

Merchant Shipping (Amendment)

AN ACT TO AMEND THE MERCHANT SHIPPING ACT, No 52 OF 1971

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows

[28th October, 1988]

Short title.

1. This Act may be cited as the Merchant Shipping (Amendment) Act, No. 36 of 1988.

Insertion of new Part IIIA and sections 123A to 123K in Act No. 52 of 1971.

2. The following new Part and sections are hereby inserted immediately after section 123 of the Merchant Shipping Act No 52 of 1971 (hereinafter referred to as the "principal enactment") and shall have effect as Part IIIA and section 123A, 123B, 123C, 123D, 123E, 123F, 123G, 123H, 123J and 123K of the principal enactment:-

PART IIIA

PARALLEL REGISTRATION

Interpretation. 123A. In this Part -

"bare-boat chartering", with its cognate expressions with reference to a ship, means the chartering by virtue of which the charterer for an agreed period of time acquires full control management, operation and possession of the ship with the right to appoint and dismiss, the master and the crew of the ship and to hold himself responsible towards, third parties as if he were the ship-owner, but without the right to sell or mortgage the ship;

"foreign register" means the register kept in a foreign country for the purpose of registering every description of its ships or vessels used in navigation; and

"parallel registration" means the registration in the parallel registration section of the register book for certain period of time of a ship which contains to be registered in a foreign register.

This Part to apply to parallel registration.

123B. Notwithstanding anything contained in any other provision of this Act, the provisions of this Part shall apply to, and in relation to the parallel registration of ships registered in a foreign register and ships registered in the parallel registration section of the register book.

Parallel registration of ships.

123C.

(1) The parallel registration of a ship registered to a foreign register may be allowed subject to the requirements specified in this Part, for the period of the bare-boat charter, if such ship is bare-boat chartered by a natural person or by a body corporate, who or which is qualified under section 30 to own a Sri Lanka ship.

(2) Any ship registered in the parallel registration section of the register book shall be subject to the provisions of this Act, so long as the parallel registration of the ship in the register book continues.

Requirements for registration.

(1) No foreign ship shall be registered in the parallel registration section of the register book unless -

(a) the law of the country in which she is registered permits parallel registration ;

(b) the registration of that ship in the registry of that country is temporarily suspended, except as regards transfers or transmissions of, and the creation, registration or discharge of mortgages or other encumbrances on, the ship ;

(c) the owner of the ship and the registered mortgagees of the ship consent to the parallel registration.

(2) Every bare-boat charterer of a ship registered in the parallel registration section of the register book may notify the Registrar of any endorsements relating to transfers or transmissions of, and the creation, registration or discharge of mortgages or other encumbrances on, that ship entered in a foreign register, and the Registrar shall enter such

Procedure for 123E.
parallel
registration.

endorsements in the parallel registration section of the register book, for purposes of information.

(1) Any bare-boat charterer of a foreign ship who being a person qualified to own a Sri Lanka ship may apply to the Registrar for the parallel registration of the ship and the Registrar shall, if he is satisfied that the requirements and conditions for such registration have been fulfilled, register the ship in the parallel registration section of the register book for the period for which such ship has been chartered by such charterer.

(2) An application for the registration of a ship in the parallel registration section of the register shall be accompanied by-

(a) a letter of confirmation by the appropriate maritime authorities in the country in which such a ship is registered, that the law of that country permits parallel registration of ships and that the registration of that ship in that country has been temporarily suspended ;

(b) a letter of confirmation issued by such authorities, as to the ownership of, and mortgages or other encumbrance on, that ship ;

(c) the written consent of the registered mortgagees of that ship to the parallel registration;

(d) the written consent of the owner of the ship to the parallel registration ;

(e) a copy of the charter party under which ship has been bare-boat chartered to the applicant.

(3) Every application shall be accompanied by the prescribed fee. Fees shall be paid in advance in respect of the whole period for which parallel registration is applied for. Where the parallel registration is cancelled on a date earlier than the date of expiration of the period in respect of which such fees have been paid, no part of the fees paid in advance shall be refunded.

(4) A new measurement of the tonnage of the ship shall not be required for the purpose of parallel registration, Certificate of Survey and the Tonnage Certificate as provided for by section 38 shall be issued on the basis of the corresponding documents in the foreign register and the measurement fees required to be paid in Sri Lanka shall be paid for their issue. Subsequent alteration of the ship which affects the tonnage or the description of the ship shall be affected in accordance with the provisions of this Act relating to ships registered in the register book and shall be notified by the Registrar to the appropriate maritime authorities of the country in which the ship is registered.

(5) The bare-boat charterer may, with the consent of the appropriate maritime authorities in the country in which the ship is registered the ship-owner and the mortgagees, apply to the Registrar to change the name of a ship registered in the parallel registration section of the register book, and such change shall be effected in accordance with the provisions of this Act relating to ships registered in the register book. The Registrar shall notify the change of the name to the appropriate maritime authorities of the country in which the ship is registered.

(6) On the completion of parallel registration, the Registrar shall grant a certificate of parallel registry in a form similar to the certificate of registry issued under section 47 and containing the same particulars as are required to be registered in the case of the registry of a Sri Lanka ship, as well as particulars of the ship-owner, the bare-boat charterer and the foreign register. The Registrar shall cause a copy of the certificate of parallel registration to be sent to the appropriate maritime authorities of the country in which the ship is registered.

(7) The Registrar shall set out in the certificate of parallel registry the date of termination of its validity.

(8) The Registrar may subject to the provisions of this Act and such conditions as may be prescribed, extend the period of validity of the certificate of parallel registry.

Ship to fly Sri Lanka flag. 123F.

(1) During the period for which parallel registration under this Part is in force in respect of any foreign ship, the ship shall fly the Sri Lanka flag and not the flag of any other country.

(2) No ship shall fly the Sri Lanka flag, after the parallel registration in respect of that ship under this Part has expired or has been cancelled.

(3) Where a ship is used in contravention of subsection (1) or subsection (2), the charterer, master and person in charge of the ship shall each be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding fifty thousand rupees.

Mortgages in the case of parallel registration. 123G.

(1) Not with standing anything to the contrary in the provisions of Chapter 4 of Part III, any mortgage or encumbrance which is a charge on a ship registered in the parallel registration section of the register book at the time of such parallel registration shall continue to subsist and be a charge on the ship and be governed by law governing the same at the time of its creation and shall not be affected by the fact that the ship has been registered in the parallel registration section of the register book.

(2) After the parallel registration of a ship in the parallel registration section of the register book, a mortgage or other encumbrance shall be created on the ship only by the ship-owner in accordance with the law of the country in which the ship is registered, and shall be registered by the appropriate maritime authorities in that country.

(3) The registration of a mortgage in the register book in respect of a ship registered in the parallel registration section of the register book; in accordance with the provisions of Chapter 4 of Part III of this Act shall not be allowed.

(4) The mortgages and other encumbrances referred to in subsections (1) and (2) shall be recorded in the parallel registration section of the register book for purposes of information.

Cancellation of registration. 123H.

(1) The Registrar shall have the power to cancel the parallel registration of a ship registered in the parallel registration section of the register-

(a) on the expiration of the period for which it is so registered in the parallel registration section of the register book;

(b) on the person registered as the bareboat charterer ceasing to be a person qualified to own a Sri Lanka ship ;

(c) on the termination of the bare-boat charter in respect of the ship ;

(d) if the bare-boat charterer fails to comply with any provision of this Act or any regulation made thereunder.

(2) On the cancellation of a parallel registration of a ship under subsection (1), the master of the ship shall deliver the certificate of parallel registration in respect of the ship to the Registrar.

(3) Any charterer or master of a ship who fails, without reasonable cause, to comply with the provisions of subsection (2) shall be guilty of an offence and shall be liable, on conviction thereof, to a fine not exceeding ten thousand rupees.

Section 116
or 118 not to
apply.

123J. Nothing in section 116 or 118 shall apply to a ship registered in the parallel registration section of the register book.

Regulations.

123K. The Minister may make regulations in respect of all or any of the following matters: -

- (a) the form in which any document required by this Part shall be prepared and the particulars which it should contain ;
- (b) the procedure for parallel registration ;
- (c) the manner and form in which application for parallel registration shall be made ;
- (d) the persons who shall certify the documents submitted along with the application;
- (e) the fees, dues and charges that may be levied under this Part and the manner in which such fees, dues and charges shall be collected ;
- (f) any other matter which is required to be prescribed under this Part of this Act.