



Legal Alert

Update on Indonesian New Regulation of Manning of Commercial Vessel

The Indonesia Ministry of Transportation (MoT) has issued the long awaited regulation regarding the Manning of Commercial Vessel through the MoT Regulation No. 26 of 2022 ("**MoT Reg 26/2022**") which supersedes the MoT Decree No. 70 of 1998 on Manning of Commercial Vessel ("**MoD 70/1998**").

The MoT Reg 26/2022 has come into effect as of 23 September 2022. Essentially, it regulates new provisions on the manning of commercial vessel following the amendment of the International Convention on Standards of Training, Certification, and Watchkeeping lastly in 2010 also known as Manila Amendment ("**STCW 2010**") and the IMO Resolution No. 1074 adopted in 2011.

We have set out below the salient points of MoT Reg 26/2022, for your ease of understanding:

The Composition of Vessel's Manning

Previously the MoD 70/1998 stipulated that the composition of vessel's manning in a sailing commercial vessel should be as follows: (i) Master; (ii) Officer; and (iii) Rating.

Under the MoT Reg 26/2022, the composition of vessel's manning has been amended as follows: (i) Master, (ii) Officer (e.g., Chief Mate, Watchkeeping Officer, Chief Engineer, and Electro Technical Officer), (iii) Rating (e.g., Able Seafarer Deck, AB Seaman, Ordinary Sailor, and Able Seafarer Engine), and (iv) Particular positions for the specific vessel (i.e., doctor and surveyor).¹

In accordance with the STCW 2010, the MoT Reg 26/2022 provides new requirement, that the commercial vessel's manning shall be determined based on: (i) type of vessel; (ii) shipping area; (iii) vessel's gross tonnage; (iv) size of main propulsion power; and (iv) operating system.²

Certification of Seafarer

The MoD 70/1998 only required the Certificate of Competency ("**CoC**") and the Certificate of Proficiency ("**CoP**") to be possessed by the crew.³

Under the MoT Reg 26/2022, aside from the CoC and the CoP, the crew should obtain the following certificates: Certificate of Endorsement/CoE and Certificate of Recognition ("**CoR**"). However, only foreign crew who serve in the Indonesian-flagged vessels that are obliged to obtain the CoR. The CoR will be issued by the Directorate General of Sea and Transportation of the MoT (DGST) and to be furnished for the Master, Chief Mate, Chief Engineer, and Second Engineer Officer.

¹ Article 3 Paragraph (1) of the MoT Reg 26/2022.

² Article 3 Paragraph (2) of the MoT Reg 26/2022.

³ Article 3 of the MoD 70/1998.

Further, unlike as regulated previously under the MoD 70/1998 (i.e. only classified the types of the CoC into CoC for nautical seafarer, CoC for mechanical engineer officer, and CoC for electronic radio operator), the MoT Reg 26/2022 added new types of the CoC i.e. CoC for GMDSS Radio Operator.⁴ Further, the MoT Reg 26/2022 regulates new types of the CoP to become, as follows: (i) CoP for basic skills; (ii) CoP for specific expertise; and (iii) CoP for skills required for specific type of the vessel.⁵

Required Number of Grade, Maritime Certification, and Crew Members

Previously (under the MoD 70/1998), the required number of crew were classified based on *inter alia* shipping region and vessel's tonnages.

Under the MoT Reg 26/2022, the required number of crew is classified based on vessel's tonnage, vessel's main propulsion, and the type of the vessel, all for worldwide sea region (*daerah pelayaran semua laut di dunia*), as follows⁶:

No.	Type of Vessel	Vessel's GT / Main propulsion power	Required Number of Crew Members
On the Deck			
1.	Cargo Vessel	10.000 GT or more	Minimum 11 people
		Between 3 .000 GT and 10.000 GT	Minimum 11 people
		Between 1.500 GT and 3.000 GT	Minimum 11 people
2.	Tugboat	500 GT or more	Minimum 6 people
3.	Passenger ship	10.000 GT or more	Minimum 19 people
		Between 3 .000 GT and 10.000 GT	Minimum 14 people
		Between 500 GT and 3.000 GT	Minimum 13 people
On the Engine			
1.	Cargo Vessel	7.500 kW or more	Minimum 10 people
		Between 3.000 kW and 7.500 kW	Minimum 9 people
		Between 750 kW and 3.000 kW	Minimum 7 or 8 people
2.	Passenger Ship / Ro-ro Passenger Ship	7.500 kW or more	Minimum 11 people
		Between 3.000 kW and 7.500 kW	Minimum 10 people
		Between 750 kW and 3.000 kW	Minimum 7 or 8 people
		Less than 750 kW	Minimum 4 people

⁴ Article 6 of the MoT Reg 26/2022.

⁵ Article 9 of the MoT Reg 26/2022.

⁶ Article 14,16,and 17 of the MoT Reg 26/2022.

Procedure to Stipulate the Minimum Commercial Vessel Manning

The MoT Reg 26/2022 regulates provisions regarding procedures to stipulate the minimum commercial vessel manning. Such procedure was not regulated under the previous regulation MoD 70/1998.

Under the new regulation, the minimum ship manning is stipulated by considering several factors, as follows: (i) size and type of ship; (ii) number, size, and type of main propulsion power and auxiliary engines; (iii) the level of automation on the Ship; (iv) the construction and equipment of the Ship; (v) the method of maintenance; (vi) the amount and type of cargo transported; (vii) the frequency of entering and leaving the port, duration and natural conditions of the voyage must be taken into account; (viii) the shipping region, waters and operations where the Ship is sailed and the route pattern; (ix) the distance of training activities on board the Ship; (x) the level of ground support for the preparation of the Ship by the company; (xi) limits on working hours and rest requirements; and (xii) Ship Security Plan/SSP.⁷

Obligations of the Parties in Commercial Vessel Manning

Pursuant to the MoT Reg 26/2022, the shipping companies or the manning recruitment companies have the following obligations:⁸

- a. Provides documentary evidence regarding the employed crew on the ship;
- b. Ensure every crew on board have the required certificate (national and/or international);
- c. Ensure every crew on board have documentary evidence related to the work experience and health testing results;
- d. Ensure every crew on board familiar with the vessel's layout, equipment, and procedures related to tasks as well emergency procedures;
- e. Every shipping company which own and/or operates vessel obligated to receive or accommodate an education and/or training for at least 2 member of the deck or engine department.

Administrative Sanctions

The shipping companies or manning recruitment companies who violate the obligations mentioned above (under Article 22 of the MoT Reg 26/2022) may be imposed with administrative sanctions by the relevant authorities.⁹

There is still no clear explanation regarding the form of administrative sanctions addressed by this regulation. It is worth note that in reference to the provisions of Article 243 paragraph (2) of the Law No. 17 of 2008 on Shipping as lastly amended by the Law No. 11 of 2021 on Job Creation, the forms of administrative sanctions are as follow: (i) warning; (ii) administrative fines; (iii) license suspension; or (iv) license revocation.

⁷ Article 19 of the MoT Reg 26/2022.

⁸ Article 22 of the MoT Reg 26/2022.

⁹ Article 25 of the MoT Reg 26/2022.

Closing remarks

In our view, the issuance of the MoT Reg 26/2022 has finally ended the uncertainties occurred due to the outdated regulation regarding the manning of commercial vessel in Indonesia. Its reference to the latest STCW's amendment may also considered as the government's attempt to develop the manning related regulations in order to create a safe seas and ships for all relevant stakeholders including the crew and the environment.

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