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REVISED RULES ON THE GRANT OF DISPENSATION TO SEAFARERS ON BOARD PHILIPPINE-REGISTERED SHIPS ENGAGED IN INTERNATIONAL VOYAGES

MARINA CIRCULAR NO. 2011-02, June 17, 2011

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Pursuant to Presidential Decree No. 474, Section 12 (e) of Executive Order No. 125, as amended, and Presidential Decree Nos. 760/866/1711, as amended, and to fully comply with the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW) 1978, as amended, the following rules shall be adopted.

I. OBJECTIVE

This Circular provides for policy guidelines to all companies, shipowners, operators and managers applying for Dispensation Permit, in behalf of their seafarers onboard Philippine-registered ships engaged in international voyages, to fully comply with Article VIII of the 1978 STCW Convention, as amended.

II. COVERAGE

This Circular shall apply to all companies, shipowners, operators and managers of Philippine-registered ships engaged in international voyages, who will apply for dispensation in behalf of their seafarers.

III. DEFINITION OF TERMS

For the purpose of this Circular, the following terms shall be defined as follows:

1. Administration — refers to the Maritime Industry Authority.
2. Company — means the owner of the ship or any other organization or person such as the manager, or the bareboat charterer, who has assumed the responsibility for operation of the ship from the shipowner and who, on assuming such responsibility, has agreed to take over all the duties and responsibilities imposed on the company by the Convention.
3. Convention — refers to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1978 as amended. Reference to the Convention constitutes at the same time reference to the Annex and the STCW Code.
4. Dispensation Permit — refers to a document issued in favor or a seafarer who, in case of exceptional necessity, does no hold the appropriate certificate required by the Convention, Permitting a seafarer to serve a specific position in a particular ship for a specified period.
5. Exceptional Necessity —

5.1 Force majeure;
5.2 national emergency; or
5.3 physical inability of the duly qualified and competent seafarer to assume his position and for which reason his absence caused the request for granting dispensation;

6. Force Majeure — refers to an event, which is unforeseen and even if foreseen, is inevitable. It is an event that is

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dependent on chance, is beyond the power of any human being to bring the event to pass, or within the control of third parties or it is a past event, provided that the fact is unknown to the parties. It is one which occurs accidentally, as a layman and not a technician or scientist would understand the term and issues of knowledge, accident, and unintentional conduct are fact issues to be resolved.

It is a result of a condition beyond the control of the parties applied not only to any other causes or accidents but also to the specified events.

It is an unforeseen occurrence, such as war, earthquake, flood, hurricane, storm, or lightning not caused by or preventable by any human agency, which prevents a party from performing its obligations and for which not transporter can be held accountable.

Instances of force majeure:

a) death of a Master or Chief Engineer; or
b) physical incapacity of a Master or Chief Engineer to perform his tasks

IV. GENERAL PROVISIONS

1. The grant of Dispensation Permit to seafarers will allow Philippine-registered ships engaged in international voyages to continue their operation based on the principle of exceptional necessity taking into consideration the possible risk involved on safety of life and property at sea and the protection of the marine environment.

2. The grant of Dispensation Permit shall not be used by the Company, shipowners, operators and managers for the purpose of gaining commercial advantage or convenience or as a scheme for pooling on board officers not properly certificated.

3. The Dispensation Permit is not exemption from the safe manning requirement of the ship or a substitute document to fulfill the deficiency of officers not properly certificated to assume the higher position. Thus, upon issuance of Dispensation Permit, it being merely an emergency measure, the concerned Company, ship owners, operators and managers should address the deficiency immediately and at the earliest possible time.

4. When the position below the vacant post to be filled does not require any Certificate under Regulations XVIII/8 of the Philippine Merchant Marine Rules and Regulations (PMMRR), a dispensation or upgrading may be issued to a specified seafarer whose qualifications and experience are, in the judgement of the Administration, of clear equivalence to the vacant post.

V. SPECIFIC PROVISIONS

1. In cases of exceptional necessity, the Administration may grant a Dispensation Permit to a seafarer to serve in capacity for which he does not hold the appropriate certificate, provided that:

1.1 The seafarer is adequately qualified to fill the vacant post in a safe manner to the satisfaction of the Administration;
1.2 the seafarer holds a certificate which qualifies him/her to hold the post immediately below;
1.3 the ships for which Dispensation Permit is being granted shall be specifically identified/ named;

2. The Dispensation permit shall not be issued in the capacity of a Master or Chief Engineer officer except in circumstances of force majeure and shall be valid only until the next port of call.

3. The company and the ships Master shall be held responsible in ensuring that the seafarer to whom the Dispensation Permit is granted pursuant to paragraph 1 of this Section has adequately demonstrated his

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qualification and experience.

4. This Dispensation Permit to be issued shall not exceed six (6) months.

V. DOCUMENTARY REQUIREMENTS

1. AII applications for the issuance of Dispensation Permit shall be filed with the Administration by the concerned entities providing the following documentary requirements:

1.1 Letter request;
1.2 Copy of the ship's Certificate of Philippine Registry (file copy);
1.3 Copy of the ship's Minimum Safe Manning Certificate (file copy);
1.4 Previously issued Dispensation Permit, if applicable (file copy)
1.5 List of Ports of call and sailing schedule;
1.6 Crew List;
1.7 Name and appropriate certificate of the seafarer who will be replaced;
1.8 Name, appropriate certificate, qualification and experience of seafarers(s) who will assume the vacant post immediately above his current position

2. Master's Report about the incident.

VI. APPLICATION FEE

The filing fee for the issuance of Dispensation Permit per seafarer shall be P1,650.00

VII. ADMINISTRATIVE PENALTY/SANCTIONS

Companies, shipowners, operators and managers covered by this Circular who violate w fail to comply with the policies/guidelines herein set forth shall be subjected to the following administrative fines and/or penalties after due process:

First Violation
- P25.000.00

Second Violation - P50.000.00

Third Violation - P200.000.00

Fourth Violation - Suspension of the company as an accredited Philippine Shipping Enterprises

VIII. REPEALING CLAUSE

MARINA MC 132 is hereby repealed and any provision of other existing MARINA rules and regulations which is inconsistent with this Circular is hereby repealed or modified accordingly.

IX. EFFECTIVITY

This MARINA Circular shall take effect after fifteen (15) days following its publication once in a newspaper of general circulation in the Philippines.

Adopted: 17 June 2011

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BY AUTHORITY OF THE MARINA BOARD:

(SGD.) EMERSON M. LORENZO, CESO V
Administrator

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