's assessment as well as the assessment of the seafarer's doctor shall strictly adhere to the Schedule of Disabilities as provided in the SEC or the applicable CBA, as warranted
- d. The DMW and the DOH shall develop joint guidelines for the implementation of Section 57, including the

selection, training, maintenance, and review of the pool of accredited third doctors. Until such time that the guidelines have been jointly issued by the Department of Migrant Workers and the Department of Health and the pool of DOH-accredited specialists has been created, the provisions of Section 57 cannot be implemented yet and be invoked by both the seafarers and the Members.

- e. The third doctor referral shall be mandatory before any dispute settlement, arbitration proceeding, or case may be filed, when the issue is the disability grading, fitness to work, or the illness or injury of the seafarer
- f. Only the issue of conflicting disability gradings shall be subject for third doctor assessment while the issue of work relation shall still be determined by the company designated physician (CDP)

Notably, the Magna Carta already answers the common points of disagreement between the parties encountered under the old rules – namely whether it is mandatory, what are the parameters, when it should be started and who can be the third doctors. With the clear and express statement of the rules, the process is expected to be more responsive and will be an effective tool to deter spurious claims.

2. Execution of Judgment Awards (Section 59)

Under the present state of laws and rules, once the decision or resolution of the National Labor Relations Commission (NLRC) or the Voluntary Arbitrators of the National Conciliation and Mediation Board (NCMB) becomes final and executory, the same may already be enforced or executed against the Owners. This is possible notwithstanding the fact that the Owners still have a remedy of filing a Petition for Certiorari or Petition for Review before the Court of Appeals. The existing provisions under the Labor Code and Rules of Court will be deemed amended considering the new mandate under the Magna Carta.

The Magna Carta now addresses the Owners' concern about restitution, ambulance chasing and prosecution of ambulance chasers. The reality is that once the seafarers get the judgment award, they are not able to return the same in the event the Court of Appeals or the Supreme Court reverses or modifies the judgment award. With the new set up, both the seafarer and Owners will be better secured in their rights.

The notable features on execution of judgment awards are the following:

- a. The monetary award may be immediately executory or not –

Immediately executory even pending appeal	Not immediately executory
Any salary or wage	Any disputed amount determined to be legally due the seafarer
Any statutory monetary and welfare benefits	Damages, including moral damages, exemplary damages, nominal damages, attorney's fees, and other similar awards
Any undisputed amount, which is admitted by a party to be legally due to the other party	

- b. Any disputed amount determined to be legally due the seafarer – example:

The company is willing to pay the seafarer US\$25,000 for his Grade 6 disability as assessed by the company-designated physician. The NLRC or the Voluntary Arbitrator awarded him US\$60,000 disability benefits. If the company questions the claim before the higher courts, the seafarer can only immediately execute the amount of

US\$25,000 as this is an undisputed amount.

- c. A writ of execution for monetary awards that are not immediately executory shall only be issued if the seafarer posts a sufficient bond to ensure the full restitution of those amounts and the bond shall be maintained by the seafarer until final resolution of the appeal or judicial review
- d. The Owner shall immediately reimburse the total amount paid by the seafarer for the cost of the bond if the Court of Appeals or the Supreme Court decides in favor of the seafarer. However, the seafarer is not entitled to reimbursement if he loses the appeal
- e. The Department of Labor and Employment (DOLE), NLRC, and NCMB, in consultation with the Maritime Industry Tripartite Council (MITC) of the Department of Migrant Workers (DMW), shall promulgate the necessary rules and procedures to ensure the fair, speedy, equitable, and just disposition and execution of decisions granting monetary awards
- f. There shall be a *Agarang Kalinga at Saklolo Para sa mga OFW na Nangangailangan (AKSYON Fund)*, which may provide financial assistance to the seafarer depending on the final determination of maritime disability grading under Section 57 of the Magna Carta and for the payment of premiums of the bond either in full or in part

Complaints filed prior to the effectivity of the law shall be governed by the laws, rules and regulations prevailing as of the date of their filing (Section 1 of Rule XXII, IRR). Hence, in all pending cases arising from complaints filed before 12 October 2024, the old regime of laws, rules and regulations will be applied wherein decisions of the NLRC and voluntary arbitrator/s shall be considered final and executory.

The two important points as explained above set new expectations for the improvement in the handling of crew claims in the Philippines. Please also see the Q&A below, provided by Del Rosario and Del Rosario, for further information about the Magna Carta.

[Q&A On The Salient Points of The Implementing Rules and Regulations of Republic Act No. 12021 \(Magna Carta of Filipino Seafarers\)](#)

Yours faithfully,

The Japan Ship Owners' Mutual Protection & Indemnity Association