

LEGAL ALERT

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New Regulation on Registration and Nationality of Vessel

On 19 May 2017, the Minister of Transportation of the Republic of Indonesia (“MoT”) issued Regulation No. PM 39 Year 2017 regarding the Registration and Nationality of Vessel (“MoT Reg 39/2017”). MoT Reg 39/2017 replaces the previous Regulation No. PM 13 Year 2012 by providing comprehensive requirements and timelines for the completion of applications on vessel registration, transfer of ownership, transfer of hypothec over the vessel as well as vessel historical documents.

In this alert, we discuss some of the key highlights of these changes.

1. Restriction on foreign ownership of shares

For vessel registration, MoT Reg 39/2017 requires the foreign ownership of shares for Indonesian joint venture companies to be as follows:

Private companies	Majority of shares must be owned by Indonesian citizen
Public companies	Foreign shareholders can only own a maximum of 49% shares (either through foreign direct investment, or portfolio investment)

2. Additional documents required for vessel registration and transfer of ownership

MoT Reg 39/2017 requires additional documents to be provided for vessel registration and transfer of ownership as follows:

Vessel Registration	Transfer of Ownership
(a) Vessel safety inspection report made before Vessel safety Inspection Officer	(a) Proof of transfer of ownership
(b) Power of attorney (if authorized)	(b) Identity of the vessel owner
(c) Recommendation from Ministry of Fisheries (for fishing vessels)	(c) Taxpayer identification Number
(d) Proof of ownership	(d) Measurement certificate
(e) Identity of the vessel owner	(e) Grosse Deed of Registration/ Grosse
(f) Taxpayer Identification Number	(f) Deed of Transfer of Ownership Proof of payment transfer of name
(g) Measurement certificate	
(h) Proof of payment of transfer of name	

3. Additional circumstances to prove vessel ownership

MoT Reg 39/2017 also provides for additional circumstances where vessel owners can prove their ownership as follows:

No.	Proof of Ownership	Required Documents
1.	Grant of a Vessel from domestic or foreign Government	Grant Agreement
2.	Sale and purchase	Notarial deed of sale and purchase of vessel

3.	Capital inclusion	<p>a. For Indonesian legal entity shall be proven with capital inclusion deed (inbreng) made before Notary;</p> <p>b. For government institution, State Owned Enterprises/ Badan Usaha Milik Negara, and Region Owned Enterprises shall be proven with the prevailing laws and regulations that regulate State Capital Inclusion/ Penyertaan Modal Negara.</p>
4.	Grant of vessel from individual/ legal entity	Grand deed made before Notary
5.	Vessel obtained from Inheritance	Court determination/ penetapan
6.	Vessel obtained from the result of dispute between individuals/ Indonesian Legal Entities	Final and binding court decision
7.	Vessel obtained from the result of auction	Minutes of auction

4. Vessel deregistration basis

Vessels may be deregistered by way of an application from the vessel owner that the vessel:

- is not operated anymore
- is deprived by pirates or enemy
- is lost in accordance with Article 667 of the Indonesian Commercial Code, in which there is no news of such vessel after certain period, namely 6 months lost within Indonesian territory, 12 months lost from Indonesia to Australia, Asia south beach, Africa east beach, Tanjung Harapan, and islands between those countries and Indonesia and vice versa, or 18 months lost for other voyages outside Indonesia to other worlds territory and vice versa, as from its departure date or the date when the latest news received.
- is scrapped
- is transferred to a foreign citizen and/or legal entity
- will be registered in another country.

Alternatively, a final and binding court decision may be obtained for the vessel deregistration on grounds that the owner has a criminal conviction.

5. Vessel nationality document required

An Indonesian registered vessel must obtain the Vessel Nationality Document as proof of vessel nationality. The Vessel Nationality Document consists of the following certificates:

- Marine Certificate (Surat Laut) for the vessel as measured Grosse Tonnage (“GT”) 175 or more;
- Large Vessel Pass (Pas Besar) for the vessel as measured from GT 7 up to GT 175; and
- Small Vessel Pass (Pas Kecil) for the vessel as measured less than GT 7.
- River and Lake Pass (Pas Sungai dan Danau) for the vessel that only sails on rivers and lakes.

The above certificates shall be validated by the Harbour Master/Syahbandar on an annual basis.

The following documents are required for the validation of the Vessel Nationality Document of the Marine Certificate, Large Vessel Pass, and Small Vessel Pass:

Marine Certificate & Large Vessel Pass (item (a) and (b))	Small Vessel Pass (item (c))
(a) Deed of Registration/ Grosse Deed of Transfer of Name (b) Measurement certificate (c) Valid vessel safety certificate (d) Valid vessel safety certificate for fishing vessel (e) The latest Articles of Association for vessels owner by Indonesian legal entities.	(a) Measurement certificate (b) Proof of ownership of vessel (bukti kepemilikan kapal/ surat tukang) (c) Valid vessel safety certificate (d) Valid fishing vessel certificate for fishing vessel.

For the River and Lake Pass validation as mentioned in item (d) above, MoT Reg. 39/2017 does not stipulate what documents are required.

6. Online document submission

All relevant documents for registration and nationality of vessel must be submitted electronically through Electronic Vessel Registration System/Sistem Pendaftaran Kapal Elektronik ("SPKE").

7. Timeframe for application of vessel registration

MoT Reg 39/2017 also provides specific timeframe of vessel registration as follows:

Event	Timeframe (working days)		
	Confirmation of completeness	Resubmission of rejected applications	Issuance of certificate
New Registration of Vessel	3	2	3
Temporary Registration of Vessel	3	2	2
Transfer of Rights Ownership of Vessel	2	2	3
Transfer of Hypothec over Vessel	4	2	3
Marine Certificate	2	2	2
New Marine Certificate (if there is change of data)	2	1	3
Temporary Marine Certificate	2	1	N/A
Large Vessel Pass and Small Vessel Pass	2	2	N/A
New Large Vessel Pass (if there is change of data)	2	1	3
Temporary Large Vessel Pass	2	1	2
New Small Vessel Pass (if there is change of data)	2	N/A	N/A
River and Lake Pass	2	1	N/A
River and Lake Pass (if there is change of data)	2	N/A	N/A



8. Hypothec of vessel

A registered vessel may be used as security for a loan by encumbering the vessel with hypothec. The hypothec security can be done through a hypothec deed made before the registration of the vessel and the hypothec receiver can be, among others:

- a. Indonesian citizens or foreign citizens;
- b. National or international banks;
- c. National or international financial institutions;
- d. National or international non-financial institutions.

In conclusion, MoT Reg. 39/2017 provides more certainty to business players in the shipping sector when it comes to registering or applying for licences for their vessels within a specific timeframe. The introduction of the SPKE has facilitated this process further.

If you have any questions or require any additional information, please contact [Afriyan Rachmad](#), [Evi Pasaribu](#), [Gabriel Cahya Anugrah](#) or the ZICO Law Partner you usually deal with.

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