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RULES REITERATING THE MANDATORY P200,000.00 COMPULSORY PASSENGER INSURANCE COVERAGE TO MANIFESTED PASSENGERS; INDEMNITY OF P200,000.00 PER UNMANIFESTED PASSENGER TO BE SHOULDERE...

MARINA CIRCULAR NO. 2009-18, June 19, 2009

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Pursuant to Presidential Decree No. 474, Executive Order No. 125, as amended, and Republic Act (RA) No. 9295 and its Implementing Rules and Regulations (IRR), the Maritime Industry Authority Board in its meeting held on 19 June 2009, approved and adopted the following rules:

I. COVERAGE

This Circular shall cover all domestic ship-owner/operator engaged in domestic shipping.

II. DEFINITION OF TERMS

Passenger/s shall mean any person while embarking on, on board, or disembarking from a ship. It shall also include those who are ticketed, unticketed, manifested, unmanifested, minor, paying, non-paying, holding discounted or complimentary tickets and/or accommodated passengers, including those accompanying cargoes, vehicle or animals, covered by a contract of carriage.

III. GENERAL PROVISIONS

1. Under no circumstance may a ship leave port which is carrying more than or in excess of its authorized passenger capacity, as reflected in its latest and valid Passenger Ship Safety Certificate (PSSC).

2. MARINA Memorandum Circular No. 180 prescribing rules on the MARINA requirement on counting and manifesting of passengers is likewise adopted/reiterated. The Master shall ensure that all passengers, as defined in this Circular, are duly and properly recorded in the Passenger Manifest, a sample form of which is attached as Annex “A”[*] to this Circular.

Said passenger manifest, shall be accomplished and submitted to MARINA or any of its deputized agent/s prior to every departure of the ship.

3. Only passenger/s with tickets and valid ID (or its equivalent) shall be allowed to board the ship.

4. Section 1.1, Rule IX of the Implementing Rules and Regulations of Republic Act No. 9295 which imposed the requirement for shipowners/operators to provide valid and adequate insurance coverage for each passenger in the amount of Two-Hundred Thousand Pesos (Php200,000.00) per passenger is hereby reiterated.

5. In case of maritime accidents/incidents resulting to death of passenger/s and the shipowner/operator failed to provide valid and adequate insurance as required by Sec. 1.1, Rule IX of the IRR of RA 9295, such passengers shall be deemed self-insured by the shipowner/operator for the same amount of P200,000.00/passenger and the same shall be settled or paid within a period of five (5) days.

In case of missing passengers, the amount of Php200,000.00 shall be paid within one (1) year from the

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incident, upon presentation of the following proofs:

5.1 Affidavit from two (2) Interested Persons certifying that the missing person is a passenger in the ship;
5.2 PCG Incident Report;
5.3 Birth Certificate or Marriage Contract of missing person; and,
5.4 Proof Attesting to the Relationship of the Claimant to the missing person.

6. Unmanifested passengers involved in a maritime accident/incident resulting to the death of the passengers whether recovered or missing shall be indemnified in the amount of P200,000.00 payable to their legal heirs per passenger to be shouldered by the shipowners/operators to be settled or paid within a period of five (5) days from recovery of the bodies and for missing passengers, within one (1) year from the incident, upon presentation of above-enumerated proofs;

7. Passengers who survive a maritime accidents/incidents, resulting to death of other passengers, shall be paid P50,000.00 per passenger as monetary assistance over and above medical and hospitalization expenses and other reasonable incidental expenses, including but not limited to the burial, travelling, clothing, board and lodging expenses covered by official receipts, to be paid within five (5) days from the incident;

8. Shipowners and operators are required to acquire additional compulsory survivor insurance coverage in the amount of P50,000.00 to serve as monetary assistance to survivors of maritime accidents/incidents over and above medical and hospitalization expenses or other reasonable incidental expenses, but not limited to, burial, traveling, transfer, clothing, food, board and lodging expenses covered by official receipts.

9. No Certificate of Public Convenience (CPC)/Special Permit or other authority to operate shall be issued or renewed unless a valid and adequate passenger insurance coverage at P200,000.00/passenger and P50,000.00/passenger for survivor insurance coverage to cover monetary assistance to survivor of maritime accident/ incident are submitted to the MARINA.

IV. SANCTIONS/PENALTIES

After due notice and hearing, the penalties and sanctions imposed in MARINA Circular (MC) Nos. 2009- 11, and MC 2009-13 S. of 2009, entitled: “Revised Schedule of Administrative Fines and Penalties for Maritime Violations and Offenses” and “Additional Penalty for Passenger-Carrying Ships Involved in a Maritime Accident/Incident for the Carriage of Passengers in Excess of the Authorized Passenger Capacity”, respectively, and their subsequent amendments, will be imposed, as follows:

VIOLATION

SIZE OF SHIP/NUMBER OF VIOLATION

SANCTIONS AND PENALTY

1. Carriage of passenger and/or persons exceeding the authorized total number of passengers or persons otherwise known as overloading

A. SHIPS

- Ships 35 GT and below -

1st Violation

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P10,000.00/violation + 15 day suspension of Master's License issued by MARINA

2. Absence of or failure to submit complete passenger manifest for a particular voyage of a ship

2nd Violation

P15,000.00/violation + 30 day suspension of Master's License issued by MARINA

3. Failure to reflect all passengers in the Passenger Manifest for a particular voyage

3rd Violation

P20,000.00/violation + revocation of Master's License issued by MARINA

4. Deviation in passenger manifesting on board

- Master/Boat Captain of Ships above 35 GT

1st Violation

P25,000.00/violation + 15 day suspension of SIRB

2nd Violation

P35,000.00/violation + suspension of SIRB

3rd Violation

P50,000.00/violation + revocation of SIRB

B. SHIPOWNERS/OPERATORS

1st Violation

P50,000.00 + 30 day suspension of CPC + P100,000.00 per passenger in excess of its maximum authorized capacity

2nd Violation

P100,000.00 + 60 day suspension of CPC + P100,000.00 per passenger in excess of its authorized capacity

3rd Violation

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P150,000.00 + cancellation of CPC + P100,000.00 per passenger in excess of its authorized capacity

5. Carrying passengers in excess of authorized capacity involved in maritime accident/incident

One (1) year suspension of the entity CPC

6. If found to have violated IV.5 hereof and imposed one (1) year suspension of CPC, and was found to have violated the Order of Suspension of CPC

Perpetual disqualification from operating ships

The sanctions and penalties provided is without prejudice to the filing of appropriate civil and criminal charges against the shipowner/operator and their officers and crew.

V. REPEALING CLAUSE

Issuances inconsistent herewith are hereby ordered amended/modified accordingly. All Memorandum of MARINA Circulars, rules and regulations, issuances inconsistent herewith are hereby amended or repealed accordingly.

VI. SEPARABILITY CLAUSE

Should any provision or part of this Circular be declared by competent authority to be invalid and unconstitutional, the remaining provision or parts hereof shall remain in full force and effect and shall continue to be valid and effective.

VII. TRANSITORY PROVISION

All domestic shipowners/operators covered under this Circular shall be required to submit its compliance thereto until 15 October 2009 without any extension.

VIII. EFFECTIVITY

This Circular shall take effect immediately upon its publication once in a newspaper of general circulation.

Adopted: 19 June 2009

(SGD.) MARIA ELENA H. BAUTISTA
Administrator

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[*] Text Available at Office of the National Administrative Register, U. P. Law Complex, Diliman, Quezon City.

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