



DEL ROSARIO PANDIPHIL Inc.

Philippine Shipping Update – Manning Industry

By: Ruben Del Rosario, President, Del Rosario Pandiphil Inc., October 4, 2010

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Update on the Amended Migrant Workers Act (AMWA – Republic Act No. 10022)

The Insurance Guidelines relative to the compulsory insurance coverage for agency-hired overseas Filipino workers has been signed and published and became effective on 22 September 2010. Copy of the Guidelines can be downloaded at our website www.delrosariolaw.com.

Compulsory Insurance Coverage

The law requires the submission of a certificate of insurance coverage or other proofs of cover as a requirement for the issuance of an Overseas Employment Certificate (OEC) in order to deploy the seafarer. It is expected that the POEA will formulate and will issue within the week the necessary guidelines in the implementation of the compulsory insurance provision of the amended law. The guidelines will include the format of the required Certificate of Cover.

The circular will state its effectivity date which will most likely be fifteen (15) days from its issuance.

Amended POEA Standard Employment Contract

The amendments to the POEA Standard Employment Contract which incorporates some of the compulsory insurance requirements of the AMWA is also expected to be issued within the week. The effectivity date of said amended contract will be stated in the circular which will most likely be fifteen (15) days from its issuance.

Department of Health Guidelines on Regulation of Medical Clinics

The Department of Health (DOH) has a mandate of regulating the activities and operations of clinics conducting health examinations on Filipino migrant workers as a requirement for their overseas employment. The Omnibus Implementing Rules and Regulations require the DOH to issue the pertinent guidelines to implement the above mandate. The DOH is yet to issue said guidelines.

Jurisdiction Over Money Claims of Seafarers

The jurisdiction over money claims of seafarers has been retained with the Labor Arbiters of the NLRC. However, the Omnibus Implementing Rules and Regulations under Rule VII Section 7 thereof provides that for seafarers with collective bargaining agreements, the case shall be submitted for voluntary arbitration.

It is expected that the Secretary of Labor and the NLRC will issue corresponding directives or circulars on aforesaid voluntary arbitration.

The author is closely monitoring developments and will give subsequent updates as needed.

Two Supreme Court Decisions – Prescriptive Period and Drug Testing

In *Medline Management vs. Rosalinda*, GR No. 168715, September 15, 2010, Justice Mariano Del Castillo ruled **that a claim prescribes three years after the death of a seafarer**. In this case, vessel argued that the three year period should be reckoned from repatriation. The seafarer died one year and seven months from the expiration of his contract and the Court ruled that said three year period must be counted from seafarer's death. The Court however **disallowed payment of any compensation benefits as death occurred after the end of seafarer's contract and there was no adequate proof that his death was due to his work on board the vessel**.

In *Nacague v. Sulpico Lines*, GR No. 172589, August 8, 2010, Justice Antonio Carpio ruled that **a random drug test on a seafarer must be conducted by a clinic accredited by the Dangerous Drugs Board**. In this case, Sulpicio terminated a seafarer due to a positive test result on a random drug test. However, the seafarer argued that said drug testing clinic was not accredited by the Dangerous Drugs Board. Further, he did his own drug test at an accredited clinic six days after the random testing wherein the findings were negative for drugs. The Court ruled in favor of the seafarer and held vessel liable for illegal dismissal. Kindly note that this is a seafarer serving a ship plying Philippine waters.

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from Asia-Pacific, The Legal 500, 2009-2010, p. 341

This publication aims to provide commentary on issues affecting the manning industry, analysis of recent cases and updates on legislation. It is meant to be brief and is not intended to be legal advice. For further information, please email ruben.delrosario@delrosario-pandiphil.com.

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Del Rosario Pandiphil Inc. / Del Rosario & Del Rosario

Office Address: 15th Floor, Pacific Star Building, Makati Avenue, 1200 Makati City, Philippines

Telephone: 63 2 810 1791 * **Fax:** 63 2 817 1740/ 63 2 810 3632

24/7 Emergency Mobile: (63) (917) 830-8384; mail@delrosario-pandiphil.com; www.delrosario-pandiphil.com

