

**[ MIA STCW Circular No. 2015-11, July 22, 2015 ]**

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

*Adopted: 22 July 2015  
Date Filed: 11 August 2015*

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, JUDGMENTS, 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.