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Suppliment tal-Gazzetta tal-Gvern ta' Malta, Nru. 19,394, 17 ta' Marzu, 2015
Taqsima B

L.N. 83 of 2015

MERCHANT SHIPPING ACT
(CAP. 234)

Merchant Shipping (Wreck Removal Convention) Regulations, 2015

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, applicability and commencement.

1. (1) The title of these regulations is the Merchant Shipping (Wreck Removal Convention) Regulations, 2015.

(2) Subject to the provisions of these regulations, the Convention and any amendments thereto, shall, unless otherwise provided in these regulations and notwithstanding the provisions of any other law, form part of the Laws of Malta and shall apply to all Maltese ships wherever they may be and to all other ships while they are in Maltese waters as determined by the Convention.

(3) These regulations shall come into force on the 14th April 2015.

Interpretation.

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

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

"competent authority" means the Authority for Transport in Malta established by article 5 of the Authority for Transport in Malta Act and in relation to other State parties means the national maritime administration maintained by those States; Cap. 499.

"Convention" means the Nairobi International Convention on the Removal of Wrecks, signed in Nairobi on 18 May 2007, 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;

"Convention area" means the exclusive economic zone of a State Party, established in accordance with international law or, if a State Party has not established such a zone, an area beyond and adjacent to the territorial sea of that State determined by that State in

accordance with international law and extending not more than 200 nautical miles from the baselines from which the breadth of its territorial sea is measured:

Provided that, in respect to Malta shall mean an area extending to twenty-five nautical miles from the baselines from which the territorial waters are measured in accordance with the Territorial Waters and Contiguous Zone Act, or any other area as may be determined from time to time by the Minister, in accordance with international law;

Cap. 226.

"the Minister" means the Minister responsible for shipping and includes any person acting under his authority;

"operator of the ship" means the owner of the ship or any other organisation or person such as the manager, or the bareboat charterer, who has assumed responsibility for operation of the ship from the owner of the ship and who, on assuming such responsibility, has agreed to take over all duties and responsibilities established under the International Safety Management Code, as amended.

"registered owner" means the person or persons registered as the owner of the ship or, in the absence of registration, the person or persons owning the ship at the time of the maritime casualty:

Provided that, in the case of a ship owned by a State and operated by a company which in that State is registered as the operator of the ship, registered owner shall mean such company;

"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;

"territorial waters" shall have the same meaning as is assigned to it in the Territorial Waters and Contiguous Zone Act.

Cap. 226.

(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 Convention.

(3) Any reference in these regulations to an International Convention or its related protocol or code shall include reference to any amendments to such convention, protocol or code accepted by the Government of Malta.

Reporting of wrecks.

3. (1) Where an accident results in a wreck in a Convention area, the operator of any ship involved in the accident

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must report the wreck without delay to the competent authority.

(2) A report under sub-regulation (1) must include the information mentioned in paragraph (2) of Article 5 of the Convention.

Removal by registered owner.

4. (1) This regulation shall apply where -

(a) a ship has been involved in an accident as a result of which it or anything from it has become a wreck in the Convention area; and

(b) the competent authority has determined that the wreck poses a hazard.

(2) The competent authority must take all reasonable steps to give a notice (a 'wreck removal notice') requiring the registered owner to comply with the obligations imposed on registered owners by paragraph 2 and 3 of Article 9 of the Convention.

(3) The notice must be in writing and must -

(a) specify the deadline set under paragraph 6(a) of article 9 of the Convention for the removal of the wreck; and

(b) inform the registered owner of the other matters set out in paragraph 6(b) and 6(c) of Article 9 of the Convention.

Imposition of conditions about removal.

5. (1) This regulation shall apply if the competent authority has given a registered owner a wreck removal notice.

(2) The competent authority may impose conditions as to the removal of the wreck in accordance with paragraph 4 of Article 9 of the Convention.

Liability for costs.

6. (1) This regulation shall apply if:

(a) a ship has been involved in an accident as a result of which it or anything from it has become a wreck in the Convention area; and

(b) costs have been incurred by the competent authority.

(2) The person who incurred the costs is entitled to recover them from the ship's registered owner unless the owner proves that an exception set out in paragraph 1(a), (b) or (c) of Article 10 of the Convention applies.

(3) The registered owner is not liable for costs under these regulations if or to the extent that liability would conflict with -

(a) a convention listed in paragraph 1 of Article 11 of the Convention;

(b) an enactment implementing such a convention; or

(c) any other provision specified by order made by the competent authority.

(4) Where the registered owner of each of two or more ships is liable for costs under this regulation, but the costs for which each is liable cannot reasonably be separated, the registered owners shall be jointly liable for the total costs.

(5) This regulation does not prevent the exercise of the right (if any) to limit liability.

Limitation period.

7. An action to recover costs under regulation 6 may not be brought after the end of whichever of the following ends earlier -

(a) the period of 3 years beginning with the date on which a wreck removal notice was given in respect of the wreck; and

(b) the period of 6 years beginning with the date of the accident which resulted in the wreck.

Wreck removal insurance.

8. A ship of a gross tonnage of 300 or more shall not enter or leave a port in Malta, and neither shall any Maltese ship enter any port of any State unless such ship is in possession of an insurance cover evidenced by the certificate referred to under regulation 9.

Insurance certificates.

9. The competent 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 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 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 competent authority.

10. Where the competent authority is satisfied on the application for such a certificate as is mentioned in regulation 9 in respect of a Maltese ship or a ship registered in any country that is not a State party that there will be in force throughout the period for

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which the certificate is to be issued a contract of insurance or other financial security satisfying the requirements of the Convention, the competent authority may issue such certificate.

Fees.

11. (1) The fee to be charged for issuing the certificate referred to in regulation 9, shall be one hundred euro (€100), in respect of a ship registered in Malta.

(2) The fee to be charged for issuing the certificate referred to in regulation 9, shall be two hundred and fifty euro (€250), in respect of a ship not registered in Malta.

Duty to ensure compliance.

12. It shall be the duty of the registered owner of the ship to ensure that the ship is in compliance with the provisions of these regulations. Any person who fails to observe the provisions of these regulations, shall be liable to the penalties provided for in the Act, and if no such penalty is provided, such person shall, for each offence, be liable to a fine (*multa*) not exceeding 10,000 units.

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