



REPUBLIC OF NAURU

SHIPPING REGISTRATION (AMENDMENT) Act 2017

No. 17 of 2017

An Act to amend the *Shipping Registration Act 1968*, to make provision for the registration of foreign vessels and for related purposes

Certified: 3rd August 2017

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Enacted by the Parliament of Nauru as follows:

1 Short title

This Act may be cited as the *Shipping Registration (Amendment) Act 2017*.

2 Commencement

This Act commences upon certification by the Speaker.

3 Amendment of Shipping Registration Act 1968

The Shipping Registration Act 1968 is amended by the provisions of this Act.

4 Amendment of section 2

Section 2 is amended by:

(a) omitting '**ship**' and substituting with:

'vessel' means any vessel, ship or other water-going craft, carrier or transport vessel, except for a small boat; and

(b) inserting the following in alphabetical order:

'bareboat charter' means the contract for the lease or sub lease of a vessel for a stipulated period of time by virtue of which the charterer acquires full control and complete possession of the vessel, including the right to appoint the master and crew for the duration of the charter, but excluding the right to sell or mortgage the vessel;

'foreign vessel' means a vessel that is owned by a person who:

- (a) if the person is an individual, is not a citizen of Nauru; or
- (b) if the person is a body corporate, is not established, registered or incorporated under the laws of Nauru;

'Harbour Master' as defined in section 16 of the Port Authority Act 2015;

'Register' means:

- (a) the Register of Vessels kept by the Registrar under section 5; or
- (b) the Register of Foreign Vessels kept by the Registrar of Foreign Vessels under section 5;

'Registrar of Foreign Vessels' means the Registrar of Foreign Vessels appointed under section 4A;

5 General amendment to references in the Act

The Act is amended by omitting the word '*ship*' wherever it appears and substituting with the word '*vessel*'.

6 Insert new subsection 2A

2A Application of the Act to Foreign Vessels

- (1) Subject to subsection (2):
 - (a) this Act applies to foreign vessels; and
 - (b) unless the context otherwise requires, a reference in this Act to a vessel, includes a reference to a foreign vessel.
- (2) This Act applies to foreign vessels with the following modifications:
 - (a) the powers and functions of the Registrar of Nauruan Vessels shall be exercised and performed in relation to foreign vessels by the Registrar of Foreign Vessels;
 - (b) particulars of all foreign vessels registered under this Act, and such other entries as may be required under this Act, shall be entered in the Register of Foreign Vessels, to be kept by the Registrar of Foreign Vessels;
 - (c) the functions of a surveyor under section 61 shall be performed in relation to a foreign vessel by a surveyor;
 - (d) for the avoidance of doubt, the powers and functions to be exercised or performed by the Registrar of Foreign Vessels under this Act, shall be exercised and performed exclusively by the Registrar of Foreign Vessels, as the case may be; and
 - (e) while the Registrar of Nauruan Vessels and the Registrar of Foreign Vessels exercise and perform similar functions and powers under the Act, each are considered as separate office holders.

7 Insert new section 4A

4A Registrar of Foreign Vessels

- (1) The Minister may by notice in the Gazette appoint a reputable and suitable person to be the Registrar of Foreign Vessels.
- (2) The Registrar of Foreign Vessels shall not register a foreign vessel, unless the owner or owners of the vessel have lodged a written declaration, undertaking that the vessel will not be used for any of the following activities:
 - (a) storage and transportation of illegal drugs;
 - (b) people smuggling, trafficking in persons or unlawful carriage of refugees;
 - (c) involvement in any war or armed conflict;
 - (d) supporting civil unrest in any State or territory;
 - (e) terrorism or activities in support of terrorism; and
 - (f) any other activity which would be contrary to the laws of the Republic or any international convention to which Nauru is a party.
- (3) The Registrar of Foreign Vessels shall immediately cancel the registration of any foreign vessel where he or she has reasonable grounds to believe such vessel has been used contrary to the provisions of such undertaking under subsection (2).

8 Insert new section 6A

6A Port of registry

The port of registry of every vessel registered under this Act shall be Nauru.

9 Insert new section 8A

8A Restriction on registration of vessel

- (1) Except where an application is made under section 8, the Registrar shall not register a vessel under the Act.
- (2) A vessel not registered under section 8 shall not be recognised:
 - (a) in the Republic or for the purposes of this Act as a Nauruan vessel; or

- (b) as being entitled to the rights and privileges accorded to a Nauruan vessel.

10 Insert new section 39A

39A Bareboat charters

- (1) This section applies to any vessel which:
 - (a) is registered under the law of the country, other than Nauru; and
 - (b) is chartered on bareboat charter terms to a charterer who is a qualified person.
- (2) Subject to subsection (3), a vessel to which this section applies may be registered as a foreign vessel upon application from the charterer.
- (3) No vessel to which the section applies may be registered as a foreign vessel, without the prior written approval of the underlying registry.
- (4) The registration of a vessel registered under this section shall remain in force:
 - (a) unless it is terminated earlier under this section; or
 - (b) until the end of the charter period, and then the registration may be terminated.
- (5) During the period of registration under this section title, deed, mortgage or other documents shall be registered at the vessel's underlying registry.
- (6) The Registrar of Foreign Vessels may give a written consent if:
 - (a) a foreign vessel registered under this Act is chartered on bareboat charter terms; and
 - (b) the Registrar of Foreign Vessels receives a written request from the owner or owners of such vessels for the Registrar's consent to such vessel being registered in a country other than the Republic in a manner similar to that provided under this section.

11 Insert new section 46A

46A International Maritime Conventions

- (1) Subject to this Act, the International Maritime Conventions to which the Republic is a signatory shall have the force of law in Nauru, subject to any reservation that the Republic may have at the time of accession, from and after the date that the convention enters into force in Nauru following the deposit of the instrument of accession with the relevant depository.
- (2) The implementation of the International Maritime Conventions to which Nauru is a signatory to as stated in subsection (1), shall be prescribed by Regulations in order to have the force of law in the Republic.

12 Insert new section 65A

65A Jurisdiction

For the purposes of the Act, any offence committed under this Act is deemed to be committed in either the:

- (a) place in which the offence was committed; or
- (b) place in which the offender may be.

13 Insert new section 65B

65B Jurisdiction over vessel lying off coast

- (1) A court having jurisdiction in the Republic shall have jurisdiction over any vessel being on or lying or passing off that part, over all persons on board the vessel, as if the vessel or the person were within the limits of the original jurisdiction of the court.
- (2) The jurisdiction stated in subsection (1), is in addition to and not derogating from any jurisdiction or powers of a court under any written law.

14 Insert new section 65C

65C Jurisdiction in case of offence on board vessel

- (1) If a person commits an offence or omission on board a vessel registered under this Act, he or she is liable to be prosecuted for any offence or omission, as if the offence or omission was committed in the Republic.
- (2) For the purposes of this section, it is not a defence to prove that such offence or omission was committed beyond the territorial limits of the Republic.

Amendment of section 66

Section 66(1) is amended by inserting the following after subsection (1)(d):

- (e) make provisions for the implementation of any or all the Conventions referred to in section 46A, payment of fees and penalties for failure to observe or comply with requirements under any of the Conventions;
- (f) prescribing conditions, requirements, form, circumstances, manner, procedures and practice of a crew agreement, including other matters relevant to such crew agreement;
- (g) prescribing the manner, standards, forms and other issues relevant for the proper implementation of the certificate of competency;
- (h) prescribing the position of the locations, standards, prohibition or restriction, provisions and other relevant matters that relates to crew accommodation;
- (i) make provisions for and in relation to quality and quantity of provisions of water supply, checking and inspection of water provisions, medical examination, medicines and medical stores of seamen and any other matters relating to seaman as provided for under this Act;
- (j) prescribing matters relating to the disciplinary process for offences committed by seamen or crewman on board a vessel, and other related matters;
- (k) relating to wages due to crewman, and details of wages necessary for the proper implementation of provisions relating to wages;
- (l) forms, entries, particulars, procedures or other relevant matters of Seamen discharge book, Register of Seamen, Official log books, crew list or passenger list;
- (m) the extent of the ownership of a vessel or class of vessels eligible to be registered under this Act;
- (n) the proper administration and management of the registration of vessels owned by any person other than a citizen of Nauru;
- (o) the appointment of a person or corporation not registered in Nauru, to administer the registration of foreign vessels; and
- (p) for the proper implementation and maintenance of the registration of foreign vessels, including other related matters relevant to foreign vessels.

16 Insert new section 67

67 Compliance with International Conventions and Agreements

- (1) It is the duty of the owner and the master to ensure that the vessel is in compliance with the requirements of the International Maritime Conventions, the International Labour Organisation Conventions and other relevant International Instruments as may be specified under the Act.
- (2) It is the duty of the owner and the master to ensure that their vessel's personnel are provided with publications, instructions and manuals or other information sufficient to enable their vessel to be operated in accordance with the Conventions referred to in sub-section (1).
- (3) In the event of failure to comply with sub-section (1) or with any Conventions or Agreements entered into or complied with by the Republic before or after the commencement of this Act, the Registrar may:
 - (a) suspend or cancel a vessel's Certificate of Registry;
 - (b) impose a fixed penalty not exceeding \$100,000; and
 - (c) impose such other conditions as may be necessary to bring about compliance with maritime or maritime-related Conventions and others which are in force, or the provisions of which are applied by Nauru in advance of entry into force.

17 Insert new section 68

68 Transitional

For the avoidance of doubt, where any of the International Conventions referred to in section 46A has been purportedly brought into effect by regulations made under the Act, that Convention shall be deemed to have been given the force of law from the date, and all actions taken pursuant to the terms of that Convention is treated to have been validly taken, and any such regulations is regarded to have been validly notified.