

**TO : FILIPINO SEAFARERS HOLDING MANAGEMENT AND OPERATIONAL LEVEL RELATED FUNCTIONS**  
**SUBJECT : RULES OF PROCEDURE IN ADMINISTRATIVE INVESTIGATION OF CASES FOR VIOLATIONS COMMITTED BY FILIPINO SEAFARERS HOLDING MANAGEMENT AND OPERATIONAL LEVEL RELATED FUNCTIONS**

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Pursuant to RA 10635, which designated the Maritime Industry Authority (MARINA) as the single maritime administration in the Philippines responsible for the implementation of the 1978 International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), as amended, the following Rules of Procedure in Administrative Investigation of Cases Involving Violations Committed by Filipino Seafarers holding Management and Operational Level related functions are hereby adopted:

**RULE I**  
**GENERAL PROVISIONS**

**Section 1. TITLE OF THE RULES-** These Rules shall be known as "The 2015 MARINA Rules of Procedure in Administrative Investigation."

**Section 2. CONSTRUCTION-** These Rules shall be liberally construed in order to obtain a just and speedy determination of cause/s of action herein provided.

**Section 3. DEFINITIONS-** For the purpose of this Circular, the following terms are hereby defined:

1. **Administration** -refers to the Maritime Industry Authority (MARINA) as the Single Maritime Administration in the Philippines responsible for the implementation of the 1978 STCW Convention, as amended.
2. **STCW Office (STCWO)** - refers to the office in MARINA specifically tasked to give full and complete effect to the requirements of STCW.
3. **Complaint-** refers to a sworn written statement containing concise and ultimate facts constituting the violation(s) of seafarer/s for causes of action provided in this Circular.

4. **Board-** refers to the Board of Marine Deck or Marine Engine Officers, as the case may be.

**Section 4. NATURE OF PROCEEDINGS** - Proceedings before the MARINA STCWO shall be summary in nature. The provisions of the Rules of Court shall not be applicable except in a suppletory character.

**Section 5. JURISDICTION-** The STCWO shall exercise original and exclusive jurisdiction to hear and decide all cases involving seafarers holding Management or Operational Level related functions.

**Section 6. VENUE-** cases falling under this MARINA Circular shall be filed at the STCWO.

**Section 7. COVERAGE-** This Circular shall apply to the following Marine officer's acts or omissions, but shall not be limited to:

- a) Conviction by a court of competent jurisdiction of any criminal offense involving moral turpitude;
- b) Immoral or dishonorable conduct;
- c) Gross negligence in the performance of his official duties;
- d) Violation of the Code of Ethics for Marine Deck/Engineer Officers;
- e) Violation of pertinent rules and/or regulations issued by the MARINA.

This Circular shall not be applicable in cases which are primarily civil or criminal in nature and shall apply only to Filipino seafarers holding Management and Operational level related functions.

## **RULE II FILING AND SERVICE OF PLEADINGS, JUDGEMENTS, AND OTHER PAPERS**

**Section 1. FILING AND SERVICE OF PLEADINGS-** All pleadings in connection with the case shall be filed with the STCWO.



**Section 2. Manner of filing.** — The filing of pleadings, motions, notices, and all other papers shall be made by presenting the original copies thereof, personally or by sending them by registered mail to the STCWO. In the first case, STCWO shall endorse on the pleading the date and hour of filing. In the second case, the date of the mailing of motions, pleadings, or any other papers or payments or deposits, as shown by the post office stamp on the envelope or the registry receipt, shall be considered as the date of their filing, payment, or deposit in the STCWO. The envelope shall be attached to the record of the case.

**Section 3. SERVICE OF NOTICES, RESOLUTIONS, ORDERS AND DECISIONS.** - Notices and copies of resolutions or orders shall be served through registered mail or by private courier.

For purposes of appeal, the period shall be counted from receipt of the decisions, resolutions or orders by the parties.

**Section 4. PROOF AND COMPLETENESS OF SERVICE.** - The return is prima facie proof of the facts indicated therein. Service by registered mail or by private courier is complete upon receipt by the addressee or his/her agent. If the addressee fails to claim his/her mail from the post office within five (5) days from the date of first notice of the postmaster, service shall take effect after such time. This rule, shall not, however, apply if the officer is on board vessel.

**Section 5. PROHIBITED PLEADINGS AND MOTIONS-** The following shall be considered as prohibited pleadings:

- (a) Motion to dismiss the complaint, except on the ground of lack of jurisdiction over the subject matter or the person of the respondent.
- (b) Motion for a bill of particulars;
- (c) Petition for relief from judgment;
- (d) Motion for a new trial or reopening of new trial;
- (e) Motion for extension of time to file pleadings, affidavits or any other papers, except when the officer is on board vessel;
- (f) Demurrer to evidence;
- (g) Such other pleadings, motions and petitions of similar nature intended to delay the proceeding.

The filing of such pleadings or motions shall not interrupt the running of the prescriptive period and shall not bar the adjudication of the case.

### **RULE III COMPLAINT**

**Section 1. WHO MAY FILE-** Any person or entity who has personal knowledge of any violation under this Circular may file a complaint in writing and under oath against the concerned seafarer/s.

The STCWO may initiate a complaint against a seafarer/ holding Management and Operational Level related functions *motu proprio* for causes of action herein provided.

**Section 2. CAPTION-** The complaint shall be filed in accordance with the following:

Maritime Industry Authority  
**STCW OFFICE**  
Manila

**Complainant**

- versus-

MARINA- STCW OFFICE Case No.  
For violation of: \_\_\_\_\_

**Name of the Seafarer**

x -----x

Respondent

**Section 3. CERTIFICATE OF FORUM SHOPPING-** The complainant shall certify under oath in the complaint that:

- (1) The complainant has not theretofore commenced any action or filed any claim involving the same issues in any court, tribunal or quasi judicial agency and, to the best of the complainant's knowledge, no such other action or claim is pending therein;
- (2) If there is such other pending action or claim, the complainant shall state the status thereof; and,
- (3) If the complainant should thereafter learn that the same or similar action or claim has been filed or is pending, the complainant shall report that fact within five (5) days therefrom to the Board.



## **RULE IV**

### **Section 1. ACTION UPON THE COMPLAINT**

Upon receipt of the complaint and upon presentation of proof of payment for the docket fees, the case shall be deemed filed and docketed. The complainant shall present three (3) copies of his complaint before the STCWO.

Payment of docket fees is a jurisdictional requirement except in those cases filed *motu proprio* by STCWO. Non-payment of docket fee shall cause the dismissal of the case.

**Section 2.** The concerned STCWO Board, through the Legal Division and the Executive Director of STCWO, shall issue a Show Cause Order (SCO) directing the respondent/s to file a Verified Answer in three (3) legible copies within ten (10) calendar days and not a Motion to Dismiss from receipt of the SCO, incorporating therein all relevant documents of his defense/s, and attaching thereto proof of service to the complainant/s.

**Section 3.** The Board, upon consultation with, and written recommendation of the Legal Division, may dismiss the case *motu proprio* if it is apparent in the complaint that the act/s complained of and/or the relief/s prayed for does not fall within the jurisdiction of STCWO.

## **RULE V ANSWER**

**Section 1. Verified Answer** - The respondent/s shall file a verified answer together with the supporting documents within a non-extendible period of fifteen (15) days from receipt of the Show Cause Order, furnishing complainant/s a copy thereof.

The answer shall be deemed filed on the date of receipt stamped thereon, if filed personally, or on the date stamped on the envelope if filed through mail.

**Section 2.** Upon receipt of the Answer, the Board, through the Legal Division and the Executive Director of STCWO, shall issue an order setting the date of the mandatory mediation. The Legal Division shall assign a lawyer to conduct mediation.



If the respondent/s fails to file an answer within fifteen (15) days from the service of Show Cause Order, the Board shall direct the complainant/s to file within thirty (30) days a position paper and draft decision together with supporting documents. Thereafter, the case shall be deemed submitted for resolution. Failure of the complainant/s to submit a verified Position Paper and draft decision shall cause the dismissal of the case.

**Section 3.** In cases filed *motu proprio*, after the filing of the answer or the lapsed of the period for filing the same, the case shall be deemed submitted for decision.

## RULE VI PROCEEDINGS MANDATORY MEDIATION CONFERENCE

**Section 1. NON-APPEARANCE OF PARTIES-** The Board may dismiss the case *motu proprio*, or upon motion, for non-appearance of the complainant during the two (2) settings for mediation conference scheduled in the Notice of Mediation despite due notice thereof.

In case of non-appearance by the respondent during the first scheduled conference, a second mediation conference will be scheduled. If the respondent still fails to appear at the second conference despite notice, he/she shall be considered to have waived his/her right to file position paper. The Legal Officer shall immediately terminate the mediation conference and refer the case to the concerned Board.

**Section 2. COMPROMISE AGREEMENT-** Any agreement entered into by the parties shall be reduced into writing and signed by the parties or the parties authorized representatives, if any.

In all cases, the compromise agreement must have the approval of the Board.

A compromise agreement duly entered into in accordance with this Section shall be final and binding upon the parties and shall have the force and effect of a judgment which shall be immediately final and executory.

Cases initiated *motu proprio* by the STCWO shall not, however, be subject to mediation nor to compromise agreement.



**Section 3. EFFECT OF FAILURE OF MEDIATION-** Where no compromise or settlement is reached, the Legal Officer conducting the mediation shall terminate the proceedings and the case shall be immediately forwarded to the Board, which shall then require the parties to submit their respective position papers.

**Section 4. TERMINATION OF THE MEDIATION CONFERENCE-** The mediation conference shall, except for justifiable grounds, be terminated within thirty (30) calendar days from the date of the first conference and shall be immediately forwarded to the Board for appropriate action.

## **RULE VII POSITION PAPER**

**Section 1.** Upon the termination of the mandatory mediation conference, the Board, through the Legal Division, shall direct the parties to submit simultaneously their verified position papers with supporting documents, affidavits, if any, and draft decision within thirty (30) calendar days.

**Section 2.** In case none or only one of the parties submitted his position paper, or the lapsed of the period to file the same, the case shall be deemed submitted for resolution and the Board shall render its decision based on existing documents within thirty (30) calendar days.

**Section 3.** At any stage of the proceedings and prior to the submission of the case for resolution, the Board, upon written recommendation of the Legal Division, may set a clarificatory hearing to examine documents or require submission of additional evidence to clarify certain factual issues pertinent to the resolution of the controversy. The lawyer shall be the presiding officer. The conduct of hearing may not observe the technicalities required in regular court. During the hearing, the lawyer or any member of the Board may expel any person who disrupts the proceedings or conducts himself in a disorderly manner.

**Section 4.** A majority of the members of the Board present may constitute quorum. A decision shall be concurred by at least a majority of the Board.



## **RULE VIII DECISION**

**Section 1. SUBMISSION OF THE CASE FOR DECISION.** - Upon submission by the parties of their position papers, together with a copy of the draft decision, or the lapse of the period to submit the same, the case shall be deemed submitted for decision.

The Board may adopt any of the draft decision, any portion thereof or totally disregard both and prepare its own decision through the Legal Division.

The Board shall render its decision within thirty (30) calendar days after the submission of the case for decision.

The Legal Division shall always be consulted in deciding the case and such shall be certified in the decision.

**Section 2. INHIBITION** - In the event that any of the member of the Board recuse/inhibit from hearing/resolving the case, the Executive Director shall designate the replacement of the former from the other existing Board.

**Section 3. CONTENTS OF DECISIONS.** - The decisions and orders of the Board shall include a brief statement of the:

- a) facts of the case;
- b) issues involved;
- c) applicable laws or rules;
- d) conclusions.

**Section 4. FINALITY OF THE DECISION OR ORDER AND ISSUANCE OF CERTIFICATE OF FINALITY.** The decisions, resolutions or orders of the Board shall become final and executory after fifteen (15) days from receipt thereof by the parties, unless a Motion for Reconsideration or an appeal has been filed before the Board or Office of the Administrator, as the case may be, within the reglementary period.

## **RULE IX APPEAL**

**Section 1. PERIODS OF APPEAL.** Decisions, awards, or orders of the Board shall be final and executory unless appealed to the Office of the Administrator by



any or both parties within fifteen (15) calendar days from receipt thereof. If the 15<sup>th</sup> day falls on a Saturday, Sunday or holiday, the last day to perfect the appeal shall be the first working day following such Saturday, Sunday or holiday.

## **Section 2. GROUNDS**

The appeal may be entertained only on any of the following grounds:

- a) If there is prima facie evidence of abuse of discretion;
- b) If the decision, award or order was secured through fraud or coercion;
- c) If serious errors in the findings of facts are raised which, if not corrected, would cause grave or irreparable damage or injury to the appellant.

## **Section 3. REQUISITES FOR PERFECTION OF APPEAL**

**(A)** The appeal to the Office of the Administrator shall be:

- (1) Filed within the reglementary period provided in Section 1 of this Rule;
- (2) Verified by the appellant himself/herself in accordance with Section 4, Rule 7 of the Rules of Court, as amended;
- (3) In the form of a memorandum of appeal which shall state the grounds relied upon and the arguments in support thereof, the relief prayed for, and with a statement of the date the appellant received the appealed decision or order, duly served to the appellee;

**(B)** A mere notice of appeal without complying with the other requisites aforestated shall not stop the running of the period for perfecting an appeal.

**(C)** The appellee shall file with the Office of the Administrator his/her counter memorandum not later than fifteen (15) calendar days from receipt of the copy of memorandum of appeal.

Failure on the part of the appellee who was properly furnished with a copy of the memorandum of appeal to file his/her counter memorandum within the said period may be construed as a waiver on his/her part to file the same.



**Section 4. APPEAL FEE.** - The appellant shall pay the corresponding appeal fee to the cashier and the official receipt of such payment shall form part of the records of the case.

**Section 5. FILING OF APPEAL; EFFECT.** - Once an appeal is filed, the Board loses jurisdiction over the case.

**Section 6. FINALITY OF DECISION OF THE OFFICE OF THE ADMINISTRATOR AND ENTRY OF JUDGMENT.** - The decisions, resolutions or orders of the Office of the Administrator shall become final and executory after fifteen (15) calendar days from receipt thereof by the parties or by their authorized representative.

Upon the expiration of the fifteen (15) calendar day period, the decision, resolution, or order shall be entered in a book of entries of judgment.

In the absence of return cards, certifications from the post office or the courier or other proofs of service to the parties, the decision, resolution or order shall be considered as final and executory after sixty (60) calendar days from date of mailing.

**Section 7. APPEAL MEMORANDUM AND COUNTER MEMORANDUM**

a) **Allowed Pleadings.** - The only pleadings allowed on appeal are the Appeal Memorandum and the Counter-Memorandum. Unless otherwise directed by the Office of the Administrator, no other pleadings shall be allowed and the filing thereof does not toll the period for the resolution of the appeal.

b) **Contents of Appeal Memorandum.** - (a) Title and Caption. - The heading shall state that the case is filed under the jurisdiction of the MARINA. The caption shall be the same as that stated in the original case but the party appealing shall be additionally designated as the "Appellant" and the party against whom the appeal is made as the "Appellee".

a. **Statement of Date of Receipt of Appealed Decision.** - The statement of the date when the appellant received a copy of the appealed decision;

b. **Statement of the Facts and Incidents.** - The summary of the facts leading to the filing of the case, or giving rise to the omission or



commission of the acts constituting the cause of action or defense, and the proceedings conducted, inclusive of the material dates;

- c. **Statement of the Issues.** - The issues to be resolved in the appeal;
- d. **Statement of the Grounds for the Appeal.** - The grounds upon which the appeal is based;
- e. **Reliefs.** - The ultimate claims of the parties;
- f. **Verification.** - The verification which shall be in accordance with the Rules of Court.

## **RULE X PENALTY**

**Section 1.** In addition to existing MARINA/STCWO penalties, the penalties provided in PRC Resolution 2013-775 are hereby adopted:

“If found guilty by the Board, the respondent professional person shall be meted the penalty of revocation or suspension of the Certificate/s of Registration or reprimand. The revocation or suspension of the Certificate/s of Registration and/or the Professional Identification Card; and in the case of marine officers, the STCW Certificates, if applicable, shall cause the surrender thereof to the Board within (10) days from the finality of the decision.”

“The imposable penalty on an examinee shall be cancellation of examination papers; withholding the results of his licensure examination and/or deferment of registration; or debarment from taking a licensure examination within a specified period or any future licensure examination. On an applicant, the impossible penalty shall be denial or cancellation of his application or deferment of his registration, as the case may be.”



## **RULE XI REMEDIES**

**Section 1. FILING OF MOTION FOR RECONSIDERATION-** A party adversely affected by the decision of the Board or the Office of the Administrator may file a motion for reconsideration within a non-extendible period of fifteen (15) days from receipt thereof based on the following:

- a) New evidence has been discovered which materially affects the decision rendered, or
- b) The decision is not supported by the evidence on record, or
- c) Errors of law or irregularities have been committed prejudicial to the interest of the claimant

Only one (1) motion for reconsideration shall be entertained.

## **RULE XII AMENDMENT/SEPARABILITY CLAUSE**

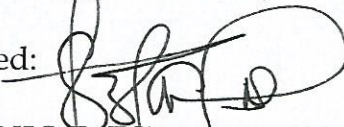
**Section 1.** Provisions in other Marina/STCW Circulars, including the adopted PRC Resolution No. 2013-775 series of 2013 that are inconsistent with this Circular are hereby amended.

**Section 2.** If for any reason any section or provision of this Circular is declared unconstitutional or invalid, the other sections, or provisions hereof not affected by such declaration shall remain in force and in effect.

## **RULE XIII EFFECTIVITY**

This MARINA Circular shall take effect immediately on the day of its publication.

Manila, Philippines, 22 July 2015

Submitted: 

**HERMINIO P. ESTANIEL, JR. MM**  
OIC, STCW Office




Approved:

  
MAXIMO Q MEJIA JR, PhD  
Administrator

SECRETARY'S CERTIFICATE

This is to certify that STCW Circular No. 2015-11 was approved by the Administrator on 22 July 2015.

  
ATTY. JEPATH A. DACANAY  
Deputy Executive Director