PROCEDURES IN THE ADMINISTRATIVE INVESTIGATION OF MARITIME TRAINING CENTERS FOR VIOLATIONS OF TRAINING STANDARDS AND CORRESPONDING TABLE OF PENALTIES

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WHEREAS, the Philippines is Party to the 1978 STCW Convention that entered into force on April 28, 1984;

WHEREAS, the Philippines as a Party to the Convention has the obligation to promulgate laws and regulations to give effect to the said Convention:

WHEREAS, Letter of Instructions No. 1404 was issued in May 1, 1984 establishing a Maritime Training Council which shall give effect to the Convention;

WHEREAS, Section 2 (1) of LOI No. 1404 provides that the Maritime Training Council shall develop, formulate and prescribe standards of training for Filipino seafarers as prescribed by the 1978 STCW Convention, as amended:

WHEREAS, Resolution No. 05, series of 1997 reiterates the policy on the enforcement of rules and regulations governing the operation of training centers;

WHEREAS, the Maritime Training Council's Expanded Table of Penalties, Disciplinary Sanctions and Procedures in the Investigation of Erring Training Centers must conform with the new requirements mandated by the 1978 STCW Convention as amended, and Resolution No. 03, Series of 1998 relating to the Revised Standards and Procedures in the Accreditation and Monitoring of Course Programs Conducted by Maritime Training Centers issued on June 25, 1998;

WHEREAS, there is a need to establish procedures in the administrative investigation of maritime training centers for violation of training standards and to update, revise and expand the table of penalties to be imposed upon them;

NOW, THEREFORE, be it resolved as it is hereby resolved that the Maritime Training Council shall adopt the Procedures in the Administrative Investigation of Maritime Training Centers for Violations of Training Standards and Corresponding Table of Penalties as herein attached as Annex 1.

BE IT FURTHER RESOLVED, that this resolution shall supersede Resolution No. 05, series of 1997.

BE IT FINALLY RESOLVED, that this Resolution shall take effect 15 days after publication in the Official Gazette or in a newspaper of general circulation.

Adopted: 15 November 2000

(SGD.) BIENVENIDO P. LAGUESMA
Secretary, Department of Labor and Employment and
Chairman, Maritime Training Council

(SGD.) HERMOGENES P. POBRE

Chairman,
Professional Regulation Commission
(PRC)

(SGD.) REYNALDO A. REGALADO
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(SGD.) RADM. EUCEO E. FAJARDO
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(SGD.) ESTER A. GARCIA
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(SGD.) VICENTE F. ALDANESE, JR.
Private Sector Representative
Filipino Association for Mariners Employment
(FAME)

(SGD.) GREGORIA S. OCA
Private Sector Representative
Associated Marine Officers and
Seamen’s Union

Attested to:

(SGD.) LORNA O. FAJARDO
Executive Director

Annex 1

Procedures in the Administrative Investigation of
Maritime Training Centers For Violations of Training
Standards and Corresponding Table of Penalties
(Per Resolution No. 8, Series of 2000)

RULE I
Jurisdiction and Venue

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SECTION 1. Jurisdiction — The Maritime Training Council, through the MTC Secretariat shall exercise original and exclusive jurisdiction to hear and decide complaints against accredited maritime training centers which are administrative in character involving or arising out of the violations of the MTC Rules and Regulations.

SECTION 2. Venue — Any complaint involving violation of MTC Rules and Regulations committed by maritime training centers shall be filed at the MTC Secretariat.

SECTION 3. Grounds/Causes of Action for the Filing of Complaints against Maritime Training Centers —

a. Issuing a training certificate to trainee who has not undergone training and proper assessment in accordance with the requirements of MTC Resolution No. 03, series of 1998. (Section 9.9)

b. Conducting training and issuing training certificate without authority or with expired certificate of accreditation. (Section 5.1)

c. Conducting training in violation of the cease and desist order issued by the MITC. (Section 18.1)

d. Misrepresentation of information in connection with the application for authority or accreditation. (Section 10.0)

e. Disregard of the standards, set out in Annex 1 of the Resolution No. 03, Series of 1998 (Sections 9.1 & 13.1.1)

f. Employing training supervisors, instructors and assessors who do not meet the requirements of Annex 2 of Resolution No. 03, series of 1998 (Sections 9.2 & 13.1.2)

g. Enrolling a trainee in a particular course who does not meet the entry requirements for the course (Sections 9.4 & 13.1.4)

h. Violation of maximum intake of trainees in a classroom. (Sections 9.5 & 13.1.5)

i. Failure to maintain classroom facilities (Sections 9.6 & 13.1.6)

j. Incomplete and/or non-functioning training equipment, textbooks or training aids which will seriously affect the quality of training that will lead to the non-achievement of the course objective (Section 13.1.7)

k. Non-observance of policies and procedures of the Quality System (Section 9.10 & 13.1.9).

l. Failure to comply with any of the responsibilities provided under Section 18.

m. Non-compliance with orders, instructions and issuances issued by the MITC.

RULE II
Filing of Complaints

SECTION 1. Who May File — Any person or entity who has knowledge of any violation of MTC Rules and Regulations may file a complaint in writing and under oath against the maritime training center involved.

The Council on its own initiative or upon filing of a complaint or report for investigation by any aggrieved person where there appears probable cause thereto, shall conduct the necessary proceedings for the suspension, cancellation or revocation of the accreditation of courses of the maritime training center subject of the complaint.

SECTION 2. Caption and Title — The complaint shall be filed in accordance with the following:

Republic of the Philippines
Department of Labor and Employment
MARITIME TRAINING COUNCIL

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Metro Manila

MTC CASE NO. _____

IN THE MATTER OF VIOLATION
OF MTC RULES AND REGULATIONS
AND IMPLEMENTING ORDERS/CIRCULARS

--versus--

_____,

Respondent

SECTION 3. Contents of Complaints/Report — All complaints/reports shall be under oath and must contain, among others the following:

- Name and address of the complainant

- Name and address of the respondent

- Nature of the complaint

- Substance, cause/ground of the complaint

- When and where the action complained of happened

- The relief sought

All pertinent papers or documents in support of the complaint must be attached, whenever possible.

SECTION 4. Docket and Assignment of Cases — Complaints duly received shall be docketed and numbered and shall be assigned to, and acted upon by, the investigating Committee composed of a Chairman and two members who are duly designated by the MTC Executive Director.

RULE III
Action Upon the Complaint

SECTION 1. Answer — Upon receipt of the complaint, the Investigating Committee shall issue a SHOW CAUSE ORDER directing the respondent to file a verified answer within ten (10) calendar days from receipt of copy of the complaint and not a Motion to Dismiss, incorporating therein all pertinent documents in support of its defense. The answer shall be deemed filed on the date stamped on the envelope, if filed by registered mail.

SECTION 2. Failure to File Answer — Failure to file answer will constitute a waiver on the part of the respondent and hearing/investigation shall proceed ex-parte.

SECTION 3. Authority to Issue Subpoena Duces Tecum and Subpoena Ad Testificandum — The committee may issue subpoena duces tecum and subpoena ad testificandum in the course of the investigation of the case as may be necessary, in accordance with procedural law.

SECTION 4. Proof of Completeness of Service — The return is prima facie proof of facts stated therein. Service by registered mail is complete upon receipt by the addressee or 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.

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SECTION 5. Motion for Extension — Only one motion for extension of time to file answer shall be allowed but the extension shall not exceed ten (10) calendar days from receipt of the order granting the same.

SECTION 6. Authority to Initiate Clarifying Questions — At any state of the proceedings and prior to the submission of the case for resolution, the Investigating Committee may initiate clarifying questions to further elicit facts or information, including subpoena of relevant documentary evidence.

SECTION 7. Summary Judgment — Should the committee find upon consideration of the facts and evidence submitted, that resolution/decision may be rendered thereon, the case shall be deemed submitted for judgment on the merits.

SECTION 8. Nature of Proceedings — The proceedings before the committee shall be non-litigious in nature, subject to the requirements of due process. The technicalities of law and procedure and the rules obtaining in the courts of law shall not strictly apply thereto. The committee may avail themselves of all reasonable means to ascertain the facts of the case, including ocular inspection, where appropriate and examination of informed and expert witnesses.

SECTION 9. Suspension of Accreditation Pending Investigation — Pending investigation of the violations complained of, and upon notice, the accreditation of the course program or programs may be suspended for a period not exceeding the imposable penalties under the Table of Penalties on the following grounds:

a. There exist reasonable grounds to believe that the continued conduct of the course program will lead to further violation or adversely affect the training or otherwise prejudice national interest; and

b. There is a prima facie case for violation of the MTC rules and regulations where the evidence of culpability is strong.

The Executive Director may issue an order lifting the order of suspension as the circumstances may warrant.

SECTION 10. Effects of Withdrawal/Desistance — The withdrawal/desistance of the complaining witness shall not bar the MTC from proceeding with the investigation on the violations complained of. The MTC shall act on the case as may be merited by the investigation sanction as appropriate and warranted, or dismiss the case.

SECTION 11. Resolution of the Case — The Investigating Committee shall within ten (10) calendar days from submission of the case, submit its recommendation to the Executive Director.

SECTION 12. Who May Issue Orders/Resolutions — On the basis of the Investigating Committee's Report, the Executive Director shall render judgment and impose the prescribed penalties herein provided. The decision rendered by the Executive Director or in his/her absence by the duly designated Officer-in-Charge, shall be final and executory upon the lapse of ten (10) calendar days from receipt thereof unless a petition for review is filed within the same period.

RULE IV
Review

SECTION 1. Jurisdiction — The Chairman of the Maritime Training Council shall have exclusive jurisdiction to review the orders, resolutions, and decisions of the MTC Secretariat Executive Director upon petition of the party in interest.

SECTION 2. When and Where to File — Petitions for review shall be filed within ten (10) calendar days from receipt of the Order, Resolution or Decision by the petitioner. The petition for review shall be filed with the MTC Secretariat.

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All motions for reconsideration shall be treated as a Petition for Review.

SECTION 3. Effect of Filing a Petition for Review — The filing of a petition for review shall not automatically stay the execution of the order of suspension, or revocation unless restrained by the Chairman of the Council proper.

SECTION 4. Transmittal of the Records of the Case on Petition for Review — The MTC Secretariat shall transmit the entire records of the case, together with the Petition for Review filed by the party to the case to the Office of the Chairman of the Council Proper.

SECTION 5. Decision by the Chairman — The decision of the Chairman of the Maritime Training Council shall be final and unappealable.

RULE V
Table of Penalties

The following offenses and corresponding penalties shall be imposed to erring training centers or institutions:

OFFENSE

PENALTY

1. Issuing a training certificate to trainee who has not undergone training and proper assessment in accordance with the requirements of MTC Resolution No. 03, Series of 1998 (Section 9.9)

— Revocation of authority or certificate of accreditation issued to all courses and banning of the training center from any future application for authority or accreditation with the MTC.

— Non-recognition of the certificates;

— Blacklisting of the involved from the MTC accreditation system as instructor/s or assessor/s

2. Conducting training and issuing training certificate without authority or with expired certificate of accreditation (Section 5.1)

1st Offense

— Non-issuance/non-renewal or suspension of certificate of accreditation for at least 6 months for the particular course

— Non-recognition of certificates

2nd Offense

— Ban training center from applying for accreditation for the particular course

— Non-recognition of certificates

1st Offense

3. Conducting training in violation of the cease and desist order issued by the MTC (Section18.1) — 6 months suspension

— Non-recognition of certificates

2nd Offense

4. Misrepresentation of information in connection with the application for authority or accreditation (Section 10.0) — Revocation of authority or certificate of accreditation for the particular course

— Denial of application; and — Re-inspection expenses shall be on the account of the training center

5. Disregard of the standards, set out in Annex 1 of the Resolution No. 03, Series of 1998. (Sections 9.1 and 13.1.1)

1st Offense

— Stern warning with condition to comply

2nd Offense

— 6 months suspension with condition to comply

3rd Offense

— Revocation of authority or certificate of accreditation for the particular course program

6. Employing training supervisors, instructors and assessors who do not meet the requirements of Annex 2 of Resolution No. 03 Series of 1998 (Sections 9.2 & 13.12)

1st Offense

— 6 months suspension for said course/s

2nd Offense

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— Revocation of authority or certificate of accreditation for the particular course program

7. Enrolling a trainee in a particular course who does not meet the entry requirements for the course (Sections 9.4 and 13.1.4.)

1st Offense

— Stern warning

— Non-recognition of certificate

2nd Offense

— Revocation of authority or certificate of accreditation for the particular course program

8. Violation of maximum intake of trainees in a classroom (Sections 9.5 and 13.1.5)

1st Offense

— Stern warning with condition to comply

2nd Offense

— 6 months suspension

3rd Offense

— Revocation of authority or certificate of accreditation for the particular course program

9. Failure to maintain classroom facilities (Sections 9.6 and 13.1.6)

1st Offense

— Stern warning with condition to comply

2nd Offense

— Suspension for 30 days with condition to comply

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3rd Offense

— Revocation of authority or certificate of accreditation

10. Incomplete and/or non-functioning training equipment, textbooks or training aids which will seriously affect the quality of training that will lead to the non-achievement of the course objective (Section 13.1.7)

1st Offense

— Suspension for 30 days with condition to comply

2nd Offense

— Revocation of authority or certificate of accreditation for the particular course program

11. Non-observance of policies and procedures of the quality System.(Sections 9.10 & 13.1.9)

1st Offense

— Stern warning with condition to comply

2nd Offense

— Suspension for 30 days until compliance

3rd Offense

— Revocation of authority or certificate of accreditation

12. Failure to comply with any of the responsibilities provided under Section 18.

1st Offense

— Stern warning with condition to comply

— Revocation of authority or certificate of accreditation for the particular course program

13. Non-compliance with orders, instructions and issuances issued by the MTC.

1st Offense

— Stern warning with condition to comply

2nd Offense

— Suspension until compliance

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