L.N. 238 of 2005

MERCHANT SHIPPING ACT
(CAP. 234)

Merchant Shipping (Licensing of Shipping Organisations) Regulations, 2005

IN exercise of the powers conferred by articles 84Z(8) and 374 of the Merchant Shipping Act, the Minister for Competitiveness and Communications acting in consultation with the Malta Maritime Authority has made the following regulations: -

Citation, commencement and scope.

1. (1) These regulations may be cited as the Merchant Shipping (Licensing of Shipping Organisations) Regulations, 2005.

(2) The purpose of these regulations is to provide for the licensing of shipping organisations for the purposes of article 84Z of the Merchant Shipping Act.

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(3) These regulations shall be deemed to have come into force on the 30th April, 2005.

Interpretation.

2. In these regulations unless the context otherwise requires –

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"the Act" means the Merchant Shipping Act;

L.N. 71 of 2003.

"international owner" means international owner as defined in regulation 2 of the Merchant Shipping (Ships Eligible for Registration) Regulations, 2003;

"Minister" means the Minister responsible for shipping;

"registered bareboat charterer" means the registered bareboat charterer in terms of Part IIA of the Act;

"registered owner" means the registered owner in terms of Part II of the Act;

"shipping organisation" means a shipping organisation which qualifies as a shipping organisation in terms of subarticle (1) of article 84Z of the Act.

International owner deemed to have an established place of business in Malta.

3. An international owner shall, as from the lst May, 2004 or, from the date that it became or becomes a registered owner or a registered bareboat charterer, whichever is the later date, be deemed to have an established place of business in Malta for the purposes of subarticle (4) of article 84Z of the Act.

Application by shipping organisation.

4. An application required in terms of these regulations shall be signed by an authorised officer, representative or attorney of the applicant giving such information, details and documents as may be required by the Registrar-General.

Shipping organisation deemed to be issued with a licence.

5. A shipping organisation which qualifies as a shipping organisation in terms of paragraph (a) of subarticle (1) of article 84Z of the Act, or in terms of paragraphs (a) and (d) of that subarticle, and qualified to own a Maltese ship that, on the lst May, 2004, was, or, on or after that date became or becomes, a registered owner or a registered bareboat charterer shall be deemed to have been issued with a licence as a shipping organisation authorising it to carry on the activities set out in paragraph (a) of subarticle (1) of article 84Z of the Act or in paragraphs (a) and (d) of that subarticle, as the case may be, valid as from the lst May, 2004 or from the date that the organisation became or becomes a registered owner or a registered bareboat charterer, whichever is the later date, until such time, if such licence has not been cancelled in terms of regulation 9 hereof, that the organisation remains uninterruptedly a registered owner or a registered bareboat charterer:

Provided that if the principal objects of a shipping organisation authorised in terms of this regulation to carry on only the activities set out in paragraph (a) of subarticle (1) of article 84Z of the Act are amended as to include the activities set out in paragraph (d) of that subarticle, such organisation shall be deemed to be authorised to carry on the activities set out in such paragraph (d) from the date that it is certified that the amendment has come into effect:

Provided further that a shipping organisation may, within eight days from the time it ceases to be a registered owner or a registered bareboat charterer, file an application for a renewal of its licence as a shipping organisation and, the Registrar-General shall, if satisfied that all requirements for the qualification of the applicant as a shipping organisation continue to be satisfied, renew the licence for a period of five years from the date the shipping organisation has ceased to be a registered owner or a registered bareboat charterer of a Maltese ship

and, thereafter such licence falls to be renewed in terms of regulation 7 hereof.

Application and issue of licence.

6. Without prejudice to any other provision of law, a shipping organisation may file an application to be licensed as a shipping organisation and, the Registrar-General shall, subject to the provisions of regulation 9 hereof, if satisfied that the applicant qualifies as a shipping organisation for the purposes of article 84Z of the Act, and on payment of the prescribed fee, issue a licence in favour of the applicant organisation, authorising it for the purposes of the Act, to carry on any one or more of the activities contemplated in the said article 84Z.

Term and renewal of licence.

7. A licence issued in terms of regulation 6 hereof shall be valid for a period of five years from the date of issue and, subject to the provisions of regulation 9 hereof, the Registrar-General shall, on application and on payment of the prescribed fee, renew such licence or, a licence renewed in terms of the second proviso to regulation 5 hereof, every five years for a period of five years.

Provided that a licence issued in terms of regulation 6 to a shipping organisation authorising it to carry on only the activities contemplated in paragraphs (a) and (d) of subarticle (1) of article 84Z of the Act shall not be subject to renewal during the time such organisation is a registered owner or a registered bareboat charterer and, when that organisation ceases to be a registered owner or a registered bareboat charterer the renewal of its licence shall be governed by the second proviso to regulation 5 hereof.

Change in authorised activities.

8. A licensed shipping organisation may file an application requesting to be authorised to carry on activities contemplated in subarticle (1) of article 84Z of the Act in addition to or instead of any of the activities already authorised to carry on as laid down in its licence and the Registrar-General, if satisfied that the shipping organisation qualifies to have its licence so altered, shall authorise that organisation to carry on the activities put down in the application.

Refusal to issue or renew a licence and cancellation of licence.

9. (1) The Registrar-General may refuse to issue or renew a licence or to authorise any change in its activities in terms of these regulations and, may cancel a licence so issued or renewed if it appears to him, after giving reasonable opportunity to the applicant or to the licensee, as the case may be, to make relevant representations, that the applicant organisation, or the licensee, as the case may be, does not qualify or no longer qualifies as a shipping organisation in terms of article 84Z of the Act, or if he has reason to believe that the applicant organisation cannot ensure due observance of the laws of Malta particularly those related to merchant shipping.

(2) The Minister may, in the interest of Maltese shipping or in the national interest, direct the Registrar-General not to issue a licence in terms of these regulations, or not to renew a licence issued in terms of these regulations, or to cancel such licence.

(3) Upon refusal, non-renewal or final cancellation of a licence and without prejudice to the provisions of regulation 11 hereof, the organisation shall no longer be entitled to operate as a shipping organisation and upon being so adviced by the Registrar-General, the organisation shall within thirty days take such steps as are required in order that it may in terms of paragraph (b) of subarticle (6) of article 84Z of the Act cease to be regulated by the company regulations made under subarticle (8) of the said article.

Appeal.

10. (1) The applicant organisation, or the licensee, as the case may be, may, within fifteen days from the date on which a decision taken by the Registrar-General in terms of regulation 9 hereof is notified to him, appeal to the Minister for the reconsideration of such decision.

(2) The Minister shall make his decision which shall be final and from which there shall be no further appeal after having taken into consideration any representations which the Registrar-General may have made in support of his decision and any representations of the appellant.

(3) The decision of the Minister shall be notified forthwith to the appellant and to the Registrar-General.

Presumption.

11. The non issue, expiry, non renewal or cancellation of a licence issued in terms of these regulations shall only affect the rights and privileges of an organisation ensuing from it being a shipping organisation in terms of the Act, so however that it shall not affect the title of an organisation to any ship or any bareboat charter or other contractual arrangement nor shall it affect any encumbrance, including any registered mortgage over such ship, or any legal rights or powers of a shipping organisation or any holder of a mortgage thereon to deal with such ship or mortgage.

Register of Licences.

12. (1) The Registrar-General shall maintain a Register of Licences recording the status of all licences issued in terms of regulation 6 hereof, as well as all decisions taken in terms of these regulations in respect of all licences.

(2) The Register of Licences shall be available for public inspection on payment of such fee as may be prescribed and on application to the Registrar-General at all reasonable time during the hours of his official attendance.

13. The Merchant Shipping (Licensing of Shipping Organisations) Regulations, 2004 are hereby repealed: Repeals L.N. 222 of 2004.

Provided that a licence issued under the said regulations to a shipping organisation which falls under the provisions of regulation 5 hereof shall cease to be valid with immediate effect and that organisation shall, subject to the provisions of regulation 5, be deemed to be a licensed shipping organisation as provided for in the said regulation:

Provided further that a licence issued to shipping organisations other than those falling under the provisions of regulation 5 hereof shall remain valid as stated in the licence, following which date the licence shall be subject to renewal as provided in regulation 7 hereof.