***GENERAL CIRCULAR 14/2021***

**Date: 20th Dec 2021**

To: Fleet

**SUBJECT: PROCEDURE FOR CREW APPRAISAL AND DISMISSAL**

Crew Grievance/dismissal procedure are provided in Company SMS manual under Chapter 3.0 – Personnel**.** All vessels need to comply with this section while handling crewing matters onboard our vessels.

**Section 3.17 Disciplinary Procedures**

The Master shall comply with the following disciplinary procedures against an erring seafarer:

1. The Master shall furnish the seafarer with a **written notice** containing the following:
	1. Grounds for the charges as listed in Section 33 of this Contract or analogous act constituting the same.
	2. **Date, time and place for a formal investigation** of the charges against the seafarer concerned
2. The Master or his authorized representative shall conduct the investigation or hearing, giving the seafarer the opportunity to explain or defend himself against the charges. These procedures must be **duly documented and entered into the ship’s logbook**.
3. If after the investigation or hearing, the Master is convinced that imposition or a penalty is justified, the Master shall issue a written notice of penalty and the reasons for it to the seafarer, with copies furnished to the Philippine agent.
4. Dismissal for just cause may be affected by the Master without furnishing the seafarer with a notice of dismissal if there is a clear and existing danger to the safety of the crew or the ship. The Master shall send a complete report to the manning agency substantiated by witnesses, testimonies and any other documents in support thereof.

## Evaluation

**Responsibilities**

The crewing Manager is responsible for ensuring that all the crew members are evaluated as per managements procedures and in required time frame.

The Master is responsible to ensure all officers and crew members on board are evaluated.

The Shore managers especially Technical and Marine Superintendents shall evaluate Master’s and Chief Engineer’s after their visits on board managed fleet. Operations and QHSE Superintendents attending to vessels shall also appraise Shipboard officers during their visits after assessing the performance of these officers during operations. All the superintendents shall update their comments about officers and crew performance and their feedback regarding same on Memo on Management’s software.

All verbal warnings and recommendations given by superintendents during their visits on board should also be listed on Memo so as to consider same for final appraisal of crew members and for records.

The crewing Manager shall finally analyze all appraisal reports and memo’s received for the final evaluation of Masters and Chief Engineers servicing on board managed fleet.

**Appraisal Procedure**

**Officers and Crew**

The Master shall forward to the Company the forms For Evaluation Reports for Officers and Ratings evaluating each crew member on board his ship every two months or earlier in case where Master is unsatisfied with the performance of a crew member.

The training needs as identified during these appraisals should also be included in the evaluation form for office to plan and arrange necessary training accordingly.

The appraisals should be discussed with the concerned crew member always especially In cases where the behavior, diligence or ability of a crew member give cause for a less than favorable report in order to create a chance to improve.

In case a crew member is dismissed due to lack of diligence or ability or poor behavior the confidential report must reflect the reason for dismissal.

Masters, officers and ratings are required to have an adequate command of the English Language. Language evaluation, suspicion for drug use or alcohol abuse is noted in the evaluation form.

Master's suggestions for re-employment, promotion or rejection of future re-employment request, shall also be included in the Evaluation Report form.

The Master will make a complete Evaluation report about the C/O. The C/E will only be commented on as far as manners and behavior are concerned and as regards to his contribution and co-operation as a member of the Shipboard Management Team.

The other Deck Officers are evaluated by the Master after consultation with the C/O.

The C/E makes the report on the Second Engineer. The other Officers and ratings in the E.R. dept. is evaluated by the C/E after consultation with the Second Engineer.

The C/O makes the reports for the ratings in the deck and catering department after a possible consultation with the Boson and / or the chief steward.

The superintendent carries out the evaluation of the Master’s and Chief Engineer’s, during their on board visits and by Crewing Manager.

The superintendent will also assess the Chief Officers and 2nd Engineers, during their onboard visits and inform the Crewing Department

**Master and Chief Engineer**

The final evaluation of Master and Chief Engineer is made by the Crewing Manager and shall take into consideration the following:

* Appraisal reports and Memo’s received from Superintendents,
* Results of ship inspections carried out by the Superintendents,
* Results of the ship internal audits,
* Evaluation reports,
* Results of the surveys and audits carried out by the Port Authorities and Classification Society,
* Operational management of the ship,

Records of those evaluations are kept by the Crewing Manager.

### Dismissal

In almost every case it will be possible for the Master to discuss/consult with Senior Management and the Crewing Manager where possible immediate dismissal is a fact. Masters are requested to do so, although this requirement is in no way intended to undermine the authority or decision of the Master.

* According to the Regulations of Flag administrations an employment contract may be terminated for valid reasons before the agreed employment period has elapsed.
* the possibility of immediate dismissal is usually the result of:
* Theft, private or from cargo
* Physical abuse
* Smuggling
* Ill treatment of another crew member
* Repeated drunkenness even after public warning
* Repeated work refusal.

Some general advice in case of immediate dismissal, usually the crew member concerned will challenge the legality of the dismissal, it is therefore of the utmost importance to gather as much information and facts as possible. Also, the prescribed procedure must be followed exactly:

* Immediately after detection of the punishable offense the Master will launch an investigation and make an official report.
* If it is decided to punish with dismissal for urgent reasons, the dismissal must be with immediate effect.
* The dismissal will be announced verbally and in writing to the crew member concerned by the Master.
* The dismissed crew member must sign the letter of dismissal. In case of refusal, this must be noted on that letter and in the official report.
* Entry in logbook

In almost every case it will be possible for the Master to discuss/consult with Crew Manager where possible immediate dismissal is a fact. Masters are requested to do so, although this requirement is in no way intended to undermine the authority or decision of the Master.

***Procedure while dealing with Filipino Nationality.***

**Procedural Due Process for Dismissal:** This procedure for effecting dismissal is stated in Section 17 of the POEA Standard Employment Contract. It requires observance of the two-notice rule in addition to investigation and hearing.

* 1. **First Written Notice**
		1. This **has to be served to the seafarer.**
			1. Notice should contain the following:
1. the grounds for the charges/*infractions (circumstances involved including date/s),*
2. the Date, Time and Place when and where the formal investigation (Hearing) of the charges is to be held,
3. Indicate in the notice that the erring crew may bring along a companion as witness during the hearing,
4. Advise the erring crew that he is being given an opportunity to explain his side in writing and submit the same within a specific period (e.g.within 24 hours or within 48 hours, etc.).
	* 1. Pls. note that all investigation proceedings must be duly documented. The following are highly recommended measures to follow:
			1. Prepare **Minutes of the Hearing** /proceedings and ensure this is duly signed by all attendees of the hearing/proceedings
			2. There must be **Entry in Vessel’s Logbook**:
5. What transpired during the investigation/ hearing?
6. Seafarer’s summary of statements/ defense
7. Witness presented
8. Documents submitted (including statements of witnesses, photos, reports, etc.)
9. Seafarer’s admission
10. etc.
	* 1. On top of the above, gather all related documents that may be used to support the dismissal such as follows:
11. As much photos as possible that may show:
* Proof of incident
* Scenario
* Messed-up Galley/Kitchen (for CCK / Messman)
* Spoiled food or food stock
* Impact of the negligence of erring crew
* Etc.
1. Statements of Seafarers onboard – officers and rating - Filipinos and other nationalities alike – who witnessed the incident; or heard firsthand conversation; or have valid related complaints against the erring crew, etc.
2. Company / Vessel Policy *(pls. include the one with the erring crew signature that will provide he has acknowledged receipt of the Policy or has read the Policy)*

Note: *There is no prescribed formality in conducting the investigation. What is essential is to give the alleged erring seafarer ample opportunity to explain or defend himself.*

* 1. **Second Written Notice.**

* + 1. **Serve a written notice of dismissal**/disciplinary action to the erring seafarer, stating the following:
1. Reasons for the action thereto **after thorough review by the Master** of all documents presented and statements manifested during the hearing,
2. Effectivity of Dismissal,
3. Reminder on the cost of repatriation to be charged to the dismissed seafarer pursuant to POEA ruling,
4. Signature/Seal of the Master
5. Acknowledgment signature of the dismissed seafarer *(if dismissed seafarer refuses to sign, pls. indicate “Refused to Sign”)*
6. Signature over printed name of witness/es
7. Copy furnished: Mumbai Crewing Team

Please expect that any dismissed seafarer may contest the dismissal act. It is thus imperative to gather and preserve the following records and send to the Mumbai Crewing Team :

1. Vessel logbook extracts
2. Master’s or Incident Report/s
3. Affidavit/Statements of crew members / other witnesses attesting to the offenses committed by the seafarer
4. Minutes of investigation proceedings
5. First and Second Notices (duly signed by parties concerned)
6. Performance rating reports (preferably with the acknowledgment signature of the erring seafarer)
7. Company Policy (preferably with the acknowledgment signature of the erring seafarer)
8. Police and other authorities’ report of the incident, if any
9. All related photos

**REFERENCE: POEA 2010 STANDARD EMPLOYMENT CONTRACT**

**Section 16. Grievance Machinery**

1. If the seafarer considers himself aggrieved, he shall make his complaint in accordance with the following procedures:
	1. The seafarer shall first approach the head of the Department in which he is assigned to explain his grievance.
2. In the Deck and Catering Department, the head is the Chief Mate.
3. In the Engine Department, the head is the Chief Engineer.
	1. The seafarer shall make his grievance in writing and in an orderly manner and shall choose a time when his complaint or grievance can be properly heard.
	2. The seafarer may also seek the assistance of the highest-ranking Filipino seafarer on board.
	3. The Department head shall deal with the complaint or grievance and where solution is not possible at his level, refer the complaint or grievance to the Master who shall handle the case personally.
	4. If no satisfactory result is achieved, the seafarer concerned may appeal to the management of the company. The master shall afford such facilities necessary to enable the seafarer to transmit his appeal.
4. When availed of by the seafarer, the grievance procedure and all actions or decisions agreed upon shall be properly documented for the protection and interest of both parties.
5. The aggrieved seafarer whose employment is covered by an existing CBA shall elevate any unsatisfactory resolution of his grievance to voluntary arbitration as agreed upon under the CBA. The aggrieved party whose employment is not covered by an existing CBA may elevate his complaint to the Maritime Industry Labor Arbitration Council (MILA) prior to any other forum.
6. The foregoing procedures shall be without prejudice to other modes of voluntary settlement of disputes and to the jurisdiction of the Philippine Overseas Employment Administration (POEA) or the National Labor Relations Commission (NLRC) over many unresolved complaints arising out of shipboard employment that shall be brought before it by the seafarer.

***Note: Please refer attachment II for the Filipino Nationality***

**Regards,**

**QHSE TEAM**

**Maritec Tanker Management Pvt Ltd.**