



Republic of the Philippines
Department of Transportation and Communications
MARITIME INDUSTRY AUTHORITY

MEMORANDUM CIRCULAR No. 182

Series of 2003

**TO : ALL OVERSEAS SHIPPING COMPANIES AND OTHER
MARITIME ENTITIES CONCERNED.**

**SUBJECT : RULES IN THE ACQUISITION OF SHIPS UNDER PRESIDENTIAL
DECREE (PD) 760, AS AMENDED, AND PROVIDING HEREWITH
THE IMPLEMENTING RULES UNDER CHAPTER XV OF THE
1997 PHILIPPINE MERCHANT MARINE RULES AND
REGULATIONS (PMMRR) ON REGISTRATION,
DOCUMENTATION AND LICENSING OF SHIPS FOR
INTERNATIONAL VOYAGES**

The Maritime Industry Board during its 162nd Regular Meeting held on 22 January 2003 adopted the following rules in the implementation of PD 760, as amended and which shall form part of the implementing rules under Regulation XV/3.3.1 of the 1997 PMMRR.

I. OBJECTIVE

This Circular aims to:

1. rationalize the rules in the ships under the Philippine flag; and
2. achieve maximum benefits as envisioned under PD 760, as amended.

II. COVERAGE

This Circular shall apply to all shipping companies that shall acquire and register ships for international voyages pursuant to PD 760, as amended.

III. DEFINITION OF TERMS

For purposes of this Circular:

1. **Administration** refers to the Maritime Industry Authority (MARINA).
2. **Company** refers to the person or entity which has qualified under Memorandum Circular No. 181 and complied with the requirements of this Circular to bareboat charter a ship for registration under the Philippine flag.
3. **Shipowning company** refers to a company which, at the time of application under this Circular, shall have at least one (1) permanently registered ship under Philippine flag.

4. **Bareboat charter** refers to a contract for the lease of a ship for a stipulated period not less than one (1) year, by virtue of which the lessee has complete possession and control of the ship including the obligation to appoint the Master and the other crew of the ship for the duration of the lease.
5. **Crew** refers to the officers and ratings of the ship.
6. **Philippine national** refers to a citizen of the Philippines or a partnership or association wholly owned by and composed of citizens of the Philippines or of which at least sixty percent (60%) of the capital stock outstanding and entitled to vote is owned and held by Philippine citizens or a trustee of funds for pensions or other employee retirement or separation benefits, where the trustee is a Philippine national and at least sixty percent of the funds will accrue to the benefit of the Philippine national: Provided, that where a corporation and its non-Filipino stockholders own stock in an enterprise, at least sixty percent of the members of the governing board of both corporations must be Philippine nationals.
7. **Supernumerary** refers to a person who is not a crew of the ship and whose presence onboard is for a specific purpose other than to perform navigation, operation and management functions.
8. **Principal Officers** refer to the Chief Executive Officer, Chief Operating Officer or any other officer involved in the management and operation of the company.

IV. GENERAL PROVISIONS

1. Any foreign-owned ship bareboat chartered by a Philippine national may be entered under the Philippine Register of Ships upon approval by the Administration.
2. The registration of a ship under a lease-irrevocable purchase arrangement shall be governed by this Circular. A ship subject of a lease-irrevocable purchase arrangement shall be treated as a bareboat chartered ship; it shall be considered an owned ship only after the full purchase price had been paid.
3. The documentation of ships registered under PD 760, as amended shall be governed by the provisions of this Circular and Chapter XV of the 1997 PMMRR.
4. Companies without owned ships which qualify under Regulation V.I shall be allowed to acquire and register ships pursuant to PD 760, as amended, up to a maximum of ten (10) ships while shipowning companies have no limit as to the number of ships to be chartered.
5. Ships registered under the Philippine flag pursuant to this Memorandum

Circular shall be issued a Certificate of Philippine Registry (CPR) consistent with Regulation XV/3.2 of the 1997 Philippine Merchant Marine Rules and Regulations (PMMRR).

V. CONDITIONS FOR SHIP REGISTRATION

1. Only companies which have complied with the following requirements may bareboat charter ships under PD 760, as amended:
 - 1.1 The company is accredited under Memorandum Circular No. 181, provided, that such accreditation shall be maintained for the period that it has a bareboat chartered ship.
 - 1.2 Shipowning companies must have a paid-up capital of Seven Million Pesos (P7 M) and companies without owned ships must have a paid-up capital of Ten Million Pesos (P10 M);
 - 1.3 The company shall have the following management profile:
 - a. The Chief Executive and Chief Operating Officer (but if he is one and the same, the next ranking Operating Officer) shall be citizen and resident of the Philippines; and
 - b. Two (2) principal officers of the company shall have at least five (5) years experience in ship management, shipping operations and/or chartering.
2. A ship shall be registered under this Circular for a period of not less than one (1) year.
3. Extension of the registration of the ship for less than one (1) year for the purpose of finalizing documentation for the extension of the bareboat charter party or the eventual deletion of the ship from the Philippine Registry shall be allowed for a period not to exceed ninety (90) days provided that the registration shall be under the same company.
4. If the bareboat charter party is pre-terminated within one (1) year from date of delivery of the ship, the charterer shall be liable to pay the MARINA as penalty the amount equivalent to six (6) months withholding tax or the balance of the withholding taxes due for the whole year, whichever is higher. For purposes of this provision, a ship which has continuously been registered for more than one (1) year under the Philippine flag under the same group of companies shall be deemed to have complied with Regulation V.2 hereof.
5. Any change in the terms and conditions of the charter party shall be approved by the Administration.
6. Ships registered under this Circular shall be completely manned by Filipino crew except in cases as may be determined by the Administration. For this

purpose, Filipino crew onboard Philippine-registered ships shall be covered by prescribed Shipping Articles which shall be submitted for notation by the Administration.

7. A Philippine-registered ship may, under circumstances to be determined by the Administration, have on board supernumeraries provided that they shall not perform any of the functions of the crew nor interfere with the operation/management of the ship.
8. Crew onboard Philippine-registered ships are required to be certificated in accordance with the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 as amended.
9. Ships registered under this Circular shall, when calling for the first time at a Philippine port, shall be inspected by authorized MARINA surveyors.
10. All ships registered under this Circular must be class maintained by an internationally recognized classification society. Any change in the classification of a Philippine-registered ship shall be immediately communicated to the Administration.
11. Philippine-registered ships shall comply with the requirements of the International Safety Management (ISM) Code for the safe operation of ships and for pollution prevention.
12. Companies and ships covered by this Circular shall at all times comply with national rules and regulations as well as international conventions, codes and standards on safety and marine environment protection.
13. The bareboat charterer shall ensure that payment of the 4.5% withholding tax on gross charter hire is remitted to the Bureau of Internal Revenue.
14. Companies with bareboat chartered ships shall deposit in favor of the Maritime Industry Authority with any reputable commercial bank the amount equivalent to One Hundred Thousand Pesos (₱100,000.00) per ship to answer for the payment of the 4.5% withholding tax, fines and penalties due the government in the event that company fails to settle the same upon deletion of the ship from the Philippine Registry. In addition, companies shall also post a surety bond per ship in an amount equivalent to the cash bond. After the deletion of the ship from the Philippine Register of Ships, the amount of (₱100,000.00) may be withdrawn provided that proof of payment of all taxes/penalties due to the government by reason of the registration of the ship under the Philippine flag had been submitted. Shipowning companies shall be exempted from this requirement for their bareboat chartered ships.
15. All ships registered under this Circular shall not be deleted from the Philippine Registry/reverted to its foreign flag or registry without the prior approval of the Administration.

16. The company shall comply with all laws, rules and regulations pertaining to Philippine flag ships.

VI. PROCEDURES FOR REGISTRATION

1. Only applications with complete documentary requirements shall be accepted.
2. An application for the approval of the ship's plan shall be approved by the Administration.
3. The applicant shall pay the following fees:
 - a. Bareboat Charter - ₱18,720.00 for the first three years plus ₱4,000.00 for every year thereafter;
 - b. Certificate of Philippine Registry (CPR)
 - i. Initial (good for three (3) months) - ₱2,000.00 for the first 500 gt plus ₱0.80 for every gt thereafter or a fraction thereof
 - ii. Full Term – ₱1,200.00
 - iii. Re-issuance – ₱1,200.00

VII. DOCUMENTARY REQUIREMENTS:

1. The following documents shall be submitted upon filing of an application:
 - a. Letter of Intent;
 - b. Duly signed Bareboat Charter Contract (with names printed below the signatures), provided that the document duly notarized in the State where it was executed and authenticated by the Philippine Embassy/Consulate concerned shall be submitted within sixty (60) days from approval of the application;
 - c. Copy of a certificate of Deletion or Suspension of the original registry or consent to the Bareboat Charter registration in the Philippines by the state of original registry, provided, that the original copy of the document shall be submitted within thirty (30) days from approval of the application;
 - d. Copy of certificate of Good Standing of the registered owners recently issued by the State of Registry, provided, that the original copy of the document shall be submitted within thirty (30) days from approval of the application;

- e. Power of Attorney/Board Resolution authorizing the signatory to the bareboat charter party to act as such in behalf of the registered owners, provided that the document duly notarized in the State where it was executed and authenticated by the Philippine Embassy/Consulate concerned shall be submitted within sixty (60) days from approval of the application;
 - f. Copy of the ship's subsisting certificate of Original Registry, provided that the document duly certified to be a true copy of the original by the State of Original Registry or by the Philippine Embassy/Consulate concerned shall be submitted within sixty (60) days from approval of the application;
 - g. Board Resolution/Secretary's Certificate duly notarized, certified by the Board Secretary, authorizing the filing of the application and designating the officials/authorized representatives to represent the applicant-company;
 - h. Assignment of Bank Deposit (cash bond of One Hundred Thousand Pesos); and
 - i. Builders Certificate (For New Buildings);
2. For bareboat sub-charter applications, the following additional documents shall be submitted:
- a. Copy of the consent of Registered Owners to the Bareboat Sub-Charter Agreement entered into by and between the disponent owners and bareboat sub-charterers, provided, that the document duly notarized in the State where it was issued/executed and authenticated by the Philippine Embassy/Consulate concerned shall be submitted within sixty (60) days from approval of the application;
 - b. Power of Attorney or Board Resolution authorizing the person who issued the consent to act as such in behalf of the bareboat charterers, provided that the document duly notarized in the State where it was issued/executed and authenticated by the Philippine Embassy/Consulate concerned shall be submitted within sixty (60) days from approval of the application; and
 - c. A copy of the certificate of Good Standing of the bareboat sub-charterers recently issued by the State of Registry, provided, that the original copy of the document shall be submitted within thirty (30) days from approval of the application.
3. The following post-approval documents, if applicable shall be submitted within the prescribed period as stipulated in the MARINA approval:
- a. Colored photographs (different angles) of the ship showing the place of registry in the astern portion;

- b. Certified true copy of the ship's Protocol of Delivery and Acceptance;
- c. Sworn statement of crew salaries and wages (on an annual basis), indicating therein the names of all crew members, their respective positions and corresponding salaries/wages;
- d. Ship's drydocking schedule and list of survey status;
- e. Proof of monthly payment of the 4.5% withholding tax with a breakdown of payments by ship (Original copy of BIR receipts shall be presented for verification purposes); and
- f. Original copy of a document issued by the State of original registry providing details of the ship's name, ownership and registered mortgages.

VIII. ISSUE OF CERTIFICATES

1. A ship approved to be registered under the Philippine Register of Ships pursuant to this Circular shall be issued a Certificate of Philippine Registry (CPR) valid for period of three (3) months which may be extended for another ninety (90) days.
2. Upon submission of the Protocol of Delivery and the approved ship plans, a full term CPR shall be issued co-terminus with the approved duration of the bareboat charter party. Non-submission of these documents after six (6) months from the date of issuance of the first CPR shall result in the outright cancellation of the authority to register the ship under the Philippine flag.
3. Typographical corrections in the entries of a CPR shall be allowed through the re-issuance of the CPR, provided that the original CPR being corrected shall be surrendered within thirty (30) days from the date of the re-issued CPR.
4. Where material change in the entries of the CPR is to be effected such as in the case of alteration of the ship's specifications or change of name, the Administration shall require the submission of additional documents attesting to the change.
5. The period of validity of the CPR of a ship re-issued pursuant to paragraphs 3 and 4 of this Regulation shall be equivalent to that reflected in the CPR being replaced.

IX. SANCTIONS

After due notice and hearing, the following administrative fines shall be imposed upon a company found to have violated/contravened any provision of this Circular:

First offense - ₱ 25,000.00
Second offense - ₱ 50,000.00
Third and succeeding offenses
without prejudice to the cancellation
of the CPR - ₱ 100,000.00

X. REPEALING CLAUSE

Any provision of the 1997 PMMRR and existing MARINA Rules and Regulations and Orders which are inconsistent herewith are deemed modified accordingly. Memorandum Circular Nos. 38, 42, 111, 160 and the Rules and Regulations Implementing 760, as amended are hereby repealed.

XI. EFFECTIVITY

This Memorandum Circular shall be published once in a newspaper of general circulation and shall take effect fifteen (15) days after publication.

Manila, Philippines 22 January 2003.

By Authority of the MARINA Board:

OSCAR M. SEVILLA
Administrator

SECRETARY'S CERTIFICATE

This is to certify that Memorandum Circular No. _____ has been approved By the MARINA Board in its _____ Regular Board Meeting held on _____.

ATTY. GLORIA V. BANAS
Acting Corporate Board Secretary

Published on _____ at _____ copy
filed with UP Law Center on _____.