

**[ MARINA CIRCULAR NO. 2011-02, June 17, 2011 ]**

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

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 of a seafarer who, in case of exceptional necessity, does not 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 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