

Republika ng Pilipinas
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(PHILIPPINE PORTS AUTHORITY)

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January 16, 1979

PPA ADMINISTRATIVE ORDER
NO. 05 - 79

SUBJECT : Guidelines on the Action To be
Taken Against Vessels Causing
Damage to the Piers or Other
Property, Private or Government


T O : ALL PORT MANAGERS, SHIPPING COMPANIES, PORT OWNERS,
HARBOR PILOTS AND ALL OTHERS CONCERNED

In line with the provisions of 2(a), 6(a-iii and x), 6(b-xv), 22 and 39(c) Charter of the Philippine Ports Authority, promulgated on December 23, 1975, the following guidelines which shall govern the action to be taken against any vessel that causes damage to the piers, wharves or other property, public or private, are hereby adopted and promulgated.

Sec. 1. Vessel Defined - The term includes every sort of boat, craft or other artificial contrivance used, or capable of being used as a means of transportation on water (Section 3514, TCCP), except naval vessels of the Philippine government.

I. GENERAL GUIDELINES

*Sec. 2. Filing of Damage Claims - Where any vessel causes damage to the pier/wharf or physical port facility, public or private, the Port Manager or his representative concerned, in the case of pier/wharf or facility owned and maintained by the PPA and the owner/operator of the pier or wharf in other cases, shall within twenty-four (24) hours from the time the incident occurred, file a sworn damage claim with the local office of the Philippine Coast Guard (PCG), copy furnished the Collector of Customs in case of PPA claims, and the PCG and PPA in case of claims of other parties, stating therein the following information:



- a) the name and official number of the vessel involved;
- b) the master and owner or agent thereof;
- c) the name of the harbor pilot if any;
- d) name and business address of the private port owner/operator;
- e) the exact date and time of the incident;
- f) properties damaged and the corresponding extent and value of the damage;
- g) the locality, nature, probable cause of the circumstances surrounding the incident;
- h) names of, nature and extent of injury to persons; and
- i) other relevant information.

The filing of said claim or protest shall be without prejudice to any other administrative, civil and/or criminal action which may be instituted by the aggrieved party or the authority in proper cases, as may be warranted by the circumstances of the case.

Sec. 3. Picture and Sketch - Immediately after an accident, the Port Manager or the private port owner/operator shall cause the taking of pictures and/or sketching of the damaged facility. The sketch shall show, if possible, the location of the vessel prior to, during and after the accident, relative to the damaged facility. The pictures and/or the sketch shall be properly identified and authenticated by the Port Manager or private port owner/operator, and transmitted to the authorities above-mentioned as soon as possible.


Sec. 4. Coordination - Action against any vessel involved in a marine accident or which causes damage to a pier/wharf/facility shall be closely coordinated with the PPA, PCG and the Bureau of Customs.

II. PROCEDURE IN A CASE THE PIER, WHARF OR PORT FACILITY DAMAGED IS OWNED BY THE GOVERNMENT

Sec. 5. Official Reports - Immediately after damage is caused by a vessel to a government pier/wharf or port facility, the PPA operations officer on duty, the master of the vessel and the Harbor Pilot in command of said vessel (if any) shall each submit a report to the Port Manager, stating therein the name of the vessel, the date and time of the accident and the facts and the circumstances surrounding the same.

Sec. 6. Estimate of Damage - The PPA Port Engineer or his representative shall likewise submit to the Port Manager, an official detailed estimate of the damage.

Sec. 7. Summary Proceedings - In proceeding against the vessel and/or party responsible for the damage to port facilities, the following procedure or steps shall be taken by the Port Manager;



- a) Before the vessel's scheduled date of departure, he shall conduct a summary investigation of the incident in order to determine the party so responsible;
- b) The owner, agent and/or master of the vessel and the Harbor Pilot in command thereof shall be notified to attend the hearing, the proceedings of which shall be recorded. Such notice shall be in writing and shall clearly state the reason for the proceedings to be taken. Proper receipt thereof shall be ensured. The absence of any party in the hearing, notwithstanding reasonable notice, shall not prevent the Port Manager from proceeding with the same and rendering his decision.
- c) The hearing shall be conducted in an expeditious manner, but each party shall be given ample opportunity to be informed of the contents of the reports so far submitted present his own case and adduce evidences favorable to or in support of the same. The Port Manager shall not be bound to adhere to technical rules of procedure and evidence and shall obtain information in such manner as may deemed just, expedient and equitable.
- d) After hearing, the Port Manager shall render a decision in writing based on the information presented. This decision shall contain a brief statement of the facts, the reasons for such decision, the amount of damages to be paid by the party found liable, if any, and an express demand for payment. All parties involved shall be furnished a copy of this decision. A finding by the Port Manager that no party is liable for the damages shall automatically be subject to review by the Head Office and he shall forthwith transmit all the documents of the case to the PPA General Manager.

Sec. 8. Appeal - If appeal from the decision of the Port Manager is desired by the respondent, the following procedures shall be taken:

- a) The respondent, immediately upon receipt of the decision, shall request in writing to have the same reviewed by the PPA Head Office. The respondent shall make a cash deposit or post a surety bond in favor of the PPA whichever is immediately practicable, in an amount equivalent to the damages adjudicated; a certification of the Port Manager to this effect shall be attached to the documents.
- b) If the desire to appeal is not manifested in accordance with subsection (a) of this Section, the respondent shall be estopped from later on contesting the decision, and shall thereupon pay the amount adjudicated against him in full.
- c) Where notice of appeal is manifested all documents and records pertaining to the case shall thereafter be transmitted to the PPA General Manager thru the Assistant



General Manager, Operations (Attn.: Regulatory and Legal Affairs Department) within five (5) days from manifestation of the desire to appeal.

Sec. 9. Review - After receipt of the decision of the Port Manager and the records of the case, the General Manager shall render his decision and shall notify the parties concerned. On a decision exculpating the latter, the Port Manager shall return the guarantee. A decision affirming the Port Manager's decision, on the other hand, shall be a basis of forfeiture of the cash deposit in favor of the PPA and any legal action, which the PPA may deem appropriate to take in order to realize full satisfaction of the damages as fixed by the General Manager, without prejudice to the respondent's right to have the issue heard in the proper court of law.

Sec. 10. Stay of Vessels Involved in Damage to Government Pier/Wharf or Other Port Facility - Where the Master of a vessel is found at fault by the Port Manager and whether or not a request for review has been manifested, the latter shall cause the stay of vessel in port until full payment of the damages is made or is guaranteed in accordance with Section 8 above. Coordination with the Collector of Customs and PCG shall be made. Provided, however that the stay of foreign naval vessels entitled to courtesy shall not be effected.

III. PROCEDURE IN CASE THE PIER, WHARF OR PORT FACILITY DAMAGED IS OWNED BY A PRIVATE PERSON OR ENTITY

Sec. 11. Investigation - Upon receipt of the documents referred to in Section 2 and 3 above the Port Manager, by himself or by representative, shall conduct an immediate investigation of the accident for the purpose of documentation and to determine whether disciplinary action should be taken against the pilot. The private port owner/operator shall give all necessary assistance to the investigator(s). Such investigation shall be conducted in an expeditious manner and with due care to ensure that all evidences and testimonies available are properly secured, heard and recorded. The investigation shall not be bound by the technical rules of procedure. A true copy of the records of the proceedings and the Port Manager's decision and action shall be forwarded to the Head Office.

Sec. 12. Procedure to Detain Vessel - In accordance with paragraph 2 of Customs Memorandum Order No. 39-76, the pertinent portion of which provides:

"Entrance and clearance of vessels engaged in both foreign and coastwise trade shall remain to be performed by the Bureau of Customs . . ."



and in order to protect his interests, the private port owner/operator may file with the Bureau of Customs a petition to have the departure clearance of the vessel withheld pending agreement between the parties on the claim, without prejudice to his right to file such suit or secure such writs from the proper court of law, as may be necessary under the circumstances.

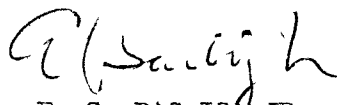
Sec. 13. Arbitration - Upon written request of both parties, the issues of liability and amount of damages may be submitted for determination before a board of arbitration. The board shall be composed of five (5) members, namely the PPA Port Manager who shall act as Chairman, one appointee each of the private port owner/operator and of the owner of the vessel and the two other members to be designated by the Port Manager preferably from the BOC and PCG with the concurrence of the latter agencies. No one with a financial interest in the subject under arbitration shall serve on the board. The board may engage experts to act in an advisory capacity. Minutes shall be kept of all meetings and signed by all members thereof. Decisions shall require only a simple majority and all interested parties shall be informed thereof. Expenses of the board shall be paid in accordance with the agreement set forth before the proceedings commence. The board's decision shall be binding on both parties.

IV. FINAL PROVISIONS

Sec. 14 . Repealing Clause - All PPA rules, regulations, orders, memoranda, circulars or parts thereof which are inconsistent with this Order, are hereby repealed or modified accordingly.

Sec. 15 . Separability Clause - If for any reason, any section or part of this Order is declared invalid or unconstitutional by competent authority, the invalid section or part thereof shall not affect other section or parts thereof to which such declaration does not relate.

Sec. 16 . Effectivity - This Order shall take effect immediately.


E. S. BACLIG, JR.
General Manager

A P P R O V E D :


ALFREDO L. JUINIO
Chairman, PPA Board of Directors
Minister, MPWTC

