

CAYMAN ISLANDS



Supplement No. 5 Published with Extraordinary Gazette dated Wednesday.
Nov. 6th, 1991.

**THE REGISTRATION OF MERCHANT SHIPS
LAW, 1991**

(LAW 20 OF 1991)

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the registered owner shall be guilty of an offence and liable on summary conviction to a fine not exceeding ten thousand dollars.

Application of
sections 66 and 67
of the Merchant
Shipping Act 1894.

17. Sections 66 and 67 of the Merchant Shipping Act 1894 shall apply to a declaration made pursuant to the provisions of this Law in the same manner as they apply to declarations made under Part I of that Act.

Passed by the Legislative Assembly the 11th of September, 1991.

SYBIL McLAUGHLIN
Speaker.

GEORGETTE MYRIE
Clerk of the Legislative Assembly.

(4) It shall be a defence for any person charged with an offence under this section to prove that he had taken all reasonable steps to secure the termination of the registry of the ship under the law of the country in which the ship is registered in contravention of subsection (1) or subsection (2) as the case may be.

16. (1) Paragraph (b) of section 7(1) of the Merchant Shipping Act 1894 is repealed.

(2) ship registered in the Cayman Islands shall be marked with the ship's official number and the number denoting the ship's net registered tonnage on a readily visible part of a main transverse bulkhead or beam in such manner as may be specified by a surveyor of ships.

(3) The registered owner of a ship shall before registry deliver to the Registrar of Shipping a declaration made by him, or in the case of a corporation, by the person authorised by the Merchant Shipping Act 1894 to make declarations on behalf of the corporation, stating that the ship will be marked with its official number and the number denoting its registered tonnage within 21 days after the registration of the ship.

(4) The registered owner of a ship shall deliver to the registrar of Shipping within 21 days after the registration of the ship or before the ship next proceeds to sea following registration whichever shall be the earlier a certificate issued by the surveyor who surveyed the ship for the purpose of section 6 of the Merchant Shipping Act 1894 specifying that the ship has been marked in accordance with subsection (2).

(5) Where -

- (a) a ship proceeds to sea without being marked in accordance with subsection (2), or
- (b) a certificate is not delivered to the Registration of Shipping in accordance with subsection (4),

Ship's carving and marking note.

CAYMAN ISLANDS

Law 20 of 1991

I Assent

A. J. SCOTT
Governor

18th October, 1991

A LAW TO PROVIDE FOR REGISTRATION OF MERCHANT SHIPS BY DEMISE CHARTER, AND IN THE COURSE OF TRANSFER OF OWNERSHIP

ENACTED by the Legislature of the Cayman Islands.

PART I - GENERAL

Short title and
commencement.

1. This Law may be cited as the Registration of Merchant Ships Law, 1991, and shall come into force on such day as the Governor may by order appoint; and any such order may appoint different days for different provisions of this Law.

Interpretation.

2. In this Law, except where the context otherwise requires -

"charter by demise" means a charter which complies with the requirements set out in section 3(2);

"charterer" means the person for the time being entitled to the rights conferred and subject to the obligations imposed by a charter by demise;

"Collisions and Distress Signals Convention" means the Convention on the International Regulations for Preventing Collisions at Sea 1972 and Amendments thereto which came into force internationally on the 19th day of November, 1989.

"Governor" means Governor in Council;

"The International Labour Convention" means the International Labour Organisation Convention 147 signed on behalf of the Government of the United Kingdom;

"Load Line Convention" means the International Convention on Load Lines signed on behalf of the Government of the United Kingdom in London on the 5th day of April, 1966, and the Protocol relating thereto signed in London on the 11th day of November, 1988 (to the extent that the same shall be in force internationally);

"Merchant Shipping Acts" means the Merchant Shipping Act 1894, the Merchant Shipping Act 1970 and the Merchant Shipping Act 1988;

"Merchant Shipping Act 1894" means that Act as it extends to the Cayman Islands as amended by this Law or the Merchant Shipping Law;

"Merchant Shipping Act 1970" means that Act as it extends to the Cayman Islands;

"Merchant Shipping Act 1988" means that Act as it extends to the Cayman Islands;

"Merchant Shipping Law" means the Merchant Shipping (Applicable Conventions) Law, 1987 (as amended), and any order or regulation made under or applied in the Cayman Islands by that Law;

"mortgage" means an instrument creating a security for the repayment of a loan or the discharge of any other obligation;

"Prevention of Pollution Convention" means the Convention and Protocols referred to in section 59(1)(a), (b) and (c) of the Merchant Shipping Law and any international agreement referred to in section 59(1)(d) of the Merchant

shall be deemed to be required to be done or not done by the transferee, and

i) the transferee shall be liable for doing or omitting to do such act or thing as if he were the owner of the ship, and

(ii) a reference to "owner" in the Merchant Shipping Acts or the Merchant Shipping Law shall, in the case of such a ship as is mentioned in this subsection, be deemed to be a reference to "transferee" and the words "registered owner" and "registered ownership" shall be construed accordingly.

Definition of
transferee in this
Part.

14. In this Part "transferee" means a person to whom the ownership of a ship or a share in a ship is to be transferred in the circumstances set out in section 11(1).

PART IV - MISCELLANEOUS

Termination of
overseas
registration.

15. (1) Where a ship is entitled to be registered in the Cayman Islands by virtue of section 4 of the Merchant Shipping Act 1988 and the ship is so registered, the ship shall not be registered under the law of a country outside the Cayman Islands except pursuant to a dispensation granted under section 8.

(2) Where a ship is entitled to be registered in the Cayman Islands by virtue of section 3(1) and the ship is so registered, the ship shall not be registered under the law of a country outside the Cayman Islands except where such registration is effected by an owner of the ship whose name is noted in the register under section 5(2)(e)(ii)(a).

(3) Where a ship is registered under the law of a country outside the Cayman Islands in contravention of subsection (1) or subsection (2) the registered owner shall, subject to subsection (4), be guilty of an offence and liable on summary conviction to a fine not exceeding ten thousand dollars.

(5) Where a ship is registered pursuant to subsection (2) the transferee shall within 21 days after the date of issue of the certificate of registry granted pursuant to subsection (2)(b) deliver to the Registrar of Shipping a declaration made in accordance with section 9 of the Merchant Shipping Act 1894 and a bill of sale executed pursuant to the contract the certified copy of which has been produced to the Registrar of Shipping pursuant to subsection (4)(c) and thereupon the Registrar of Shipping shall make the entries in the register required by section 11 of the Merchant Shipping Act 1894 and grant a certificate of registry pursuant to section 14 of the Merchant Shipping Act 1894.

(6) If the transferee does not comply with the requirements of subsection (5) the registration of the ship shall automatically terminate at the expiration of the certificate of registry granted pursuant to subsection (2)(b) and the certificate of registry and any certificate issued in respect of the ship under the Merchant Shipping Law shall be delivered to the Registrar of Shipping.

12. (1) Where a ship is registered pursuant to section 11 it shall be deemed to be a Cayman Islands ship for the purpose of the Merchant Shipping Acts and the Operation of Merchant Shipping Law.

(2) Where a ship is registered pursuant to section 11 it shall not hoist any colours other than the Cayman Islands' national colours specified in section 73 of the Merchant Shipping Act 1894.

13. Where a certificate of registry has been granted in respect of a ship pursuant to section 11(2) -

- (a) the provisions of Part I of the Merchant Shipping Act 1894, except sections 53A and 53B, shall apply to the ship and its registration save to the extent that they are modified by the provisions of this Law; and
- (b) any act or thing required to be done or not done under the Merchant Shipping Acts or the Merchant Shipping Law by the owner of a ship

Consequences of registration pursuant to section 11.

Provisions relating to the application of the Merchant Shipping Acts and the Merchant Shipping Law where a ship is registered under section 11.

Shipping Law which constitutes a modification thereof and which shall be in force internationally;

"register" means the register of ships kept by the Registrar of Shipping pursuant to section 5 of the Merchant Shipping Act 1894;

"relevant overseas territory" means -

- (a) the Isle of Man,
- (b) any of the Channel Islands, or
- (c) any other colony of the United Kingdom;

"Safety Convention" means the International Convention for the Safety of Life at Sea, signed on behalf of the Government of the United Kingdom on the 1st day of November, 1974, the Protocol relating thereto signed in London on the 17th day of February, 1978, and the Protocol relating thereto signed in London on the 11th day of November, 1988 (to the extent that the same be in force internationally);

"surveyor of ships" means a person appointed as such under section 69 of the Merchant Shipping Law;

"STCW Convention" means the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers signed on behalf of the United Kingdom in London on 7th day of July, 1978.

PART II - DEMISE CHARTER REGISTRATION

3. (1) Subject to subsection (3), a ship of 1600 GRT or above shall be entitled to be registered under Part I of the Merchant Shipping Act 1894 in the Cayman Islands if -

- (a) the ship is operated subject to a charter by demise which complies with

Registration of ships chartered by demise to a qualified person.

the requirements set out in subsection (2); and

- (b) the charterer is a person qualified to be an owner of a Cayman Islands ship by virtue of section 3 of the Merchant Shipping Act 1988; and
- (c) the ship would be entitled to be registered as a Cayman Islands ship pursuant to section 4 of the Merchant Shipping Act 1988 if the charterer was the owner of a majority interest in the ship.

are - (2) The requirements referred to in subsection (1)(a)

- (a) that the charter is in writing;
- (b) that the demise effected by the charter is -
 - (i) made by the owner of the ship,
 - (ii) made to a charterer who has a single legal personality, and
 - (iii) for a fixed period of three years or more; and
- (c) that under the terms of the charter the operation, management and control of the ship (including responsibility for the engagement or employment of the master and crew of the ship) is vested in the charterer.

(3) Without prejudice to subsection (4), the Registrar may refuse to register a ship which is entitled to be registered under subsection (1) if -

- (a) he is not satisfied that -

- (iv) a statement that there is in existence a written contract for the transfer of the ship or a share in the ship and that the ship is not registered in the Cayman Islands or the United Kingdom or any relevant overseas territory, and

- (v) a statement that the owner has agreed:

(aa) to transfer the ship or any share in the ship to the transferee,

(bb) to provide the transferee with a bill of sale of the ship and a certificate stating that the ship is free from registered mortgages, and

(cc) to procure the termination of the registration of the ship in the country in which it is then registered, and

- (vi) a statement that, to the best of his knowledge and belief, upon the execution of the bill of sale a majority interest in the ship will be owned by persons qualified to be owners of Cayman Islands ships, and the ship is otherwise entitled to be registered; and

- (c) there is produced to the Registrar of Shipping a certified copy of the contract referred to in the declaration made pursuant to paragraph (b).

- (a) sections 6, 7, 8, 10 and 11 of the Merchant Shipping Act 1894 have been complied with; and
- (b) the transferee, or in the case of a corporation the person authorised by the Merchant Shipping Act 1894 to make declarations on behalf of the corporation, has made and signed a declaration, referring to the ship as described in the certificate of the surveyor issued pursuant to section 6 of the Merchant Shipping Act 1894, and containing the following particulars -
 - (i) if he is a person qualified to own a Cayman Islands ship, a statement of his qualification to own a Cayman Islands ship, or in the case of a corporation, of such circumstances of the constitution and business thereof as prove it to be qualified to own a Cayman Islands ship,
 - (ii) a statement of the time when and the place where the ship was built, or, if the ship is foreign built, and the time and place of building unknown, a statement that the ship is foreign built and that the declarant does not know the time or place of her building, and, in the case of a ship condemned, a statement of the time place and court at and by which it was condemned,
 - (iii) a statement of the ship's foreign name,

- (i) the owner of the ship has consented to the registration of the ship in the Cayman Islands, or
 - (ii) any mortgagee of the ship has consented to the registration of the ship in the Cayman Islands; or
- (b) the tonnage of the ship cannot be ascertained in accordance with the tonnage regulations of the Merchant Shipping Act 1894; or
- (c) the ship cannot be marked in accordance with the provisions of section 7 of the Merchant Shipping Act 1894; or
- (d) he reasonably believes that the ship would be precluded by some other law to which it is subject from flying the Cayman Islands national colours in accordance with section 73 of the Merchant Shipping Act 1894; or
- (e) the charter by demise has an unexpired period of less than three years at the date when the application to register the ship is made; or
- (f) it is not in the interests of the Cayman Islands' that the ship should be registered in the Cayman Islands.

(4) Sections 5, 6, 7 and 8 of the Merchant Shipping Act 1988 shall apply in respect of any ship entitled to be registered in the Cayman Islands pursuant to subsection (1) as if the ship was entitled to be registered pursuant to section 4 of the Merchant Shipping Act 1988.

4. (1) Where a ship is registered pursuant to section 3(1) it shall be a Cayman Islands ship for the purpose of the Merchant Shipping Acts and the Merchant Shipping Law.

Consequences of
registration pursuant
to section 3 (1).

(2) Where a ship is registered pursuant to section 3(1) it shall not fly any colours other than the Cayman Islands national colours specified in section 73 of the Merchant Shipping Act 1894.

Provision relating to the application of the Merchant Shipping Acts and the Merchant Shipping Law where a ship is registered under section 3.

5. (1) Where application is made to register a ship which is entitled to be registered pursuant to section 3(1) or, application having been made to register a ship which is entitled to be registered pursuant to section 3(1), the ship has been registered -

- a) the provisions of Part I of the Merchant Shipping Act 1894 shall apply to the ship and its registration subject to the modifications and adaptations to those provisions set out in subsection (2);
- (b) any act or thing required to be done or not done under the Merchant Shipping Acts or the Merchant Shipping Law by an owner of such a ship as is mentioned in this subsection shall be required to be done or not done by the charterer, and
 - (i) the charterer shall be liable for doing or omitting to do such act or thing as if he were the owner of the ship, and
 - (ii) a reference to "owner" in the Merchant Shipping Acts or in this Law shall, in the case of such a ship as is mentioned in this subsection, be deemed to be a reference to "charterer" and the words "registered owner" and "registered ownership" shall be construed accordingly.

(2) The modifications and adaptations to the provisions of Part I of the Merchant Shipping Act 1894 referred to in subsection (1) are as follows:

- (a) Paragraphs (i) to (iv) of section 5 shall not apply.

- (c) upon the execution of the bill of sale the ship will be entitled to be registered in the Cayman Islands pursuant to section 4 of the Merchant Shipping Act 1988.

(2) Notwithstanding section 4(2) of the Merchant Shipping Act 1988 and section 9 of the Merchant Shipping Act 1894, where this section applies the Registrar of Shipping may, if satisfied that it is proper for him to do so -

- (a) enter in the register the particulars set out in section 11 of the Merchant Shipping Act 1894 subject to the modifications set out in subsection (3), and
- (b) grant to the transferee a certificate of registry which is valid for a period of 21 days from its date of issue.

(3) The modifications to section 11 of the Merchant Shipping Act 1894 referred to in subsection (2)(a) are that -

- (a) the name and description required to be entered pursuant to paragraph (d) shall be the name and description of the transferee of the ship or of the share therein, and
- (b) there shall also be entered a note that the registration is conditional upon a bill of sale transferring the ship or the share therein to the person or persons named in the register being produced to the Registrar of Shipping within 21 days.

(4) The Registrar of Shipping shall only be satisfied that it is proper for him to make the entry in the register and grant certificate of registry pursuant to subsection (3) if -

- (c) at the request of the country named in the declaration made pursuant to section 8(4)(b);
- (d) if it is not in the interests of the Cayman Islands that the dispensation should continue.

Flag to be used where a dispensation has been granted under section 8.

10. (1) Where a dispensation granted under section 8 has taken effect the ship shall fly only the colours lawfully borne by ships registered in the country named in the declaration made pursuant to section 8(4)(b).

(2) Without prejudice to section 8(3)(a), where a ship flies colours in contravention of subsection (1) the registered owner shall be guilty of an offence and liable on summary conviction to a fine of ten thousand dollars.

PART III - REGISTRATION IN THE COURSE OF TRANSFER OF OWNERSHIP

Registration of ships in course of transfer of ownership.

11. (1) This section applies in the following circumstances, namely that -

- (a) there is in existence a written contract for the transfer of a ship or a share in a ship which is not registered in the Cayman Islands or the United Kingdom or any relevant overseas territory; and
- (b) pursuant to the terms of that contract the owner has agreed -
 - (i) to transfer the ship or any share in the ship to a person qualified to own Cayman Islands ships, and
 - (ii) to provide the transferee with a bill of sale of the ship and a certificate stating that the ship is free from registered mortgages;

- (b) The ship shall not be required to be surveyed for the purpose of ascertaining the tonnage of the ship pursuant to section 6 if there is in force in respect of the ship an International Tonnage Certificate (1969) and in such case the tonnage of such ship shall be deemed to have been ascertained and, upon registration, registered in accordance with the tonnage regulations of the Merchant Shipping Act 1894.
- (c) The declaration required by section 9 shall include in place of the statements referred to in paragraphs (iv) and (v) of that section, a statement that the ship is subject to a charter by demise and that the person on whose behalf the declaration is made is the charterer of the ship pursuant to that charter and there shall be attached to such declaration and produced to the Registrar of Shipping a certified copy of that charter by demise.
- (d) Section 10 shall not apply.
- (e) In place of the particulars required to be entered in the register by paragraph (d) of section 11 of the Merchant Shipping Act 1894 the following particulars shall be entered:
 - (i) The name of the charterer shall be entered in the register as if he were the owner of the ship with such annotation as may be necessary to show that the ship

- is entitled to be registered under section 3(1).
- (ii) The following shall be noted on the register:
- (aa) the name and address of the owner or owners determined in accordance with the provisions of paragraphs (i) to (iv) of section 5 of the Merchant Shipping Act 1894; and
- (bb) the name and address of any person who has been granted a mortgage of the ship or any share in the ship by any owner whose name is or is to be noted on the register pursuant to sub-paragraph (aa);
- (cc) such details of the terms of any mortgage referred to in paragraph (bb) as the Registrar of Shipping shall require to be noted.
- (iii) Where the Governor grants permission for a ship to be registered in a name different from that which it previously bore pursuant to section 47(2) or 47(7) of the Merchant Shipping Act 1894, the name that the ship previously bore shall be noted on the register.
- (f) The Registrar of Shipping shall not be required to retain in his possession a

- Labour Convention, the Load Line Convention, the Prevention of Pollution Convention, the Safety Convention and the STCW Convention as apply in respect of the ship by virtue of her registration in the Cayman Islands;
- c) that the Registrar of Shipping has received confirmation from the administration of the country outside the Cayman Islands in which the ship is registered that the ship is so registered and is subject to the jurisdiction of that country.

Termination and
revocation of
dispensations
granted under
section 8.

9. (1) Any dispensation granted by the Governor under section 8 shall terminate automatically if -
- (a) the ship ceases to be registered in the country named in the declaration made pursuant to section 8(4)(b); or
- (b) the charter by demise terminates, whether upon expiry or otherwise.
- (2) The Governor may revoke any dispensation granted by him under section 8 -
- (a) upon the application of any registered owner or registered mortgagee of the ship; or
- (b) if he is satisfied that any declaration made for the purpose of section 8(4)(b) is false or misleading;

- (a) the provisions of sections 70, 73 and 74 of the Merchant Shipping Act 1894 shall not apply to the ship and section 69 of the Merchant Shipping Act 1894 shall apply to the ship as though the ship was not a Cayman Islands ship;
 - (b) the provisions of the Merchant Shipping Law shall not apply to the ship.
- (4) The conditions referred to in subsection (3) are the following -
- (a) that the owner has delivered to the Registrar of Shipping the following documents -
 - (i) a certified copy of the charter by demise referred to in subsection (2)(a),
 - (ii) (in exchange for a receipt) the certificate of registry granted under section 14 of the Merchant Shipping Act 1894, and
 - (iii) any certificate issued in respect of the ship under the Merchant Shipping Law;
 - (b) that the owner, or in the case of a corporation the person authorised by the Merchant Shipping Act 1894 to make declarations on behalf of the corporation, has delivered to the Registrar of Shipping a declaration referring to the ship and containing a statement that the ship is lawfully registered in a named country outside the Cayman Islands and is subject to the jurisdiction of that country in respect of the enforcement of such provisions of the Collisions and Distress Signals Convention, the International

- builder's certificate or any bill of sale of the ship previously made as referred to in section 12, but shall retain in his possession, in addition to the other documents therein referred to, the certified copy of the charter by demise and any certified copy of a transfer produced to him pursuant to section 6(1)(c).
- (g) A certificate of registry granted by the Registrar of Shipping pursuant to section 14 shall be granted for a fixed period of time expiring upon the date upon which the charter by demise shall come to an end by effluxion of time.
 - (h) A ship shall cease to be entitled to be registered within the meaning of section 21(1)(a) upon the expiry of the fixed period specified in the certificate of registry or, if sooner, upon either -
 - (i) the termination of the charter by demise, or
 - (ii) the transfer by the charterer of his rights and obligations under the charter in circumstances which cause the registration to cease pursuant to section 6.
 - (i) Sections 24 to 38 shall not apply.
 - (j) Sections 56 to 58 shall not apply.
 - (k) Section 69 shall not apply.

Transfer of the rights and obligations of the charterer under the charter by demise.

6. (1) Where a ship is registered pursuant to section 3(1) and the charterer transfers his rights and obligations under the charter by demise to another person so that the charterer is no longer under any contractual obligation to the owner of the ship in respect of the operation, management and control of the ship, the registration shall cease upon such transfer unless -

- (a) the transferee is qualified to own a Cayman Islands ship;
- (b) prior to the execution of the transfer, the transferee, or in the case of a corporation, the person authorised by the Merchant Shipping Act 1894 to make declarations on behalf of the corporation, makes and signs a declaration referring to the ship and containing a statement of the qualification of the transferee to own a Cayman Islands ship, or if the transferee is a corporation, of such circumstances of the constitution and business thereof as prove it to be qualified to own a Cayman Islands ship; and
- (c) a certified copy of the transfer executed by the charterer in favour of the transferee is produced to the Registrar of Shipping.

(2) In subsection (1) "transferee" means the person to whom the charterer has transferred his rights and obligations under the charter by demise.

Rights and obligations relating to interests in ships registered pursuant to section 3 (1).

7. Where a ship is registered pursuant to section 3(1) the rights and obligations of the parties to any contract, bill of sale, mortgage, charge or other instrument creating or disposing of any legal or equitable interest in the ship whether existing at the date of registration of the ship pursuant to section 3(1) or created thereafter shall not be affected by such registration.

Dispensations in respect of certain laws relating to ships which are chartered by demise and registered outside the Cayman Islands by reason of that charter.

8. (1) Where he is satisfied that it is proper for him to do so, the Governor may grant to the owner of a ship of 1600 GRT or above registered in the Cayman Islands under Part I of the Merchant Shipping Act 1894 a dispensation under this section.

(2) The Governor shall not grant a dispensation under this section unless he is satisfied -

- (a) that the ship is subject to a charter by demise pursuant to which the registered owner of the ship is not responsible for the management, operation or control of the ship for the period of the charter;
- (b) that any registered mortgagee of the ship has consented to the dispensation being granted;
- (c) that in addition to the registration of the ship in the Cayman Islands, the ship is intended to be registered under the law of a country outside the Cayman Islands; and
- (d) that upon registration under the law of a country outside the Cayman Islands, the ship will become subject to laws which implement and apply to the ship such provisions of the Collisions and Distress Signals Convention, the International Labour Convention, the Load Line Convention, the Prevention of Pollution Convention, the Safety Convention and the STCW Convention to the same extent as apply in respect of the ship by virtue of her registration in the Cayman Islands.

(3) Where the Governor has granted to the owner of a ship a dispensation under this section, with effect from the date upon which the conditions set out in subsection (4) have been complied with -