



MARITIME INDUSTRY AUTHORITY

MARINA CIRCULAR NO. 2017-04

**TO : ALL DOMESTIC SHIPPING COMPANIES/
OPERATORS/ CHARTERERS/ SHIP AGENTS/ PRIVATE/
PUBLIC CORPORATION/ PARTNERSHIP/ ASSOCIATION
AND OTHER MARITIME ENTITIES CONCERNED**

SUBJECT : RULES ON THE IMPORTATION OF PASSENGER SHIPS

Pursuant to Presidential Decree No. 474, Executive Order Nos. 125/125-A, and Section 20 of Republic Act No. 9295 and its Revised Implementing Rules and Regulations, the Rules for the Importation of Passenger ships are hereby adopted and prescribed.

I. OBJECTIVE

This Memorandum Circular aims to provide guidelines on the importation of passenger ship in order to ensure the continued viability of domestic shipping operations and to encourage the development of a viable shipbuilding and ship repair industry to support the expansion and modernization of the Philippine domestic merchant marine fleet and its strict adherence to safety standards which will ensure the seaworthiness of all sea-borne structures.

II. COVERAGE

This Circular shall apply to all persons, corporations, partnerships, firms and entities importing passenger ship intended for domestic shipping.

III. DEFINITION OF TERMS

1. **ADMINISTRATION** refers to the Maritime Industry Authority (MARINA).
2. **AUTHENTICATION** refers to an act of any Philippine Embassy/Consulate General to have any legal document issued in the foreign country where said Philippine Embassy/Consulate General is stationed to be acknowledged or authenticated ('consularized') and will bear the seal of the Embassy/Consulate General as well as the

signature of the authenticating officer in order for that document to have any legal validity in the Philippines.¹

3. **AUTHORITY TO IMPORT** refers to the document issued by the Administration to an importer of any type of ship after compliance to the herein requirements under Section VI.
4. **BAREBOAT CHARTER** refers to an arrangement for the hiring of a vessel whereby no administration or technical maintenance is included as part of the agreement. The charterer obtains possession and full control of the vessel along with the legal and financial responsibility for it.
5. **DOMESTIC SHIPPING** refers to the transport of passengers or cargo, or both, by ships duly registered and licensed under Philippine law to engage in trade and commerce between and among Philippine ports and within Philippine territorial or internal waters, for hire or compensation, with general or limited clientele, whether permanent, occasional or incidental, with or without fixed routes, and done for contractual or commercial purposes.²
6. **DOMESTIC SHIP OPERATOR or DOMESTIC SHIP OWNER** may be used interchangeably and refers to a citizen of the Philippines, or a commercial partnership wholly owned by Filipinos, or a corporation at least sixty percent (60%) of the capital of which is owned by Filipinos, which is duly authorized by the Maritime Industry Authority to engage in the business of domestic shipping.³
7. **DOMESTIC TRADE** refers to the sale, barter or exchange of goods, materials or products within the Philippines.⁴
8. **FASTCRAFT** refers to a ship capable of maximum speed equal to or exceeding 25 knots⁵ and the construction of which is not in accordance with the High Speed Craft Code.
9. **FOREIGN-REGISTERED SHIP** refers to a ship owned and/or operated by a foreign national or company, registered under foreign flag.⁶

¹ Department of Foreign Affairs (DFA) definition

² RA 9295

³ RA 9295

⁴ RA 9295

⁵ Australian Maritime Safety Authority (AMSA) definition

⁶ MC 2011-04

10. **GROSS TONNAGE** refers to the measure of the overall size of a ship determined in accordance with the provision of the present International Convention on Tonnage Measurement of Ships, 1969 (ITC 69).
11. **IMPORTATION** refers to the direct purchase, lease or charter of newly constructed or previously owned ships from foreign sources or from registered enterprises operating in special economic zones as this term is defined in Republic Act No. 7916 entitled, "The Special Economic Zone Act. of 1995;"⁷
12. **PASSENGER SHIP** refers to a ship authorized by the MARINA to carry passengers.⁸
13. **SHIP OR VESSEL** which may be used interchangeably, refers to any kind, class or type of craft or artificial contrivance capable of floating in water, designed to be used, or capable of being used, as a means of floating in water transport in the domestic trade for the carriage of passengers or cargo, or both, utilizing its own motive power or that of another.⁹
14. **SHIP RE-STRUCTURING** refers to major alteration such as, but not limited to re-engining (replacement) of major propulsion machinery to include major auxiliaries; jumboizing (lengthening) of ship's hull; construction of additional deck above the main deck; enlargement, transfer or movement of superstructure; alteration or compartmentation affecting watertight bulkheads; and conversion of spaces into loads for liquids and/or holes for dry cargoes.¹⁰
15. **SHIPBUILDING** refers to the design, construction, launching and outfitting of all types of ships and watercraft;¹¹
16. **SHIPREPAIR** refers to the overhaul, refurbishment, renovation, improvement, or alternation of the hull, machineries, equipment, outfits and components of all types of ships;¹²
17. **SHIPYARD** refers to the shipbuilding or repair facilities which have the capability to lift ships above the waterline in order to effect ship work on ships, appendages, structure, machinery and equipment;¹³

⁷ RA 9295

⁸ MC 2012-04

⁹ RA 9295

¹⁰ MC 104

¹¹ RA 9295

¹² RA 9295

18. **SHIPBUILDER or SHIP REPAIRER** refers to a citizen of the Philippines, or a commercial partnership owned by majority of Filipinos, or a corporation incorporated under the laws of the Philippines, the capital of which is owned or controlled in any proportion by Filipinos or by foreign nationals, or by both such Filipinos or foreign nationals or by corporations whether Filipino or foreign-owned, duly authorized by the Administration to engage in the business of shipbuilding or ship repair or to otherwise operate a shipyard, graving dock or marine repair yard.¹⁴
19. **SHIP AGE** refers to the age of the ship reckoned from ship's date of keel laying based on the Builder's Certificate or Certificate of Ship Registry.

IV. GENERAL PROVISIONS

1. Companies/ entities which intend to import Passenger ship for domestic shipping, whether by direct purchase, lease or charter must secure an Authority to Import from the Administration, in accordance with the Rules set under this Circular.
2. Applicant shall indicate in their application the IACS Class of the Passenger ship, the purpose for which said ships shall be utilized, its routes or location, the area(s) of operation, the nature of the service(s) to be rendered and the relevant particulars/features of the ship(s). Passenger ships built for smooth water operation shall not be granted Authority to Import.
3. Application for the issuance of Authority to Import shall be filed with the Domestic Shipping Service (DSS). Applicant shall submit and comply with all documentary requirements and pay the corresponding processing fee, as specified in item VI and VII hereof.
4. All documents in foreign language shall be translated in English language and authenticated by the Philippine Embassy/Consulate General of the foreign country where documents originated.

V. SPECIFIC PROVISIONS

¹³ RA 9295

¹⁴ RA 9295

1. AGE AND SIZE REQUIREMENTS

- a. Passenger ships to be imported under this Circular should be no less than 500GT and should not be more than 20 years old upon the filing of the application.
- b. Fastcrafts of less than 500GT may be imported under this circular in the meantime pending issuance of another policy by the MARINA specifically for fastcrafts.
- c. Ship re-structuring or re-building does not change the ship's age. A day more than the maximum age required in the importation of the ship shall be more than the required maximum age requirement, hence, importation will no longer be allowed.

2. QUALIFICATION REQUIREMENTS

- a. Only persons/corporations/partnerships/firms/entities duly registered with SEC and/or DTI or cooperatives duly registered with the Cooperative Development Authority in accordance with the Philippine laws shall be allowed to acquire ships under this circular
- b. The domestic ship operator or domestic ship owner intending to import ships under this circular, for purposes of domestic operation, shall be accredited under MARINA Circular No. 2006-03 or its subsequent amendment.

3. CLASSIFICATION REQUIREMENTS

- a. Passenger ships, whether newly built or previously owned, which are to be covered under this circular shall be classed by Internationally Accredited Classification Society (IACS) at the time of importation.
- b. Passenger ships to be imported should be in an acceptable condition, without outstanding recommendations, as shown in the latest survey report prepared by a marine surveyor authorized by the Administration or by the government of the country of origin of the ship. This fact has to be verified or confirmed by an actual survey by the Administration to be conducted after the release of the ship from the custody of the Bureau of Customs.

- c. Second-hand Passenger Ships will be subjected to ultrasonic thickness gauging by the surveyors of the Administration or by an accredited private marine surveyors/recognized organization prior to registration in the Philippines.

4. ON CHARTERED SHIPS

- a. The contract shall be valid and effective for a period which in no case shall be less than one (1) year. Pre-termination of lease or charter within one (1) year from date of delivery of the ship shall hold the charterer liable in the amount equivalent to the balance of the 4.5% withholding tax due for the whole year. The bareboat charterer shall not affect the deletion of the chartered ship from Philippine registry without prior approval of the Administration.
- b. Any amendment to the charter party shall not be valid and binding without prior approval of the Administration.
- c. There shall be no "off-hire" clause in the bareboat charter contract or party.
- d. The operation of the ship shall be entirely in the hands of the Philippine bareboat charterer and shall be free from participation or interference by the foreign owner, except insofar as such acts shall be directly to protect his rights as owner thereof.
- e. The lessor or charterer shall be responsible for the payment of the 4.5% withholding tax on gross bareboat charter hire.

5. MANNING AND CREWING

All ships under this Circular shall be completely manned with Filipino officers and crew and no foreign officer shall be allowed on board, except as supernumerary and as provided for in any other regulations. Said officers and crew must be certificated according to pertinent national and international laws, rules and regulations.

6. SHIP'S RE-STRUCTURING

The ships plan for the proposed construction, conversion, alteration, modification or rebuilding of all ships covered by this circular shall be subjected to pre-evaluation by the Administration prior to the issuance of the Authority to Import.¹⁵

7. TAX INCENTIVES

Applicants must comply with the provisions of this Circular in order to avail of the incentives under EO 226, Investment Priority Plans of the Board of Investments (BOI), the provisions of Republic Act No. 9337 and its Implementing Rules and Regulations and other incentives granted by the Administration.

VI. DOCUMENTARY REQUIREMENTS

The following documentary requirements are to be submitted with the DSS for the issuance of Authority to Import passenger ships:

1. Letter of Application indicating the purpose of which the ship shall be utilized, its routes or location, the area(s) of operation, the nature of the service(s) to be rendered and the relevant particulars/features of the ship(s).
2. Original copies of the Deed of Sale, Charter Agreement and/or Memorandum of Agreement if executed in the Philippines; authenticated copies if executed in the foreign country.
3. Original copies of the Power of Attorney / Secretary's Certificate and/or Board Resolution authorizing the signatory to the Deed of Sale, Charter Agreement and/or Memorandum of Agreement if executed in the Philippines; authenticated copies if executed in the foreign country.
4. Copy of the valid government issued identification cards of the signatories to the Deed of Sale, Charter Agreement and/or Memorandum of Agreement affixing three original signatures in the said copies.
5. Copy of the latest certificate of good standing or company seal and/or business registration of the ship's registered owners/sellers showing its current list of directors or officers.

¹⁵ Refer to MC 2015-07 on other provisions/requirements for ship's construction and/or re-structuring

6. Copy of the Ship's Registry/Nationality or in case of new building, copy of the authenticated Shipbuilding Contract and Builder's Certificate.
7. IACS Clearance for ships to be constructed or IACS Class Certificate for ships already constructed.
8. Latest Survey Report issued within the last six (6) months for ships already constructed.
9. General Arrangement Plan
10. Original copy of an affidavit executed by the applicant indicating the location of the ship at the time of the application and its estimated arrival in the Philippines, its intended port of entry and its country of origin.
11. Original copy of a Resolution of the company's Board of Directors, certified by the Board Secretary, authorizing the filing of the application and designating the official or authorized representative to represent the applicant company.

The following post-approval documentary requirements will be verified prior to the issuance of clearance for the ship's registration by the Administration:

1. Original copy of the Protocol of Delivery and Acceptance
2. For ships acquired through direct purchase, the original Deletion Certificate from the foreign registry where the ships was permanently registered.
3. For ships acquired through lease or charter, the original copy of the consent from the country where the ship is permanently registered for the said ship to be temporarily registered in the Philippines during the period of the lease or charter.
4. Original copy of a Certification that an inspection was conducted on the ship by the Administration prior to the release from the Bureau of Customs
5. Original copy of the proof of payment of duties and taxes
6. Original copy of the declaration of entry duly received by the Bureau of Customs

Note: Except for the Deletion Certificate, all original documents may be retained by the applicant after copies of the same is verified from the originals.

VII. FEES AND CHARGES

Processing fee for the Issuance of Authority to Import in accordance with MARINA Circular No. 2015-05 and its subsequent amendments.

VIII. SANCTIONS AND PENALTIES

Violations of any provisions of this Circular shall be subject to the following administrative fines and penalties:

Violation	Penalty	
1. Acquiring a Ship without securing the required Authority to Import	Ships of less than 1,000 GT	Php 500,000.00 plus perpetual disqualification from importation of ships
	Ships of 1,000 GT or more	Php 1,000,000.00 plus perpetual disqualification from importation of ships
2. Non-compliance with the conditions imposed in the Authority to Import	Php 200,000.00 per condition	
3. Submission of fraudulent documents in the Application of Authority to Import	Php 1,000,000.00 plus perpetual disqualification from importation of ships. This is without prejudice to filing of criminal charges in a proper Court.	

IX. REPEALING CLAUSE

Any provisions of existing MARINA Circulars, and its amendments, or Rules and Regulations, Orders or Decisions and other issuances or parts thereof which are inconsistent with this Circular are hereby repealed, amended or modified accordingly.

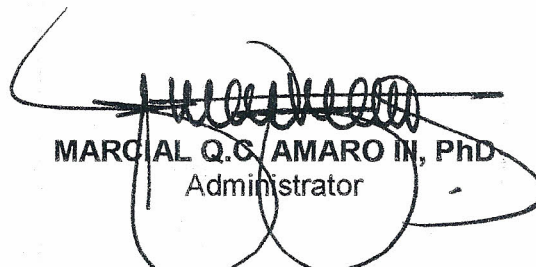
X. SEPARABILITY CLAUSE

Should any provision or part of this Circular be declared by competent Authority to be invalid or unconstitutional, the remaining provisions or parts hereof shall remain in full force and effect and shall continue to be valid and effective.

XI. EFFECTIVITY

Manila, Philippines, JUL 13 2017.

BY AUTHORITY OF THE BOARD:


MARCIAL Q.C. AMARO II, PhD
Administrator

SECRETARY'S CERTIFICATE

This is to certify that the foregoing MARINA Circular No. 2017-04 has been approved by the MARINA Board in its 247th Regular Board Meeting held on July 13, 2017.


ATTY. EUSEBIA CADLUM-BOCO
Corporate Board Secretary

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