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Taqsima B

L.N. 26 of 2014

MERCHANT SHIPPING ACT (CAP. 234)

Merchant Shipping (Carriage of Passengers by Sea) Regulations, 2014

IN exercise of the powers conferred by articles 374 and 375 of the Merchant Shipping Act, the Minister for Transport and Infrastructure has made the following regulations:-

Citation and commencement.

1. (1) The title of these regulations is the Merchant Shipping (Carriage of Passengers by Sea) Regulations, 2014.

(2) These regulations shall come into force on the 23 April 2014.

Interpretation.

2. (1) In these regulations, unless the context otherwise requires -

"the 2009 Regulation" means Regulation (EC) No 392/2009 of the European Parliament and of the Council of 23 April 2009 on the liability of carriers of passengers by sea in the event of accidents, in its up to date version;

"the Act" means the Merchant Shipping Act; Cap. 234.

"Athens Convention" means the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974 and the Protocol of 2002 to the Convention, including any amendment or Protocol related thereto as may from time to time be ratified, acceded to or accepted by the Government of Malta and other instruments, standards and specifications of a mandatory nature related thereto adopted or developed by the International Maritime Organization;

"Athens Convention Country" means a country in respect of which the Athens Convention is in force;

"insurance" means insurance or other financial security satisfying the requirements of article 4bis of the Athens Convention;

"international carriage" means any carriage in which, according to the contract of carriage, the place of departure and the place of destination are situated in two different States, or in a single State if, according to the contract of carriage or the scheduled itinerary, there is an intermediate port of call in another State;

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"Registrar General" means the Registrar General of Shipping and Seamen appointed under article 363 of the Act and includes any person acting under his authority.

(2) Unless otherwise defined in the Act or in these regulations, or unless the context so requires, words and expressions used in these regulations shall have the same meaning assigned to them in the 2009 Regulation and in the Athens Convention.

Application.

3. These regulations shall apply to any international carriage where:

(a) the ship is registered in Malta, or

(b) the contract of carriage has been made in Malta, or

(c) the place of departure or destination is in Malta.

Insurance.

4. A ship may not enter or leave a port in Malta, nor, if the ship is a Maltese ship, a port in any other country, unless there is an insurance cover in force, in respect of that ship and a certificate, complying with the provisions of regulation 6.

Insurance certificates.

5. The appropriate authority for the purpose of issuing the certificate attesting that an insurance cover or other financial security is in force, as referred to in the Athens Convention, in respect of ships registered in Malta shall be the Registrar General who shall determine the conditions of issue and validity of such certificate and, in respect of ships registered in a State not party to the Athens Convention, shall be the said Registrar General who shall have such powers as aforesaid, or the appropriate authority of a State Party to the Convention.

Issue of certificates by the Registrar General.

6. (1) Subject to sub-regulation (2), if the Registrar General is satisfied on the application for such a certificate as is mentioned in regulation 5 in respect of a Maltese ship or a ship registered in any country that is not an Athens Convention Country that there will be in force throughout the period for which the certificate is to be issued a contract of insurance or other financial security satisfying the requirements of Article 4bis of the Athens Convention, the Registrar General may issue such certificate to the registered owner.

(2) If the Registrar General is of the opinion that there is doubt whether -

(a) the person providing the insurance will be able to meet its obligations thereunder; or

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(b) the insurance will not cover the registered owners liability under the 2009 Regulation,

the Registrar General may, after taking into account any other matters which appear to be relevant, refuse to issue the certificate.

(3) Where, at any time while a certificate is in force, the person to whom the certificate has been issued ceases to be the owner of the ship to which the certificate relates, the certificate shall be delivered up forthwith to the Registrar General and in such case shall be cancelled by the Registrar General.

(4) Where, at any time while a certificate is in force, it is established in any legal proceedings that the contract of insurance in respect of which the certificate is issued is or may be treated as invalid, the certificate may be cancelled by the Registrar General and, if so cancelled, shall on demand be delivered up to the Registrar General by the person to whom it was issued.

(5) Where, at any time while a certificate is in force, circumstances arise in relation to the issuer or guarantor named in the certificate (or where more than one is so named, any of them) such that if the certificate were applied for at that time, the Registrar General would have been entitled to refuse the application under sub-regulation (2), the certificate may be cancelled by the Registrar General and if so cancelled the certificate shall on demand be delivered up to the Registrar General by the person to whom it was issued.

(6) If a person required by sub-regulations (3) to (5) to deliver up a certificate fails to do so he shall be liable on conviction to a fine of 1000 units.

Penalties.

7. A shipowner or master shall be liable to a fine (*multa*) not exceeding 500 units if -

(a) a ship belonging to the shipowner enters or leaves a port in contravention of regulation 4;

(b) anyone attempts to navigate that ship into or out of a port in contravention of regulation 4.

Power to detain.

8. (1) A ship may be detained if anyone attempts to navigate it out of port in contravention of these regulations.

(2) An officer detaining the ship must serve on the master of the ship a notice which -

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(a) states the reason for the detention; and

(b) requires the ship to comply with the terms of the notice until it is released by the competent authority.

(3) Where a ship, which is not a Maltese ship, is detained the Registrar General must immediately inform, in writing -

(a) the ship's flag state administration; or if this is not possible,

(b) the Consul of the State of the flag administration; or in the Consul's absence,

(c) the nearest diplomatic representative of the State of the flag administration.

(4) The written information referred to in sub-regulation (3) must set out all the circumstances of the decision to detain the ship.

(5) Where sub-regulation (3) applies the Registrar General must notify all relevant nominated surveyors or recognised organisations responsible for the issue of classification certificates.

Provision of information to passengers.

9. A carrier or performing carrier which fails to supply a passenger with the information specified in article 7 of the 2009 Regulation shall be guilty of an offence and liable to a fine (*multa*) not exceeding 500 units.

Fee.

10. (1) The fee to be charged for issuing the certificate attesting that an insurance cover or other financial security is in force, shall be one hundred euro (€100), in respect of a ship registered in Malta.

(2) The fee to be charged for issuing the certificate attesting that an insurance cover or other financial security is in force, shall be two hundred and fifty euro (€250), in respect of a ship not registered in Malta.

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