

## **MEMORANDUM CIRCULAR NO. 27-C**

**TO : ALL SHIPPING COMPANIES , OTHER MARITIME ENTITIES ALL CONCERNED , EXCEPT FISHING COMPANIES**

**SUBJECT : AMENDED GUIDELINES FOR ISSUANCE OF TEMPORARY PHILIPPINE REGISTRY UNDER P.D. 866/1711**

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Henceforth the following guidelines shall govern the issuance of temporary certificate of Philippine registry (TCPR) for overseas vessel pursuant to P .D . 866/1711, to wit:

1. Only Philippine nationals authorized to principally engage in over seas shipping and duly accredited by Marina may charter and registry nay foreign- owned vessel under P. D. 866/1711.
2. Applicant 's principal officers, e.g. President ,vice President for operation , general manager , freight/chartering managers or their equivalents have at least three (3) years experience in both ship and shipping management.

### **II. PRE-APPROVAL CONDITIONS**

1. The applicant shall have an owner's equity or paid-up capital of at least P1.5 M for the first three (3) chartered vessel and shall increase the same to P2.5 m for the charter of additional vessels in excess of three .
2. The corporate name of the company must be indicative of the principal purpose of the company as engaged in the business of chartering and/or overseas shipping and any word or term included in such name as would create an impression that the company is merely an agent or auxiliary should be eliminated/amended.
3. The applicant may bare boat charter vessel up to at most seven (7) vessels for every owned vessel of at least 5,000 DWT registered permanently under Philippine flag.
4. In case where the applicant does not own any vessel it may initially bare boat charter five (5) vessel for a maximum of four (4) years per vessel. The bare boat contract shall not be extended beyond four (4) years maximum period unless the applicant acquires at least one (1) of at least 5,000 DWT vessel through direct purchase or through the conversion of the bare boat charter into a lease –irrevocable purchase financing scheme in which a down payment of at least ten (10) percent is required and no “balloon” payments shall be allowed beyond the first half of the charter

period. Thenceforth , the company may bare boat charter up to seven (7) vessels provided it has at least one (1) vessel of at least 5,000 DWT under payment Philippine registry , that is , the ratio of bare boat chartered tonnage to owned tonnage shall be maintained at maximum 7:1 in terms of number of vessels.

5. In case where the applicant owns the vessel to be bare boat chartered and where the vessels registered under foreign flag it may bare boat charter such vessels without limitations provided that evidence of ownership shall be submitted to Marina.
6. The vessel shall be classed by a recognized international classification society and shall have a valid continuous machinery survey (CMS) and continuous survey (CHS) at the time of application issued by an internationally accredited classification society.
7. The vessel to be chartered shall not be more than 15 years old however , in meritorious cases, it may be more than 15 but in no case more than 25 years old.
8. The technical, management , financial and economic evaluation of the project shall be favorable . the applicant shall pay a filling fee of P4,000 per vessel. For an application involving vessels 16 years old and above , the applicant shall pay a filling fee of P5.000 per vessel. The age of the vessel shall reckoned from the date of the launching.
9. Pro-forms bare boat (and time charter) contracts shall be in accordance with international chartering practices.
10. Proof of payment of the withholding tax of 4.5% corresponding to previously chartered vessels of the company shall be or shall have been submitted .

### **III POST-APPROVAL CONDITIONS**

1. A certification by an internationally accredited classification society and the vessel 's class and maintained shall be submitted to Marina not later than thirty (30) days from approval of the charter .
2. copies of all duly executed and authenticated bare boat and this charter party shall be submitted to the Marina not later than thirty (30) days from execution of the document and in no case more than six (6) months fro approval of charter.

3. Copies of the duly executed lease-financing agreements shall be submitted not later than thirty (30) days after the Marina approval of the request.
4. That any and all documents and/or certificates issued to the vessel by the original flag of registry which are on board the vessel shall be removed from the vessel and taken possession of by the charterer within thirty (30) days after excepting delivery of the vessel.
5. That the vessel after registration and acceptance of delivery shall immediately and at all times during the charter period utilize the [Philippine flag and call sign duly authorized by the Philippine coast guard and national telecommunications commission respectively.
6. That the copy of the certificate of the Philippine registry and protocol of delivery and acceptance shall be submitted to Marina within ninety (90) from receipts of approval of authority to charter .
7. That the vessel's name shall be changed to a Filipino names, as may be required and approved by Marina ; and considering that the Filipino language is a combination of Filipino English ,Spanish and Malay , any name derived there form may be acceptable
8. That the vessel shall be completely manned by Filipino officers and crew and no foreign officer /crew shall be allowed on board except as supernumeraries ; in cases of specialized vessels, foreign officers /crew may be allowed in lieu of the Filipino officers /crew only for a maximum period of six (6) months.
9. That copies of all shipping articles shall be submitted to Marina within thirty (30) days from execution .
10. That a colored photograph (in different angles ) showing the place of registry in the astern portion of the vessel be submitted to Marina within thirty (30) days after registration under Philippine flag.
11. That no later than thirty (30) days from approval of the charter, the company shall submit to Marina an oath of undertaking duly signed by its duly authorized representative pursuant to a resolution of the board of directors, which stipulates the following :
  - A. As bare boat charter , the company shall ,after Philippine registration of the vessel and after accepting delivery removed from the vessel all documents and /or certificates issued to the by the original flag of registry and shall take possession of said documents /certificates and the vessel

shall immediately and at all times during the charter period utilize and authorized ;

- B. Should a violation be committed by the company , or by any officer on board , of the post approval conditions, the approval of charter shall be a Philippine – registered vessel and those involved
  - C. Should the company violate the above conditions it is shall be subject of an administrative fine in the amount of one hundred thousand pesos (P100,000) and shall be bared for a maximum of five (5) years from bare boat chartering under P. D . 866/1711
12. That proof of quarterly payment of withholding tax shall be submitted to Marina within forty –five (45) days after each quarter.
13. The company shall comply with all laws, rules and regulation pertaining to Philippine flag vessels.

### **III. SANCTIONS**

1. Any violation of the aforementioned post-approval conditions no. 4 and 5 which shall be dealt with separately , shall be meted the corresponding administrative fines , penalties , or forfeitures, as follows:
- A. for the first violation , by a fine of not more than P20,000.00
  - B. For the second violation, by a fine of not more than P20,000.00
  - C. For the continued will full neglect or refusal to comply with the post-approval conditions are required by Marina , by a fine of not more than P20,000.00 per month (or a fraction thereof) of default or by revoking the approval of the bare boat charter contract or by cancellation of the permanent Certificate of Philippine Registry (PCPR) of the vessel.
2. Any violation of post-approval conditions Nos. 4 and 5 shall be subject to an administrative fine in the amount of P100,000.00 and shall bar the company or fine from bare boat chartering under P. D. 866/1711 for a maximum period of five (5) years.

3. For violation of other laws, rules and regulations pertaining to Philippine flag vessels, these shall be meted the same penalties and fine provided therein,
4. For purposes of imposing fines, penalties, or forfeitures, the Marina , through its legal office and the office of overseas shipping shall conduct a hearing to enable the shipping entity to explain the circumstances of the violation . the same offices shall adopt their own rules and procedures provided sufficient notice is given to all parties concerned.
5. The findings and recommendation of the office concerned shall be forwarded to the administrator who shall render the decision,. Said decision shall become final and executory after the lapse of fifteen (15) days from receipt of decision unless the same is appealed within the said period to the Maritime Industry Authority board, whose decision shall be final and immediately executory.
6. All existing Marina Memorandum circulars not inconsistent with this circular shall remain in full force and effect.

Manila, Philippine , 23 April 1985.

VICTORINO A. BASCO  
Administrator

APPROVED:

JOSE P. DANS, JR.  
Minister of Transportation  
& Communications