

[**MARINA CIRCULAR NO. 2013-05, January 18, 2013**]

RULES OF PROCEDURE IN ADMINISTRATIVE INVESTIGATION OF CASES INVOLVING VIOLATIONS COMMITTED BY MARITIME TRAINING INSTITUTIONS AND FILIPINO SEAFARERS AND THE CORRESPONDING TABLE OF PENALTIES

Pursuant to Executive Order (E.O.) No. 75 designating the Department of Transportation and Communications (DOTC) through the Maritime Industry Authority (MARINA) as the single administration in the Philippines responsible for oversight in 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 Maritime Training Institutions and Filipino Seafarers are hereby adopted:

I. OBJECTIVES:

1. To ensure compliance by Maritime Training Institutions (MTIs) and all seafarers with the 1978 STCW Convention, as amended.
2. To provide policies and procedures in the Administrative Investigation of Cases Involving Violations Committed by Maritime Training Institutions and Filipino Seafarers and to prescribe the corresponding Tables of Penalties.

II. COVERAGE:

This Circular shall apply to all Maritime Training Institutions (MTIs), Filipino seafarers and all concerned entities.

III. DEFINITIONS OF TERMS:

For the purpose of this Circular, the following terms are hereby defined:

1. **Administration** – refers to the Maritime Industry Authority (MARINA), as the single Administration in the Philippines responsible for oversight in the implementation of the 1978 STCW Convention, as amended.
2. **Certificate of Course Accreditation** – refers to the document issued by the Administration to a maritime training institution that has complied with all the requirements for accreditation of a maritime training course.
3. **Complaint** – refers to a sworn written statement containing concise and ultimate facts constituting the violation(s) by the respondent of any provision of MARINA circulars, rules and regulations, ruling, and orders in implementing the 1978 STCW Convention, as amended, duly signed by the aggrieved party or the complainant.
4. **Fraudulent Document** – refers to any false, fake, and spurious document issued by a maritime training institution and procured by Filipino seafarers.

5. **Grave Offenses** – refers to those offenses committed by the maritime training institution that will seriously affect the quality of training and will lead to the non-achievement of the course objective.
6. **Less Grave Offenses** – refers to those offenses that will not seriously affect the quality of training but are correctional in nature or some offenses or deficiencies that have been committed by means of mistake or fault.
7. **Maritime Training Institutions (MTIs)** – refers to duly established institutions, public or private, authorized by the Administration to offer maritime training courses in accordance with the 1978 STCW Convention, as amended and other applicable laws, rules and regulations.
8. **Memorandum Report** – refers to any official written report originating from any of the branches of the STCW Office, containing distinctly the facts constituting violation(s) by the respondent Maritime Training Institutions or seafarer of the provision of all MARINA circulars, rules and regulations, rulings and orders relating to the implementation of 1978 STCW Convention, as amended.
9. **Pre-accreditation cases** – refers to cases arising from evaluation of documents submitted by Maritime Training Institutions in their application for course accreditation.
10. **Quality Standards System** – refers to the documented policies, procedures, controls and internal quality assurance system, relating but not limited to training, assessment of competence and revalidation activities, designed to ensure the achievement of defined objectives of the training course in accordance with the requirements of the STCW Convention.
11. **STCW Office** – refers to the STCW Office of MARINA, which shall exercise oversight and supervisory functions over different agencies involved in the implementation and enforcement of the 1978 STCW Convention, as amended.
12. **STCW Convention** – refers to the 1978 International Convention on Standards of Training, Certification and Watchkeeping for Seafarers as amended, and its associated Code.
13. **Summative Assessment** – refers to the assessment conducted after the course to measure level of learning of trainees as per learning objectives.
14. **Training Completion and Record of Assessment (TCROA)** – refers to the prescribed document where the names of trainees who have completed the training course and the outcome of their assessment are recorded as certified by the qualified assessor and training director of an accredited Maritime Training Institutions.
15. **Training Course** – refers to the series of lessons composed of component modules to teach an individual the skills, knowledge and proficiency to acquire the required competences and be certified in accordance with the 1978 STCW Convention, as amended.

IV. JURISDICTION AND VENUE:

1. **Jurisdiction.** – The MARINA through the STCW Office shall exercise original and exclusive jurisdiction to hear and decide all cases involving pre-accreditation of training courses of all maritime training institutions, all cases arising out of violations by the maritime training institutions and Filipino seafarers of any circular, rules and regulations, ruling and order issued by MARINA in relation to all issues in the implementation of the 1978 STCW Convention, as amended.

2. **Venue.** – All cases arising out of violations by Maritime Training Institutions and Filipino seafarers of any MARINA circular, rules and regulations, ruling, order and decision shall be heard at the STCW Central Office or its Regional Offices, if applicable. In the case of reports, the same shall be investigated by the STCW Office.

V. FILING OF COMPLAINT

1. **Who may file.** – Any person or entity who has knowledge of any violation of MARINA circular, rules and regulations, ruling and order may file a complaint in writing and under oath against maritime training institutions or Filipino seafarers. The STCW Office on its own initiative or upon filing of a complaint or receipt of a memorandum report may conduct the necessary proceedings for the suspension, cancellation or revocation of the accreditation of courses of the maritime training institutions and/or disciplinary actions against seafarers.
2. **Caption and Title.** – The complaint shall be filed in accordance with the following captions:

Maritime Industry Authority
STCW OFFICE
Manila

MARINA- STCW OFFICE

Case No.

For violation of:

- versus -

Name of the Maritime Training Institution/

Name of the Seafarer

X -----X

Respondent

3. **Contents of the Complaint or Report.** – All complaints and reports shall be under oath and must contain, among others, the following:
 - a. Name and address of the complainant/s.
 - b. Name and address of the respondent.
 - c. The nature of the complaint.
 - d. The substance, cause/grounds of the complaint.
 - e. Where and when the action complained of happened.
 - f. The relief sought.

All pertinent papers or documents in support of the complaint must be attached whenever possible. The complaint shall be under oath and shall be administered by any officer authorized by law.

4. **Docket and Assignment of cases.** – Complaints duly received shall be docketed, numbered and assigned to a Hearing Officer of the STCW Office.

VI. ACTION UPON THE COMPLAINT

1. **Answer/Counter Affidavit.** – Upon receipt of the complaint, the STCW Office through its Executive Director shall issue a Show Cause Order (SCO) directing the respondent/s to file a Verified Answer/Counter-Affidavit 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 its defense/s, and attaching thereto proof of service to the complainant/s. The answer shall be deemed filed on the date of receipt stamped thereon, if filed personally, or on the date stamped on the envelope filed through registered mail.
2. **Failure to File Answer/Counter-Affidavit.** - Failure to file answer will constitute a waiver on the part of the respondent and hearing or investigation shall proceed ex-parte.
3. **Authority to Issue Subpoena Duces Tecum and Subpoena Ad Testificandum.** The STCW Office shall issue subpoena duces tecum or subpoena ad testificandum in the course of the investigation of the case as may be necessary in accordance with procedural law.
4. **Failure or Refusal to Obey Subpoena Duces Tecum and Subpoena Ad Testificandum.** – The conduct of courses of maritime training institution who fails or refuses to obey the Subpoena Duces Tecum and Subpoena Ad Testificandum shall be suspended until compliance of the directive or order from the STCW Office. This is without prejudice to the outcome of the investigation wherein the proper penalty may be imposed.
5. **Proof of Completeness of Service.** – The return is prima facie proof of the facts stated therein. Service by registered mail is complete upon receipt by the addressee or its agent; but if the addressee or agent fails to claim his mail from the post office within five (5) calendar days from date of last notice of the postmaster, service shall take effect after such time.
6. **Motion for Extension.** – Only one motion for extension of time to file Answer/Counter-Affidavit shall be allowed. The extension shall not exceed ten (10) calendar days from receipt of the order granting it.
7. **Fact-Finding Investigation or Preliminary Conference if Necessary.** – The Hearing Officer may summon the parties for a fact-finding investigation or to a conference where he/she may propound questions to the parties and to interview any possible witnesses. The Hearing Officer shall maintain minutes of the proceedings which shall be signed by the parties and their counsels, if any, and shall form part of the records of the case.
8. **Authority to Initiate Clarificatory Questions.** – At any stage of the proceedings and prior to the submission of the case for resolution, the Hearing Officer may initiate clarificatory questions to further elicit facts or information, including but not limited to the subpoena of relevant documentary evidence.
9. **Summary Judgment.** – Should the Hearing Officer find upon consideration of the answers, counter-affidavits and evidence submitted that a resolution or decision may be rendered thereon, the case shall be deemed submitted for judgement on the merits.
10. **Nature of Proceedings.** – The proceedings shall be non-litigious in nature, subject to the requirement of due process, the technicalities of law and procedure may be dispensed with except that the observance of the reglementary period shall be strictly complied with. The Hearing Officer may avail himself/herself of all reasonable means to ascertain the facts of the case, including ocular inspection where appropriate, and examination of informed and expert witnesses.
11. **Effects of Withdrawal/Desistance.** – The withdrawal or desistance of the complainant shall not bar the STCW Office from proceeding with the

investigation on violations of the maritime training institutions or seafarer of the existing MARINA circulars, its implementing rules and regulations, rulings and orders. The STCW Office shall act on the case as may be merited by the result of the investigation and impose the corresponding penalty upon the respondent.

12. **Suspension of Accreditation of Programs and Training Courses pending Investigation.** – Pending investigation of the violations complained of and upon notice, the accreditation of the programs or training course may be suspended for a period not exceeding the imposable penalties under the Table of Penalties on the following grounds:
 - a. There exists reasonable ground to believe that the continued conduct of the program or training course will lead to further violations or adversely affect the training or otherwise prejudice national interest.
 - b. There is a prima facie case for violation of the MARINA Circulars, its implementing rules and regulations or any issuance of the MARINA, rulings and orders where the evidence of culpability is strong. The Executive Director of STCW Office may issue an order lifting or modifying the Order of Preventive Suspension (OPS) as the circumstances may warrant.
13. **Resolution of the Case.** – The Hearing Officer shall within thirty (30) calendar days from submission of the case submit its recommendation to the Executive Director.
14. **Who may Issue Order/Decision or Resolution.** - Only the Executive Director or the duly designated Officer in Charge of the STCW Office may issue suspension, cancellation or revocation orders of the accreditation of training courses or any disciplinary actions against Filipino seafarers. The Executive Director shall render judgment and impose the prescribed penalties herein provided. The judgment rendered by the Executive Director or the designated Officer in Charge shall be final and executory.
15. **Motion for Reconsideration** – Only one (1) Motion for Reconsideration (MR) shall be filed by an aggrieved party at the STCW Office within 10 calendar days from receipt of the Order/Resolution/Decision. However, an Order of Suspension for one (1) month shall not be subject to any Motion for Reconsideration or Appeal and the said Order shall be immediately executory.
16. **Suspension of Documentary Processing.** - The STCW Office may order the suspension of the processing of any documentation pertaining to a respondent maritime training institution or Filipino seafarer filed by during the pendency of the investigation/hearing involving concerned respondent.
17. **Effects of Order of Suspension, Cancellation or Revocation of Accreditation of Programs or Training Courses.** – An order of suspension, cancellation or revocation shall have the effect of suspending or terminating all activities of the maritime training institution pertaining to its particular accreditation of training course which is the subject of the case. The Administrator may seek the assistance of other government institutions, agencies or offices to ensure that the suspension, cancellation or revocation orders are properly implemented.
18. **Institution of Criminal Offense.** – The MARINA or any aggrieved party, may initiate corresponding criminal action with the appropriate Office arising from any act of false documentation and misrepresentation in application of accreditation of training course by a maritime training institution and securing certificates of proficiency by Filipino seafarers.