



REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF TRANSPORTATION
MARITIME INDUSTRY AUTHORITY

MEMORANDUM CIRCULAR NO. DS-2023-01

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

**SUBJECT : REVISED RULES ON THE IMPORTATION OF PASSENGER
SHIPS**

Pursuant to Presidential Decree (PD) No. 474, Executive Order (EO) Nos. 125/~25-A, and Section 20 of Republic Act (RA) No. 9295 and its Revised Implementing Rules and Regulations (R-IRR) and Republic Act (RA) No. 11659 or "An Act Amending Commonwealth Act No. 146 otherwise known as the Public Service Act" and its Implementing Rules and Regulations (IRR), the following revised guidelines on 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 further enhance the sustainability, competitiveness and safe operation of passenger shipping service in the domestic trade.

II. COVERAGE

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

III. DEFINITION OF TERMS

1. **ADMINISTRATION** refers to the Maritime Industry Authority (MARINA).
2. **APOSTILLE** refers to an international treaty drafted by the Hague Conference on Private International Law (HCCH) which is intended to simplify the procedure through which a document, issued in one of the contracting states, can be certified for legal purposes in all the other contracting states.¹
3. **AUTHORITY TO IMPORT** refers to the document issued by the Administration to an importer of any types 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

¹ The Convention of 5 October 1961 Abolishing the Requirement of Legalization for Foreign Public Documents, also known as the Apostille Convention

agreement. The charterer obtains possession and full control of the vessel along with the legal and financial responsibility for it.²

5. **DOMESTIC SHIPPING** refers to the transport of passengers or cargo, or both, by ships duly registered and licensed under Philippine laws 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.³
6. **DOMESTIC SHIP OPERATOR or DOMESTIC SHIP OWNER** refers to a citizen of the Philippines, or a foreign national, or a commercial partnership, or corporation, or single proprietor, or cooperative, established under the laws of the Philippines, having its principal place of business in the Philippines, which is duly authorized by the MARINA to engage in the business of domestic shipping.⁴
7. **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.
8. **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).⁵
9. **IACS** refers to the International Association of Classification Societies.
10. **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;"⁶
11. **PASSENGER** - refers to any person carried on board a ship except:
 - a. the master and the members of the crew or other persons employed or engaged in any capacity on board a ship on the business of that ship;
 - b. a person on board and carried either because of the obligation laid upon the master to carry shipwrecked, distressed or other person by reason of force majeure;
 - c. a child under one year of age.
12. **PASSENGER SHIP** - refers to any ship authorized by the MARINA to carry passengers.

² MC 104, supra

³ RA 9295, Domestic Shipping Development Act of 2004

⁴ In compliance to Republic Act No. 11659, An Act Amending Commonwealth Act No. 146 otherwise known as the Public Service Act, and its Implementing Rules and Regulations

⁵ MC 2017-04, Rules in the Importation of Passenger Ships

⁶ RA 9295, supra

13. **SHIP AGE** - refers to the age of the ship reckoned from the date of the ship's launching based on either of the following documents: Builder's Certificate, certificate of ship's registry, Class Certificate or Survey Report.
14. **SHIP OR VESSEL** 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 water transport in the domestic trade for the carriage of passengers or cargo, or both, utilizing its own motive power or that of another.⁷
15. **SHIP CONVERSION** refers to the process of changing ship type and service, increasing maximum allowable draft; and, other similar process.
16. **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

IV. GENERAL PROVISIONS

1. Companies/entities which intend to import a passenger ship whether by direct purchase, lease or charter must secure an Authority to Import/Approval of Bareboat Charter from the MARINA, in accordance with the Rules set under this Circular.
2. Application for the issuance of Authority to Import/Approval of Bareboat Charter shall be filed with the MARINA. Applicant shall submit and comply with all documentary requirements and pay the corresponding processing fee, as specified in Items VI and VII hereof.
3. Passenger ships built for smooth water operation shall not be granted Authority to Import.
4. All documents in foreign language shall be translated in English language and apostilled by the Philippine Embassy/Consulate General of the foreign country where documents originated.
5. Conversion of any type of ships into passenger ships is not allowed at all times regardless of its acquisition thru importation, local purchase or local construction.

V. SPECIFIC PROVISIONS

1. AGE, SIZE AND CLASSIFICATION REQUIREMENTS

- a. Passenger ships 500 GT and below are not allowed to be imported.
- b. Fastcrafts of less than 500GT may be imported under this circular pending issuance of another policy by the MARINA specifically for fastcrafts.

⁷ RA 9295, supra

⁸ MC 182, Rules in the Acquisition of Ships Under Presidential Decree (PD) 760, as amended

- c. Passenger ships 20 years of age and below may be imported provided it is classed by a member of the IACS at the time of their importation.
- d. Passenger ships of 8000GT and above that are more than 20 years of age may be imported provided it is classed by a member of the IACS at the time of importation and throughout their operation in the domestic trade. Failure to maintain the classification by any member of the IACS throughout the operation of the passenger ship in the domestic trade will cause the revocation of the registration documents, safety certificates, licenses, and Certificate of Public Convenience (CPC).
- e. 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 its origin. 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 (BOC).
- f. 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.

2. QUALIFICATION REQUIREMENTS

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

3. 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 passenger ship shall be entirely in the hands of the Philippine bareboat charterer and shall be free from any participation or interference by the foreign owner, except insofar as such acts is for the purpose of protecting the owner's rights.
- e. The lessor or charterer shall be responsible for the payment of the 4.5% withholding tax on gross bareboat charter hire.

4. TAX INCENTIVES

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

VI. DOCUMENTARY REQUIREMENTS

The following documentary requirements are to be submitted with the MARINA 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) signed by the authorized representatives.
2. Original copy of a notarized affidavit/sworn undertaking executed by the applicant indicating the location of the ship at the time of application and its estimated arrival in the Philippines, its intended port of entry and its country of origin signed by the authorized representative.
3. Copy of the passenger Ship's Registry/Nationality or in case of newly built ship, copy of the authenticated Shipbuilding Contract and Builder's Certificate with English translation (Registry for conduction/single voyage is not acceptable as proof of ownership). (In case of Taiwanese-registered ships, the Agreement/Deed of Sale should be noted and verified by Manila Economic and Cultural Office (MECO) and duly notarized by a Notary Public in Taiwan).
4. Original copies of the Deed of Sale, Charter Agreement and/or MOA if executed in the Philippines; authenticated copies if executed in a foreign country. (In case of Taiwanese-registered ships, the Agreement/Deed of Sale should be noted and verified by Manila Economic and Cultural Office (MECO) and duly notarized by a Notary Public in Taiwan).
5. 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 MOA if executed in the Philippines; authenticated copies if executed in foreign country.

6. Copy of the valid government issued identification cards of the signatories to the Deed of Sale, Charter Agreement and/or MOA affixing three original signatures in the said copies.
7. Copy of the latest certificate of good standing or company seal and/or business registration of the passenger ship's registered owners/sellers showing its current list of directors or officers.
8. Copy of Consent from the country where the passenger ship is permanently registered for the ship to be temporarily registered in the Philippines during the period of the lease charter.
9. IACS Clearance for passenger ships to be constructed or IACS Class Certificate for passenger ships already constructed.
10. Certification from the classification society that the passenger ship was constructed in accordance with the standards/rules and regulations of the classification society (for newly built).
11. Latest Survey Report issued within the last six (6) months for passenger ships already constructed.
12. General Arrangement Plan of the passenger ship with English description and specification.
13. Original Copy of a notarized 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 representatives to represent the applicant company.
14. Picture of the passenger ship.

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 passenger ships acquired through direct purchase, the original Deletion Certificate from the foreign registry where the ships were permanently registered.
3. For ships acquired through lease or charter, the original copy of the consent from the country where the passenger 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 passenger 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 shall be 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
	Ships of 1,000 GT or more	Php 1,000,000.00
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

MARINA Circulars No. 2017-04 is hereby amended including any other MARINA Circulars and Rules and Regulations that are inconsistent herewith.

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

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

Manila, Philippines, 21 September 2023.

BY AUTHORITY OF THE BOARD:


ATTY. HERNANI N. FABIA
Administrator

SECRETARY'S CERTIFICATE

This is to certify that the foregoing MARINA Circular No. DS-2023-01 has been approved by the MARINA Board in its 300th Regular Board Meeting held on 21 September 2023.


ATTY. SHARON L. DE CHAVEZ-ALEDO
Corporate Board Secretary

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