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**AN ACT TO INCORPORATE THE
INTERNATIONAL REGULATIONS FOR
PREVENTING COLLISIONS AT SEA, 1972,
AS AMENDED INTO THE LAWS OF THE
PHILIPPINES AND TO PROVIDE FOR THE
EFFECTIVE IMPLEMENTATION THEREOF
AND FOR OTHER PURPOSES**

A Legislation Drafting Project submitted in partial fulfillment of the requirements for the award of the Degree of Master of Laws (LL.M.) in International Maritime Law at the IMO International Maritime Law Institute

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Figure 1- Domestic Shipping Routes of the Philippines

EXPLANATORY NOTE

INTRODUCTION

As Thomas Fuller put it, "*He that will not sail till all dangers are over must never put to sea.*"¹ The sea, since then, has always been open to various dangers. It was associated with the idea of chance or fate, a concept still to be found in expression such as "maritime perils."²

Relatively, the concept of "safety at sea" or "maritime safety" emerges according to which safety becomes the ultimate resulting state to perpetuate a situation from the absence of exposure to danger. This perception covers as well another context defined as safety of navigation which purpose is to save human lives and provide defences against the perils of the sea, such as collision, heavy weather or any maritime disasters which would endanger life and property at sea.³

The famous and earliest major collision involving the cruise ship *Titanic* with an iceberg at Cape Race Newfoundland happened in 1912 with 1,501 casualties, which actually led to the formulation of the first international convention⁴ on safety.⁵ In 1914, another incident transpired involving *Empress of Ireland* at St. Lawrence with 1,012 casualties.⁶ In 1980, the collision of *Don Juan* at Tablas Strait in the Philippines has been considered as one of the major disasters in the 20th century which resulted to one thousand (1,000) casualties. In 1986, *Admiral Nakhimov* encountered a collision accident at Black Sea with 423 casualties.⁷ The greatest maritime disaster ever recorded with the highest number of casualties in the history of shipping industry which happened in the Philippines in 1897, involving a passenger ship, is the collision of *Doña Paz* to an oil tanker which occurred at Sibuyan Sea that resulted to approximately four thousand two hundred (4,200)

¹ Thomas Fuller Quotes <https://www.goodreads.com/author/quotes/433477.Thomas_Fuller> accessed 7 February 2019.

² Philippe Boisson, *Safety at Sea: Policies, Regulations & International Law* (Bureau Veritas 1999), 45.

³ *Ibid.*, 31.

⁴ The International Convention for the Safety of Life at Sea (SOLAS), first version was adopted in 1914 but never entered into force due to the outbreak of first world war
<https://en.wikipedia.org/wiki/SOLAS_Convention> accessed 14 March 2019

⁵ Boisson (n 2), 37.

⁶ *Ibid.*

⁷ *Ibid.*

casualties.⁸ Another collision involving a passenger vessel was *Moby Prince* in 1991 at Mediterranean Sea with 140 casualties.⁹ These incidents not only resulted to loss of life and property at sea, but damaged as well the marine environment and posed hazard to ship navigation.

In due course, these accidents and major disasters encouraged States to cooperate in the search for safe and efficient maritime transport.¹⁰ This became the driving factor for the internalisation of regulations of safety at sea which is not only the sole responsibility of States but includes intergovernmental organisations. In recent years, even numerous groups and associations,¹¹ whether public, semi-public or private bodies, representing the interest of maritime world share also a concern in drawing such regulations.¹²

⁸ Ibid.

⁹ Ibid.

¹⁰ Ibid., 3.

¹¹ They form what are known as Non-Governmental Organisations (NGOs), defined as "Any international organisation which is not established by intergovernmental agreement shall be considered as a non-governmental organisation" (Article 71, para 8 of Council Res. 288(X), 27 February 1950).

¹² Boisson (n 2), 99.

PART I

1. HISTORICAL BACKGROUND AND THE DEVELOPMENT OF 1972 COLREG

1.1 The Birth of Navigation Rules

For hundreds of years, there have been rules for the navigation of ships.¹³ In 1840, the London Trinity House drew up a set of regulations relating to steam ships. First, a steam vessel passing another vessel in narrow channel was to leave the other on her own port hand. Second, steam vessels on different course, crossing as to involve risk of collision, were required to alter course to starboard so as to pass on the port side of each other.¹⁴ These two steam navigation rules were combined and given statutory effect through the enactment by Parliament of the Steam Navigation Act of 1846.¹⁵ In 1848, light regulations were made and a penalty was imposed for disobedience to the navigation and light rules. In the same year, an agreement between Great Britain and France about lighting of steamships was concluded. This could be attributed to the simplicity and effectiveness of British rules which were appreciated also by seamen in all countries.¹⁶

In 1851, rules for steamships were applied to both steam and sail which were embodied in the Steam Navigation Act of 1851.¹⁷ Three years after, the 1851 Rules were replaced where the port to port rule was applied to all ships and the starboard side rule in narrow channels was retained for steam ships only.¹⁸ In 1852, light regulations for vessels under way were made.¹⁹ In 1858, coloured sidelights were prescribed for sailing vessels and fog signals were required to be given by steam vessels on the whistle and by sailing vessels on the fog horn or bell.²⁰

¹³ Richard H. B. Sturt, *The Collision Regulations* (3rd, Lloyd' of Lodon Press Ltd. 1991), 2.

¹⁴ Gina Paz Galan, 'History of the Collision Regulations' <https://www.academia.edu/14931412/History_of_the_Collision_Regulations?auto=download> accessed 1 January 2019, xi.

¹⁵ Ibid.

¹⁶ Boisson (n 2), 51.

¹⁷ Sturt (n 13), 2.

¹⁸ Ibid.

¹⁹ Ibid., 3.

²⁰ Galan (n 14), xi.

However, all existing regulations were repealed in 1862 and a mandatory obligation to stand by after collisions was introduced.²¹ In the same year, a presumption of fault was also introduced where a collision was occasioned by non-observance of a regulation.²²

The following year, beneficially, a complete new set of rules drawn up by the British Board of Trade, in consultation with the French Government, came into operation.²³ In 1910, these rules, after several changes and amendments, were replaced by new regulations.²⁴

Moreover, Britain and France signed further agreements with different coverage, such as: setting up a proper maritime policing force, signalling for sailing ships, standards for navigation in fog, joint rules for routes at sea, and lighting of fishing boats and special signals to be assigned to telegraph cable-laying ships.²⁵

1.2 The Advent of Internal Regulations for Preventing Collisions at Sea

It was in 1889 when the first International Maritime Conference was held to talk about regulations for preventing collision at sea in Washington. The provisions agreed, *inter alia*, were requirements that a stand-on vessel should keep her speed as well as her course, that a giving-way vessel should avoid crossing ahead for the other vessel, and that steamship should be permitted to carry a second white masthead light.²⁶ In 1897, the agreed regulations then were brought into force by several countries, including Britain and the United States of America.²⁷

In 1910, a Maritime Conference was held in Brussels and an international agreement was reached on a set of regulations²⁸ which differed in only minor aspect from the 1889 Regulations.²⁹

²¹ Sturt (n 13), 3.

²² Ibid.

²³ Galan (n 14), xi.

²⁴ Sturt (n 13), 3.

²⁵ Boisson (n 2).

²⁶ Galan (n 14), xii.

²⁷ Ibid.

²⁸ The Convention for the Unification of Certain Rules of Law with Respect to Collisions between Vessels or commonly known as the Brussels Collision Convention, adopted on 23 September 1910 and entered into

The Regulations were revised at an International Conference on SOLAS in 1948,³⁰ where the second masthead light was made compulsory for power-driven vessels of 150 feet or upwards in light, a fixed stern light was made compulsory for almost all vessels underway, and the wake-up signal of at least five short rapid blasts was introduced as an optional signal for use by a stand-on vessel. The 1948 Regulations came into force in 1954.³¹

Then, in 1960, an International Conference on SOLAS was convened in London by the Inter-Governmental Maritime Consultative Organization (IMCO)³² where an agreement was reached that a new paragraph should be added to the Rules governing the conduct of vessels in restricted visibility to permit early and substantial action to be taken to avoid close quarters situation with a vessel detected forward of the beam. The use of radar was recommended and included in an Annex to the Rules. These Rules came into force in 1965.³³

Finally, in 1972, an International Conference was convened in the same city by IMCO to consider the revision of the Regulations. It was agreed therein to change the format so that the Rules governing conduct preceded the Rules concerning lights, shapes and sound signals. Technical details relating to lights, shapes and sound signals were transferred to Annexes. The Stand-on Rule was amended to permit action to be taken at an earlier stage and more emphasis was placed on starboard helm action in both clear and restricted visibility. New rules were introduced to deal specifically with look-out requirements, safe speed, risk of collision and traffic separation schemes.³⁴

The 1972 Convention on the International Regulations for Preventing Collisions at Sea (COLREGs) also known as the revised International Rules of the Road was adopted on 20 October 1972 and came into force on 15 July 1977. As of November 2018, there are one hundred fifty nine (159) Contracting Parties to the Convention, the aggregate of

force on 01 March 1913 <<http://www.admiraltylawguide.com/conven/collisions1910.html>>accessed 1 January 2019.

²⁹ Galan (n 14), xii.

³⁰ Ibid.

³¹ Ibid.

³² It is now known as the International Maritime Organization (IMO).

³³ Galan (n 14), xii.

³⁴ Ibid., xiii.

whose merchant fleets constitute approximately 99.19% of the gross tonnage of the world's merchant fleet.³⁵ The Philippines, on the other hand, acceded to the Convention only on 10 June 2013.³⁶ The Rules are yet to be domesticated into the national law, hence, the need for such legislation.

2. FEATURES OF 1972 COLREG AS AMENDED

The COLREGs contain nine (9) general articles, accompanied by the International Regulations. These Regulations consist of 41 rules, divided into six parts, and four (4) technical annexes. The Regulations form an integral part of the Convention, and are legally mandatory.³⁷

The Articles, generally, lay down the obligations of the Parties to give effect to the Rules and other Annexes constituting the International Regulations.³⁸ Article III gives discretion, upon notification to the Secretary-General, to the United Nation administering authority for a territory or to any Contracting Party responsible for the international relations of a territory, to extend the application of the Convention to that particular territory. Other Articles prescribe, among others, the manner of signature, ratification, acceptance, approval and accession of States,³⁹ the entry into force of the Convention,⁴⁰ the manner of revision,⁴¹ and the amendment to the Regulations.⁴²

The six parts of the Regulations consist of the following: Part A – General; Part B – Steering and Sailing Rules; Part C – Lights and Shapes; Part D – Sound and Light Signals; Part E – Exemptions; and Part F – Verification of Compliance with the Provisions of the Convention.

³⁵IMO, 'Status of Treaties' (2018)
<<http://www.imo.org/en/About/Conventions/StatusOfConventions/Documents/Status%20-%202018.pdf>>
accessed 1 January 2019, 95.

³⁶IMO Docs, COLREG.1/Cir. 156.

³⁷Article I, COLREGs.

³⁸Ibid.

³⁹Article II, COLREGs.

⁴⁰Article IV, COLREGs.

⁴¹Article V, COLREGs.

⁴²Article VI, COLREGs.

Under Part A of the Regulations, there are three Rules.⁴³ Rule 1 states the application of the Rules to all vessels upon the high seas and all waters connected to the high seas and navigable by seagoing vessels, but the Rules shall not interfere with the special rules made by any appropriate authority for inland waterways connected with the high seas provided that the same shall conform to these Rules. Rule 1(c) was amended in 1981⁴⁴ stating that the Rules shall not interfere with the additional station or signal lights, shapes or whistle signals for warships, vessels proceeding under convoy or fishing vessels, provided that such additional lights, shapes or signals cannot be mistaken for any light, shape or signal authorized elsewhere under these Rules.

Rule 2 covers the responsibility of the master, owner and crew to comply with the Rules. Rule 3 includes the definition of different terms used in the Convention. This Rule was amended in 1987⁴⁵ adding the "width" of navigable water when determining if a vessel is constrained by her draught (Rule 3(h)). In 2001,⁴⁶ a new rule was included relating to Wing-in Ground (WIG) craft (Rule 3(m)).

Part B of the Regulations is subdivided into three (3) sections: Section 1 covers the conduct of vessels in any condition of visibility, which has seven Rules,⁴⁷ to wit: Rule 4 merely states the application of Section I in any condition of visibility; Rule 5 prescribes the maintenance of a proper look-out to make full appraisal of the situation and the risk of collision; Rule 6 prescribes the factors to be taken into account by every vessel to proceed at a safe speed to take proper and effective action to avoid collision; Rule 7 covers risk of collision, which warns that "assumptions shall not be made on the basis of scanty information, especially scanty radar information"; Rule 8 covers action to avoid collision

⁴³ Rules 1-3, COLREGs.

⁴⁴ The 1981 Amendment was adopted on 19 November 1981 by the Assembly through Resolution A.464 (12) and entered into force on 01 June 1983

<[http://www.imo.org/en/KnowledgeCentre/IndexofIMOResolutions/Assembly/Documents/A.464\(12\).pdf](http://www.imo.org/en/KnowledgeCentre/IndexofIMOResolutions/Assembly/Documents/A.464(12).pdf)> accessed 15 April 2019.

⁴⁵ The 1987 Amendment was adopted on 19 November 1987 by the Assembly through Resolution A.626(15) and entered into force on 19 November 1989

<[http://www.imo.org/en/KnowledgeCentre/IndexofIMOResolutions/Assembly/Documents/A.626\(15\).pdf](http://www.imo.org/en/KnowledgeCentre/IndexofIMOResolutions/Assembly/Documents/A.626(15).pdf)> accessed 15 April 2019.

⁴⁶ The 2001 Amendment was adopted on 29 November 2001 by the Assembly through Resolution A.910(22) and entered into force on 29 November 2003

<[http://www.imo.org/en/KnowledgeCentre/IndexofIMOResolutions/Assembly/Documents/A.910\(22\).pdf](http://www.imo.org/en/KnowledgeCentre/IndexofIMOResolutions/Assembly/Documents/A.910(22).pdf)> accessed 15 April 2019.

⁴⁷ Rules 4-10, COLREGs.

with due regard to the observance of good seamanship. In 1987,⁴⁸ a new rule was added to action to avoid collision which defines the conduct required by the terminology "not to impede" in passing situations. In 2001,⁴⁹ Rule 8(a) was amended to make it clear that any action to avoid collision should be taken in accordance with the relevant rules in the Convention and to link Rule 8 with the other steering and sailing rules.

Rule 9 obliges a vessel proceeding along the course of a narrow channel or fairway to keep "as near to the outer limit of the channel or fairway which lies on her starboard side as is safe and practicable." The same Rule obliges a vessel of less than 20 metres in length or a sailing vessel not to impede the passage of a vessel "which can safely navigate only within a narrow channel or fairway."

Rule 10 gives guidance in determining safe speed, the risk of collision and the conduct of vessels operating in or near traffic separation schemes (TSS), which is considered as one of the most important innovations in the Convention. The first TSS was established in the Dover Strait in 1967. It was operated on a voluntary basis at first but in 1971 the IMO Assembly adopted a resolution stating that that observance of all TSS be made mandatory - and the Convention makes this obligation clear.⁵⁰ Several amendments were made to this Rule. In 1981,⁵¹ two rules were added to allow ships carrying out various safety operations successfully to use TSS.⁵² In 1987,⁵³ the phrase "and does not relieve any vessel of her obligation under any other rule" was added in Rule 10(a) which makes it clear that the Convention apply in addition to the special rules for vessels in TSS. In 1989,⁵⁴ Rule 10(d) was altered to stop unnecessary use of the inshore traffic zones associated with TSS.

⁴⁸ 1987 Amendment (n 45).

⁴⁹ 2001 Amendment (n 46).

⁵⁰ IMO, 'Convention on the International Regulations for Preventing Collisions at Sea, 1972 (COLREGs)' <<http://www.imo.org/en/About/Conventions/ListOfConventions/Pages/COLREG.aspx>> accessed 1 January 2019.

⁵¹ 1981 Amendment (n 44).

⁵² Rule 3(k)-(l), COLREGs.

⁵³ 1987 Amendment (n 45).

⁵⁴ The 1989 Amendment was adopted on 19 October 1989 by the Assembly through Resolution A.678(16) and entered into force on 19 April 1991 <[http://www.imo.org/en/KnowledgeCentre/IndexofIMOResolutions/Assembly/Documents/A.678\(16\).pdf](http://www.imo.org/en/KnowledgeCentre/IndexofIMOResolutions/Assembly/Documents/A.678(16).pdf)> accessed 15 April 2019.

Section II covers the conduct of vessels in sight of one another, which has eight rules.⁵⁵ Rule 11 states the application of Section II to vessels in sight of one another. Rule 12 prescribes action to be taken when two sailing vessels are approaching one another. Rule 13 describes when a vessel shall be deemed to be overtaking and requires any ship overtaking another to keep out of its way. Rule 14 concerns head-on situations, in which both ships must alter course to starboard, so that each passes on the port side of the other. Rule 15 applies to crossing situations, in which the ship seeing the other on the starboard side is to keep out of its way and, if circumstances permit, avoid crossing ahead of the other. Rule 16 deals with action by give-way vessel, which is, as far as possible, to take early and substantial action to keep well clear.

On the other hand, a stand-on vessel in accordance with Rule 17 may take preventive action to avoid allowing a critical situation to develop and the give-way vessel is obliged to keep out of the way. Rule 18 deals with the responsibilities between vessels (give-way and stand-on). The highest priority is given to ships which are not "under command", those restricted in their ability to manoeuvre, craft engaged in fishing, and sailing ships. Any other vessel must avoid impeding the free passage of a ship constrained by its draught, and displaying signals to this effect.⁵⁶

Section III covers the conduct of vessels in restricted visibility consisting of one rule only (Rule 19), which requires that every vessel should proceed at a safe speed adapted to prevailing circumstances and restricted visibility. It also requires that a vessel detecting by radar another vessel should determine if there is risk of collision and if so takes avoiding action. Further, an obligation is imposed that a vessel hearing the fog signal of another vessel should reduce speed to a minimum.

Part C of the Regulations consists of twelve Rules.⁵⁷ Rule 20 states that Rules concerning lights and shapes shall be complied with in all weathers and with the provisions of Annex I to these Regulations. Rule 21 includes the definition of different kinds of lights exhibited by ships under these Regulations. Rule 22 stipulates the minimum range of visibility of lights depending on the length of the vessels. Rule 23 prescribes that

⁵⁵ Rules 11-18, COLREGs.

⁵⁶ Boisson (n 2), 355.

⁵⁷ Rules 20-31, COLREGs.

underway power-driven vessels shall exhibit the three types of lights (a white masthead light forward, sidelights, green to starboard and red to port, and a white sternlight). Said Rule was amended in 2001⁵⁸ to include a requirement that WIG craft shall exhibit a high-intensity all-round flashing red light when taking off, landing and in-flight near the surface, in addition to the three lights prescribed in Rule 23(a).

The rest of the Rules under Part C prescribe the light requirements to be exhibited by different vessels under different circumstances, such as vessels towing and pushing (Rule 24), sailing vessels underway and vessels under oars (Rule 25), fishing vessels (Rule 26), vessels not under command or restricted in their ability to maneuver (Rule 27), vessels constrained by their draught (Rule 28), pilot vessels (Rule 29), vessels anchored and aground (Rule 30), and seaplanes (Rule 31). Several amendments were made in 1981⁵⁹ concerning the light requirements of the said vessels. In 1993,⁶⁰ Rule 26 was amended to apply the light requirements to fishing vessels, regardless of length, and in 2001,⁶¹ Rule 31 was amended to include WIG craft.

Part D of the Regulations consists of six Rules.⁶² Rule 32 gives the definitions of whistle, short blast, and prolonged blast. Rule 33 prescribes that vessels must be provided with the necessary equipment for the sound signals, for vessels 12 meters or more in length with whistle, for 20 meters or more with whistle and bell, for 100 meters or more with whistle, bell and gong, and for less than 12 meters, vessels are not obliged but shall be provided with some other means of making an efficient sound signal. Rule 34 sets out a series of requirements for the sound signals produced by ship's whistle and the light signals when the ship is maneuvering as authorised under these Regulations. There are signals and replies for overtaking, for ships in sight of one another in a narrow channel, and for ships failing to understand the intentions or actions of another ships.⁶³

⁵⁸ 2001 Amendment (n 46).

⁵⁹ 1981 Amendment (n 44).

⁶⁰ The 1993 Amendment was adopted on 04 November 1993 by the Assembly through Resolution A.736(18) and entered into force on 04 November 1995 <<http://www.imo.org/en/KnowledgeCentre/IndexofIMOResolutions/Assembly/Documents/A.736%2818%29.pdf>> accessed 15 April 2019.

⁶¹ 2001 Amendment (n 46).

⁶² Rules 32-37, COLREGs.

⁶³ Boisson (n 2), 357.

Rule 35 prescribes the signals to be used by day or night in or near an area of restricted visibility. Sound signals vary depending on the type of ships and actions being taken. Special signals are stipulated for ships in tow, sailing ships, ships engaged in fishing, ships not under command, and pilot vessels.⁶⁴ Rule 36 prescribes that a vessel may make light or signals as necessary to attract the attention but such light or signals cannot be mistaken for any signals authorized under the Rules and the use of high intensity intermittent or revolving lights shall be avoided. Lastly, Rule 37 requires vessels in distress to exhibit the signals prescribed in Annex IV, which will be discussed below.

Part E of the Regulations (Rule 38) provides that vessels which comply with the 1960 Collision Regulations and were built or already under construction when this Convention entered into force may be exempted from some requirements for light and sound signals for specified periods.

Part F of the Regulations was not originally included in the Convention but added by the 2013 amendment⁶⁵ with additional three Rules⁶⁶ to ensure and verify the compliance by the Contracting Parties with the provisions of the Convention. This part also requires the Contracting Parties to use the provisions of the IMO Instruments Implementation Code (III Code)⁶⁷ in the execution of their obligations and responsibilities contained in the present Convention and the Parties are subject to periodic audits by IMO.

The four annexes of the Convention include: Annex I - Positioning and Technical Details of Lights and Shapes. This Annex prescribes the vertical and horizontal positioning and spacing of lights for vessel according to its length. It also prescribes, among others, the required shapes, the minimum luminous intensity of lights (including non-electric lights), colour specification of lights, the horizontal and vertical sectors of electric lights, and special position requirement for maneuvering lights and high-speed

⁶⁴ *Ibid.*, 358.

⁶⁵ The 2013 Amendment was adopted on 04 December 2013 by the Assembly through Resolution A.1085(28) and entered into force on 01 January 2016
<[http://www.imo.org/en/KnowledgeCentre/IndexofIMOResolutions/Assembly/Documents/A.1085\(28\).pdf](http://www.imo.org/en/KnowledgeCentre/IndexofIMOResolutions/Assembly/Documents/A.1085(28).pdf)>
accessed 15 April 2019.

⁶⁶ Rules 39-41, COLREGs

⁶⁷ The III Code was adopted on 04 December 2013 (Agenda item 10) by the Assembly through Resolution A.1070 (28)
<[http://www.imo.org/en/KnowledgeCentre/IndexofIMOResolutions/Assembly/Documents/A.1070\(28\).pdf](http://www.imo.org/en/KnowledgeCentre/IndexofIMOResolutions/Assembly/Documents/A.1070(28).pdf)>
accessed 15 April 2019.

craft. It was amended in four instances: in 1981,⁶⁸ to replace and insert some words/phrases; in 1987,⁶⁹ the height requirement for masthead lights is applied to the optional all-round light for power-driven vessels of less than 12 meters in length; a requirement for high-speed craft was included in 1993⁷⁰ and it was further amended in 2001⁷¹ relating to the vertical separation of its masthead lights.

Annex II covers additional signals for fishing vessels in close proximity. It prescribes the lights requirement to be exhibited by vessels engaging in trawling, whether using demersal or pelagic gear, and vessels engaged in fishing with purse seine gear. It was amended in 1993⁷² to include requirement for vessels less than 20 meters in length engaged in trawling.

Annex III prescribes the technical details of sounds signal appliances. It details the fundamental frequency and range of audibility of whistles, their positions and the sound pressure level of their direction. It also prescribes the intensity and construction material and design of bell and gong. It was amended in 2001⁷³ with respect to whistles and bell or gong to cater for small vessels.

Annex IV deals with distress signals. It lists the different kind of signals indicating distress and need of assistance, such as a gun or other explosives, continuous sounding, rockets or shells, smoke, electronic transmission signals, etc. It includes as well the International Code of Signals (ICS),⁷⁴ the International Aeronautical and Maritime Search

⁶⁸ 1981 Amendment (n 44).

⁶⁹ 1987 Amendment (n 45).

⁷⁰ 1993 Amendment (n 60).

⁷¹ 2001 Amendment (n 46).

⁷² 1993 Amendment (n 60).

⁷³ 2001 Amendment (n 46).

⁷⁴ Adopted on 27 September 1965 by IMCO through Assembly Resolution A.80(IV) <[http://www.imo.org/en/KnowledgeCentre/IndexofIMOResolutions/Assembly/Documents/A.80\(4\).pdf](http://www.imo.org/en/KnowledgeCentre/IndexofIMOResolutions/Assembly/Documents/A.80(4).pdf)> accessed 15 April 2019. The IMO published a new print edition in 2005 (IMO IA994E ICS, 2005 Edition) incorporating all the amendments adopted by Maritime Safety Committee (MSC) <<https://mdnautical.com/navigation-rescue/715-imo-ia994e-international-code-of-signals-2005-edition.html>> accessed 15 April 2019.

and Rescue (IAMSAR) Manual Volume III⁷⁵ and the signals using a piece of orange-coloured canvas with either black-square and circle or other appropriate symbol, and a dye marker. The use of radio communications systems and survival craft radar transporter as approved distress signals were included in the 1987⁷⁶ and 1993⁷⁷ amendments, respectively. This Annex was also amended in 2007⁷⁸ by replacing radiotelegraph and radiotelephone with digital selective dialling and ship-to-shore distress alert transmission signals.

⁷⁵ Jointly published by IMO and International Civil Aviation Organization (ICAO) <<http://www.imo.org/en/OurWork/Safety/RadioCommunicationsAndSearchAndRescue/SearchAndRescue/Pages/IAMSARManual.aspx>> accessed 15 April 2019. The IASMAR Manual Volume III Mobile Facilities 2016 Edition incorporates amendments adopted by ICAO and approved by the IMO MSC, the 2015 amendments enter into force on 1 July 2016 <<http://www.imo.org/es/Publications/Documents/Newsletters%20and%20Mailers/Mailers/IAMSAR.pdf>> accessed 15 April 2019.

⁷⁶ 1987 Amendment (n 45).

⁷⁷ 1993 Amendment (n 60).

⁷⁸ The 2007 Amendment was adopted on 29 November 2007 by the Assembly through Resolution A.1004(25) and entered into force on 1 December 2009 <[http://www.imo.org/en/KnowledgeCentre/IndexofIMOResolutions/Assembly/Documents/A.1004\(25\).pdf](http://www.imo.org/en/KnowledgeCentre/IndexofIMOResolutions/Assembly/Documents/A.1004(25).pdf)> accessed 15 April 2019.

PART II

1. VULNERABILITY OF THE PHILIPPINES AS AN ARCHIPELAGIC STATE

The Philippines is an archipelago of approximately 7,107 islands and the maritime transport plays a very vital role in the country's growth and development. The figure below shows the traditional routes plied by domestic ships. The red dotted lines connect the main ports in the country with the other ports which are concentrated mostly between the small island-ports in the southern part of the country.⁷⁹



Fig. 1. Domestic shipping routes

⁷⁹Orlando Dimailig, Jae-Yong Jeong and Chol-Seung Kim, 'Marine Transportation in the Philippines: The Maritime Incidents and their Causes' <https://www.researchgate.net/publication/264016565_Marine_Transportation_in_the_Philippines_The_Maritime_Accidents_and_their_Causes> accessed 30 January 2019.

In 2000, about forty five (45) million passengers travelled the different routes of the islands. Most of the routes are within the archipelagic seas where waters are relatively calm due to the protection of the many islands.⁸⁰ However, from the record of incidents mentioned below, it can be inferred that maritime accidents still occurred due to various reasons even during good weather conditions. The vulnerability of the Philippines to such disasters, particularly to shipping, could be attributed to the fact of its being an archipelago with such number of islands and technically because of its location, which is surrounded by the eminent waters of Pacific Ocean, Celebes Sea and South China Sea.

2. MARITIME ACCIDENTS

There has been a spate of major maritime incidents that occurred in the Philippines and claimed thousands of lives. Most of these sea disasters have been dubbed as the worst in maritime history in peacetime. From 1972 to 2010, data show that there are different types of accidents and the three major groups of accidents are collisions, capsized and grounding. Collision accidents, with 135 incidents, were those accidents with contacts between ships, which include collisions, allisions, ramming, bumping and hitting. Capsized accidents, amounting to 113 incidents, are those that were reported as sinking, loss, capsizing, etc. Grounding accidents, totalling 59 incidents, involved grounding, hit a rock, hitting submerged object, submerged, and there is one reported as intentional beaching.⁸¹

Other accidents reported are: ships in contact with shore facilities (22 incidents); onboard accidents (24 incidents) which involved those internal accidents like engine explosion, engine trouble, explosion, fire onboard; while deaths onboard (14 incidents) were those that fell overboard, one swiped by line overboard and those classified as plain death on board; cargo damage/lost, only 2 of the reported jettisoned cargos and damage to cargos; and those accidents classified under "Others/Miscellaneous" were broke from tow, dragged/drifted or snapping anchor chain.⁸²

⁸⁰ Glenn Aguilar, 'Public Policy: Some Maritime Transport Concerns' <https://www.researchgate.net/publication/318888714_Some_Marine_Transport_Concerns> accessed 21 January 2019.

⁸¹ Dimailig, Jeong and Kim (n 79).

⁸² Ibid.

3. COLLISION INCIDENTS

The Philippine is featured in the Guinness Book of Records as having suffered the highest number of casualties in an accident at sea, during peacetime with *Doña Paz* in 1987.⁸³ As mentioned earlier, the two collision incidents involving *Doña Paz* and *Don Juan* were among the major disasters involving passenger ships in the 20th century.

Yet, after these 2 incidents, there were still numerous collision accidents which occurred in Philippine waters and the threat of recurrence is always present. To name a few:

- a. In 1994, the sinking of *MV Cebu City* after she collided with an oil tanker *MV Kota Suria* at Manila Bay resulting to 114 casualties;⁸⁴
- b. In 1999, the sinking of *MV Asia South Korea* after collision with a rock off Bantayan Island resulting to 58 casualties;⁸⁵
- c. In 2003, the sinking of *MV San Nicolas* after collision with *MV Super Ferry 12* near Limobones Point, Corregidor resulting to 64 casualties;⁸⁶
- d. In 2009, the sinking of *MV Catalyn B*, wooden hull ferry boat, and fishing vessel *FV Anatalia* resulting to more or less 27 casualties;⁸⁷
- e. In 2011, the collision of passenger vessel *MV Super Ferry 2* and cargo vessel *General Romulo*;⁸⁸
- f. In 2013, the sinking of *MV St. Thomas Aquinas* after she collided with cargo vessel *MV Sulpicio Express Siete* off Cebu Strait resulting to more or less 120 casualties;⁸⁹

⁸³ Aguilar (n 80).

⁸⁴ Dimailig, Jeong and Kim (n 79).

⁸⁵ Philippine Ship Spotter Society: Maritime Incidents in the Philippines <<https://www.flickr.com/groups/922345@N25/discuss/72157611716872814/page1>> accessed 29 January 2019.

⁸⁶ Dimailig, Jeong and Kim (n 79).

⁸⁷ Sea tragedy in Cavite strikes before Christmas Day <<https://news.abs-cbn.com/nation/12/24/09/2-vessels-collide-cavite-27-missing>> accessed 29 January 2019.

⁸⁸ Super Ferry 2 Collision <<https://shipwrecklog.com/log/2011/03/super-ferry-2-collision/>> accessed 29 January 2019.

⁸⁹ Flashback in history: Collision/Sinking of M/V ST Thomas Aquinas passenger ferry <<https://maritimecyprus.com/2015/08/16/flashback-in-history-collisionsinking-of-mv-st-thomas-aquinas-passenger-ferry-16-aug-2013/>> accessed 29 January 2019.

- g. In 2017, the collision of *MV Lite Ferry 20*, passenger vessel, and motorized banca *Carmel* resulting to one casualty;⁹⁰
- h. In January 2018, the collision *MV Lite Ferry 20* and cargo vessel *LCT Seamine 8* with no reported casualty;⁹¹ and
- i. In October 2018, the collision of passenger vessel *MV Fascat 11* and cargo vessel *MV Oceanic* resulting to 4 injured passengers.⁹²

Of all the reported maritime incidents, collisions accidents topped the scale, which were attributed to poor navigation, non-observance of the rules of the road and lack of prudent seamanship. There were also reported five incidents⁹³ which were not classified as collision but the accidents were due to misconduct of seafarers and COLREGs violation.

4. VESSEL TRAFFIC MANAGEMENT SYSTEM

The Philippine Ports Authority (PPA) has established two vessel traffic management systems (VTMS) installed at the ports of Manila (North Harbor) and Batangas Port. One VTMS was also established in Cagayan de Oro City through the auspices of Philippine Veterans Investment Development Industrial Corporation. After the *St. Thomas Aquinas* mishap, another VTMS was established by the Philippine Coast Guard (PCG) in Cebu City.

Ships Routeing Systems were also established at the Verde Island and Batangas.⁹⁴ Despite occasional technical and operational setback, distressed vessels are given back-up support in times of emergency, piracy, and during typhoons and other form of calamities.⁹⁵ TSSs were established at the entrance to Manila Bay⁹⁶ and north and south passages of

⁹⁰ Lite Ferry 20 captain files marine protest in Nov. 1 sea collision
<<https://cebudailynews.inquirer.net/153092/lite-ferry-20-captain-files-marine-protest-nov-1-sea-collision>> accessed 29 January 2019.

⁹¹ Cargo, passenger ships collide off Cebu waters
<<http://www.pna.gov.ph/index.php/articles/1020684>> accessed 29 January 2019.

⁹² 4 hurt as 2 vessels collide off Talisay <<https://www.philstar.com/the-freeman/cebu-news/2018/10/20/1861660/4-hurt-2-vessels-collide-talisay>> accessed 29 January 2019.

⁹³ Dimailig, Jeong and Kim (n 79).

⁹⁴ PCG Memorandum Circular Nr. 08-08, Routing System at Verde Island Passage and the Batangas Sealane

⁹⁵ Dimailig, Jeong and Kim (n 79).

⁹⁶ PCG Memorandum Circular Nr. 14-93, Routeing System at Manila-Cavite Sealane.

Corregidor Island.⁹⁷ Two TSSs recommended routeing were also placed at the southern⁹⁸ and northern⁹⁹ waterways of Cebu City. Accordingly, VTMS operators disclosed that the recommended routes were not followed.¹⁰⁰

Aside from the fact that all these TSSs are not sanctioned by IMO,¹⁰¹ the circulars governing the same imposed only minimal administrative liability and against the master of the vessel only, and not the shipowner/operator nor the negligent crewmember. The liability, nevertheless, could only be limited to administrative penalty being a subsidiary legislation since there is no law imposing criminal or civil liability.

5. THE LAWIS LEDGE CHANNEL

Lawis Ledge is considered a dangerous area for ships that pass through it going to and leaving the Cebu City port, which is one of the major ports in the country. The area is a narrow passage of only 600 yards or 3.3 nautical miles for vessels to meet.¹⁰² This passage is part of the TSS¹⁰³ established in the southern part of Cebu.

The establishment of sealanes supposedly promotes safety of navigation but in this case it was the other way around. Actually, several recorded incidents happened in the same spot. Of the aforementioned collision incidents, four accidents occurred all involving passenger vessels: *Super Ferry (SF)-2*(20011); *St. Thomas Aquinas*(2013), which has the highest casualties; and twice in 2018, involving *Lite Ferry 20* and *Fascat 11*. In fact, *SF-2* and *St. Thomas* are one and same vessel where she just changed her name after the 2011 collision. These incidents were known as 'Lawis Ledge Collisions.' There were also recorded grounding incidents transpired in the same channel, in 2010 and 2011

⁹⁷PCG Memorandum Circular Nr. 03-03, Routeing System at Corregidor Island Passages (North and South Channels).

⁹⁸ PCG Memorandum Circular Nr. 05-03, Routeing System at Cebu-Mactan Channel(Southern Approach)

⁹⁹ PCG Memorandum Circular Nr. 06-03, Routeing System at Malapascua, Island, Cebu.

¹⁰⁰Dimailig, Jeong and King (n 79).

¹⁰¹ Ibid.

¹⁰² Cebu's Lawis Ledge, a dangerous area for ships

<<https://news.abs-cbn.com/focus/08/18/13/cebus-lawis-ledge-dangerous-area-ships>> accessed 29 January 2019.

¹⁰³ PCG MC Nr 05-03 (n 95).

involving passenger vessels *MV Filipinas Ozamis*¹⁰⁴ and *MV Weesam Express-8*,¹⁰⁵ respectively. Thus, it is high time to revisit the TSS on the area.

6. THE NEED FOR LEGISLATION IN THE PHILIPPINES

The country's domestic shipping industry has been regarded as inefficient largely because of, among others, ineffective vessel traffic management, inadequate waterways, unsafe and complacent attitudes of all parties on the observation of safety policies and regulations,¹⁰⁶ and lack of primary legislation imposing commensurate penalty to the violators of such safety policies. Personnel manning the domestic fleet were also found to having disobeyed traffic routes and VTMS people leniently allowed such behavior.¹⁰⁷ Collisions have the highest of casualties which were attributed to poor navigation, non-observance of the rules of the road and lack of prudent seamanship.¹⁰⁸

To address these issues, the enactment of a law to incorporate the provisions of the Convention is imperative. This legal regime of primary legislation would give strong support and compel the strict implementation of sound maritime and navigational rules at par with international standards by the authorities and the maritime stakeholders.

Further, the Philippines, being a State Party, is obliged to give full and complete effect to the provisions of the Convention. Especially now, where the last part¹⁰⁹ of the Convention was added to ensure compliance by the Contracting Parties with the provisions of the Convention and this can be mainly achieved by the enactment of this law which will enable the Philippines to meet its obligations under the Convention. This

¹⁰⁴ Cebu-bound ferry runs aground <<https://www.philstar.com/nation/2010/06/20/585522/cebu-bound-ferry-runs-aground#d8dEVv1Axle6G41E.99>> accessed 29 January 2019.

¹⁰⁵ Ship runs aground off Cebu <<https://www.philstar.com/nation/2011/09/12/725864/ship-runs-aground-cebu-212-rescued#1ADguyolpOm7ysyw.99>> accessed 29 January 2019.

¹⁰⁶ Dimailig, Jeong and Kim (n 79).

¹⁰⁷ Ibid.

¹⁰⁸ Ibid.

¹⁰⁹ 2013 Amendments (n 65).

obligation is indeed sanctioned as well by UNCLOS,¹¹⁰ to which the Philippines is also a Party.¹¹¹

¹¹⁰ United Nation Convention on the Law of the Sea (UNCLOS), adopted on 10 December 1982 and entered into force on 16 November 1994.

¹¹¹ UNCLOS of 10 December 1982

<https://www.un.org/Depts/los/convention_agreements/convention_overview_convention.htm> accessed 15 April 2019.

PART III

1. METHOD OF DRAFTING AND ENACTMENT OF 1972 COLREG AS AMENDED

1.1 Legislative Process

Since the Philippines has no primary legislation yet, it is prudent to enact a new legislation incorporating the provisions of the 1972 Convention on Preventing Collision at Sea (as amended). The enactment of this Act is consistent with the country's present Constitution which adopts the doctrine of incorporation of generally accepted principles of international law.¹¹² As a State Party, the Philippines has accepted the commitment required by the Convention and bound to faithfully comply with the same.

The process would usually commence upon the proposal of a draft bill by the concerned government agency to any member of the Congress of the Philippines, either both houses,¹¹³ who will sponsor or introduce the draft bill. It could be the Department of Transportation (DOTr) through its attached agencies, the Maritime Industry Authority, the PCG, or the PPA, or any concerned department or agency which will initiate the legislative proposal. Introduction of the bill could emanate either from the Senate or House of Representatives or be done simultaneously to speed up the process and eventually refer the bill to the appropriate committee. Thereafter, the proceedings will begin until the bill is approved by both houses. The approved bill will then be forwarded to the Office of the President of the Philippines. If the President signs¹¹⁴ the approved bill, it will now become a law, to which a Republic Act number will be assigned.

¹¹² Article II, Section 2, 1987 Philippine Constitution. "Section 2. The Philippines renounces war as an instrument of national policy, adopts the generally accepted principles of international law as part of the law of the land and adheres to the policy of peace, equality, justice, freedom, cooperation, and amity with all nations.

¹¹³ The Congress of the Philippines is composed of House of Representative and Senate of the Philippines.

¹¹⁴ The President can veto the bill. In such case, the bill together with a message citing the reason for the veto is transmitted to the House where the bill originated. The message is included in the Order of Business. If the Congress decides to override the veto, the House of Representative and the Senate shall proceed separately to reconsider the bill or the vetoed items of the bill. If the bill or its vetoed items is passed by a vote of two-thirds of the Members of each House, such bill or items shall become a law, Legislative Process <<http://www.congress.gov.ph/legisinfo/?v=process>> accessed 16 March 2019.

Once the law is passed, the implementing agency will formulate Implementing Rules and Regulations (IRR), usually in consultation with other concerned government agencies.

1.2 Legislative Format

The Convention will be incorporated into the domestic laws of the Philippines through the enactment of primary legislation (an Act). The present Act adopts and implements the provisions of the 1972 Convention on Preventing Collisions at Sea, as amended. In this Act, the provisions of the Convention including its subsequent applicable amendments are incorporated to form part of the law of the Philippines.

One of the objectives of this Act is the imposition of criminal and administrative liabilities to shipowners/operators, master and crewmembers who will be found in violation of its provisions. The imposition of penalties will serve as statutory force for the entities and individuals to diligently comply with their obligations imposed by the Convention. Likewise, it would deter the aforesaid persons to negligently or wilfully not perform their responsibilities.

A mechanism for the establishment of a ship routing system and vessel traffic services, including the necessary revision of that already in place, is likewise incorporated in the present Act. This mechanism is in line with the establishment of TSS prescribed under the Convention and the proper management of vessel traffic in such route or sealane. Similarly, it is imposed that the routing system¹¹⁵ and vessel traffic services¹¹⁶ are in accordance with the guidelines set by IMO and other relevant resolutions.

The role of different government agencies is also prescribed in this Act. This is important so as to have a proper delineation of the responsibilities and obligations of concerned government agencies to ensure the effective implementation of the provisions

¹¹⁵ IMO Resolution A.572(14) adopted on 20 November 1985 "General Provisions on Ships' Routing" <[http://www.imo.org/en/KnowledgeCentre/IndexofIMOResolutions/Assembly/Documents/A.572\(14\).pdf](http://www.imo.org/en/KnowledgeCentre/IndexofIMOResolutions/Assembly/Documents/A.572(14).pdf)> accessed 16 March 2019.

¹¹⁶ IMO Resolution A.857(20) adopted on 27 November 1997 "Guidelines for Vessel Traffic Services" <[http://www.imo.org/en/KnowledgeCentre/IndexofIMOResolutions/Assembly/Documents/A.857\(20\).pdf](http://www.imo.org/en/KnowledgeCentre/IndexofIMOResolutions/Assembly/Documents/A.857(20).pdf)> accessed 16 March 2019.

of the Convention. Similarly, the provision includes joint cooperation and coordination among government agencies while maintaining their respective mandates.

The present Act will not include provisions relating to Port States' responsibilities, which are already dealt with by the PCG Law of 2009.¹¹⁷ One of the powers and functions of the PCG is the conduct of port state control (PSC) implementation to enforce regulations in accordance with all relevant maritime international conventions and national laws for the promotion of safety of life property at sea.¹¹⁸ Hence, the PCG conducts PSC inspections on all foreign-registered vessels, ships, watercrafts and platforms in accordance with relevant international maritime conventions.¹¹⁹ The relevant conventions referred to include this Convention, to which the Philippines is a Signatory and the provisions of which will form part of the laws of the country through the enactment of this Act.

The effective implementation of the provisions of the Convention is mainly achieved through the passing of a primary legislation. As a matter of procedure, once the Act is passed, an IRR is adopted by the DOTr to implement such Act in consultation with other government agencies/entities and maritime stakeholders. The IRR is a subsidiary legislation to guide executive officials how to implement the law, as well as to guide the public how to comply with the Act. However, the extent of the authority of the IRR must be within the sphere of the legislative standards prescribe in the Act. Thus, generally, the Act would already provide the framework and the force to effectively implement the provisions of the Convention.

Following the usual format of the domestic laws of the country, the Act is presented into twenty three (23) Sections, consecutively numbered, which are divided into eight (8) chapters. The copy of the Convention, however, will not be attached anymore since upon enactment of this Act, the provisions of the Convention are already of judicial notice to everyone.

¹¹⁷ Republic Act (RA) No. 9993 or known as the Philippine Coast Guard Law of 2009, 12 February 2010.

¹¹⁸ Rule 3(a)(2), IRR of RA No. 9993.

¹¹⁹ RA No. 9993 (n 115), Section 3(a).

PART IV

THE DRAFT BILL

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Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Seventeenth Congress
Third Regular Session

HOUSE BILL NO. _____

Begun and held in Metro Manila, on the _____ day of _____,
two thousand nineteen.

Introduced by REPRESENTATIVES _____

AN ACT
TO INCORPORATE THE INTERNATIONAL REGULATIONS FOR
PREVENTING COLLISIONS AT SEA, 1972, AS AMENDED INTO THE
LAWS OF THE PHILIPPINES AND TO PROVIDE FOR THE EFFECTIVE
IMPLEMENTATION THEREOF AND FOR OTHER PURPOSES

*Be it enacted by the Senate and House of Representatives of the Philippines
in Congress assembled:*

CHAPTER I
GENERAL PROVISIONS

Section 1. Short Title. This Act shall be known as the "**Collision
Regulations Act.**"

Section 2. Declaration of Policy. The State recognizes its obligation to
promote maritime safety by establishing sound maritime and navigational
rules in order to prevent maritime accidents. This Act adopts and implements
the provisions of the 1972 Convention on the International Regulations for
Preventing Collisions at Sea as amended.

Section 3. Definition of Terms. As used in this Act, the following terms are
defined as:

- A. "Department" refers to the Department of Transportation (DOTr).
- B. "1972 Collision Regulations" mean the 1972 Convention on the
International Regulations for Preventing Collisions at Sea, as amended.
- C. "Organization" refers to International Maritime Organization (IMO).

- 51 D. "Routing System" means any system of one or more routes or routing
52 measures aimed at reducing the risk of casualties. It includes traffic
53 separation schemes, two-way routes, recommended tracks, areas to be
54 avoided, inshore traffic zones, roundabouts, precautionary areas and
55 deep water routes.
56
- 57 E. "Seaplane" includes any aircraft designed to maneuver on the water.
58
- 59 F. "Vessel" includes every description of water craft, including non-
60 displacement craft, WIG craft and seaplanes, used or capable of being
61 used as a means of transportation on water.
62
- 63 G. "Vessel Traffic Service (VTS)" means a service designed to improve the
64 safety and efficiency of vessel traffic and to protect the environment. The
65 service should have the capability to interact with the traffic and to
66 respond to traffic situations developing in the VTS area.
67
- 68 H. "Wing-in-Ground (WIG) craft" means a multimodal craft which, in its main
69 operational mode, flies in close proximity to the surface by utilizing
70 surface-effect action.
71

72 **Section 4. Incorporation of the 1972 Collision Regulations.** Subject to the
73 provisions of this Act, the 1972 Convention on the International Regulations
74 for Preventing Collision at Sea as amended, including any subsequent
75 applicable amendments shall form part of the laws of the Philippines.
76

77
78 **CHAPTER II**
79 **SCOPE OF APPLICATION**
80

81 **Section 5. Application.** This Act shall apply to the following:
82

- 83 A. Philippine vessels, craft and seaplane wherever they may be.
84
- 85 B. All other vessels, craft and seaplane while within the ports, inland
86 waterways, archipelagic waters and territorial sea of the Philippines.
87

88
89 **CHAPTER III**
90 **DUTIES AND RESPONSIBILITIES**
91

92 **Section 6. Shipowner/Operator.** The shipowner or operator shall, among
93 others, ensure that vessel it operates is equipped with necessary lights,
94 shapes and signal appliances in accordance with the Annexes of 1972
95 Collision Regulations. It shall also ensure that the master and other
96 crewmembers of the vessel it operates are familiar with the Rules of the 1972
97 Collision Regulations.
98

99 **Section 7. Master/Crewmembers.** The master and/or crewmembers shall
100 observe the following:

- 101 A. In preventing collision, the master and/or crewmembers shall familiarize
102 and faithfully comply with the provisions of this Act and the Rules and
103 Annexes of the 1972 Collision Regulations.
104
- 105 B. Particularly, in the use of distress signal, the following shall be observed:
106
- 107 a. No signal of distress shall be used by any vessel unless the master of
108 the vessel so orders.
109
- 110 b. The master shall not order any signal of distress to be used by his
111 vessel unless he is satisfied that:
112
- 113 i. his/her vessel is in serious and imminent danger, or that another
114 ship or an aircraft or person is in serious and imminent danger
115 and cannot send that signal; and
116
- 117 ii. the vessel in danger (whether his/her own vessel or another
118 vessel) or the aircraft or person in danger, as the case may be,
119 requires immediate assistance in addition to any assistance then
120 available
121
- 122 c. The master of a vessel which has sent any signal of distress by
123 means of radio or other means shall cause that signal to be revoked
124 by all appropriate means as soon as he is satisfied that the vessel or
125 aircraft to which or the person to whom the signal relates is no longer
126 in need of assistance as aforesaid
127

128
129 **CHAPTER IV**
130 **NEGLIGENCE**
131

132 **Section 8. *Presumption of Negligence.*** Where any damage to person or
133 property arises from the non-observance by any vessel, seaplane, or craft of
134 any provisions of this Act, the damage shall be presumed to have been
135 occasioned by the negligence of the person in charge of the vessel, seaplane
136 or craft at the time.
137

138 **CHAPTER V**
139 **GOVERNMENT AGENCIES**
140

141 **Section 9. *Maritime Industry Authority (MARINA).***The MARINA may
142 exempt any vessel or class of vessel which relate to the number, position,
143 range or arc of visibility of lights or shapes, as well as to the disposition and
144 characteristics of sound-signaling appliances if compliance with such
145 provision is either impractical or unreasonable in the case of the vessel or
146 description in such terms (if any) as may be specified. For this purpose,
147 MARINA shall issue a certificate of exemption which may be cancelled or
148 revoked as may be determined.
149

150 **Section 10. *Philippine Coast Guard (PCG).*** The PCG in coordination with
151 the Philippine Ports Authority shall establish the necessary ship routing
152 system and vessel traffic services.

153

154 The introduction of new routing system or amending an existing one shall be
155 in compliance with the general provisions on ship's routing adopted by the
156 Organization. In the same manner, in establishing a VTS or amending such
157 services, the PCG shall conform to the guidelines issued by the Organization.
158 Further, VTS shall be operated in conformity with the said guidelines and
159 other relevant IMO resolutions.

160

161 The PCG shall also ensure that VTS operators are appropriately qualified,
162 suitably trained and capable of performing the tasks required, taking into
163 consideration the type and level of services to be provided in conformity with
164 the relevant guidelines and resolutions of the Organization.

165

166 The PCG shall investigate, *motu proprio* or through written undertaking of
167 complainant, any incident or violation of this Act, and shall forthwith file
168 appropriate action with the court.

169

170 **Section 11. *Philippine Ports Authority(PPA).*** Subject to Section 10 of this
171 Act, the PPA shall coordinate with PCG and provide the necessary support in
172 establishing a ship routing system and VTS especially in area going to and
173 from a port or harbor.

174

175 **Section 12. *Local Government Units (LGUs).*** The LGUs shall ensure that
176 vessels of three (3) gross tonnages and below comply with the applicable
177 provisions of this Act. In such respect, before the issuance of new registration
178 or renewal of the same, the LGU shall ensure that a clearance or exemption,
179 as the case may be, is obtained from MARINA.

180

181 **Section 13. *Other Government Agencies.*** The assistance of other
182 government agencies or instrumentalities, consistent with their mandates,
183 may be called upon in implementing the provisions of this Act.

184

185 **Section 14. *Continuance of Mandates.*** Unless otherwise provided in this
186 Act, the mandate, power and function of all existing agencies or
187 instrumentalities of the government shall remain and continue in accordance
188 with the law or order creating them.

189

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CHAPTER VI PENAL PROVISIONS

191

192

193 **Section 15. *Criminal Liabilities.*** Where any of the provisions of this Act is
194 contravened, the owner of the vessel, the master and any person for the time
195 being responsible for the conduct of the vessel shall each be guilty of an
196 offense, punishable on conviction by imprisonment for a period not lesser than
197 six (6) months but not exceeding two (2) years and a fine not lesser than Fifty
198 Thousand Pesos (P50, 000.00), or both.

199

200 Subject to Chapter IV of this Act, it shall be a defense for any person charged
201 under this Act to show that he/she took all reasonable precautions to avoid
202 the commission of the offense.

203

204 **Section 16. Administrative Penalties.** Upon a summary finding of
205 administrative liability, the offender shall be subjected to administrative fines
206 and penalties in accordance with the Implementing Rules and Regulations.

207

208 **Section 17. Liability of Public Officer.** Any public officer who shall be
209 found liable for misfeasance, malfeasance or nonfeasance in the
210 implementation or enforcement of the provisions of this Act shall be penalized
211 in accordance with their respective internal disciplinary system and/or the
212 Revised Penal Code.

213

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CHAPTER VII COMPLIANCE MECHANISM

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217 **Section 18. System or Mechanism of Compliance with the Provisions of**
218 **this Act.** The Department shall adopt an audit and/or monitoring system or
219 mechanism to ensure that the provisions contained in this Act are faithfully
220 complied with and fully implemented by concerned government agencies
221 and/or persons or entities.

222

223

CHAPTER VIII FINAL PROVISIONS

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225

226 **Section 19. Implementing Rules and Regulations.** Unless otherwise
227 provided in this Act, regulations required to administer this Act shall be made
228 by DOTr within three (3) months from the effectivity of this Act.

229

230 **Section 20. Appropriations.** The amount necessary to carry out the purposes
231 of this Act shall be charged against the current year's appropriation of the
232 DOTr. Thereafter, such sums as may be necessary for the purposes,
233 operation, and maintenance of this Act shall be included in the General
234 Appropriations Act.

235

236 **Section 21. Separability Clause.** If for any reason, any provision of this Act
237 is declared unconstitutional or invalid; such parts not affected thereby shall
238 remain in full force and effect.

239

240 **Section 22. Repealing Clause.** All laws, decrees, executive orders, rules and
241 regulations and other issuances or parts thereof which are inconsistent with
242 this Act are hereby repealed, amended or modified accordingly.

243

244 **Section 23. Effectivity.** This Act shall take effect fifteen (15) days after its
245 publication in the Official Gazette or in a newspaper of general circulation.

246

247

Approved.