

L.N. 71 of 2003**MERCHANT SHIPPING ACT
(CAP. 234)****Merchant Shipping (Ships Eligible for Registration)
Regulations, 2003**

IN exercise of the powers conferred by articles 4(1)(c) and 374 of the Merchant Shipping Act, the Minister for Transport and Communications has made the following regulations:—

1. The title of these regulations is the Merchant Shipping (Ships Eligible for Registration) Regulations, 2003. Short title.

2. In these regulations, unless the context otherwise requires, or it is otherwise expressly provided – Interpretation.

“Act” means the Merchant Shipping Act; Cap. 234.

“prescribed form” means the form prescribed by the Registrar-General or as near thereto as circumstances permit.

3. (1) A foreign corporate body or other entity which enjoys to the satisfaction of the Registrar-General legal personality in terms of the law under which it has been established or constituted and which has satisfied the Registrar-General that it can and will ensure due observance of the laws of Malta relating to merchant shipping, hereinafter referred to as “international owner”, shall be qualified to own a Maltese ship or a share therein. International owner.

(2) A foreign corporate body or entity shall be deemed to satisfy the Registrar-General as required by subregulation (1) hereof unless the Registrar-General has made a declaration to the contrary; and the Registrar-General may, before withdrawing such declaration, impose such conditions as he may deem fit in the circumstances that may include the provision of a guarantee or a bond.

4. (1) The international owner shall appoint in writing a resident agent who – Appointment of resident agent.

(a) is habitually resident in Malta;

(b) is not interdicted or incapacitated or is an undischarged bankrupt;

(c) has not been convicted of any of the crimes affecting public trust or of theft or of fraud or of knowingly receiving property obtained by theft or fraud; and

(d) has satisfied the Registrar-General to be a person capable of carrying out the functions stated in these regulations.

(2) A person shall be deemed to satisfy the Registrar-General as required by subregulation (1)(d) hereof unless the Registrar-General has made a declaration to the contrary; and the Registrar-General may, before withdrawing such declaration, impose such conditions as he may deem fit in the circumstances.

(3) The international owner shall ensure that it has a validly appointed resident agent at all times.

(4) Notices of the appointment, resignation or removal of the resident agent shall be filed with the registrar in the prescribed form, and where a notice of appointment is given it shall be accompanied by the acceptance in writing of the resident agent of such appointment.

(5) The Registrar-General may at any time refuse or reject any notice of an appointment which he considers is not in compliance with these regulations and in such case the international owner shall immediately appoint another resident agent.

Jurisdiction of
Maltese courts.

Cap. 12.

5. An international owner in whose name a ship is, or has been registered under the Act, or in whose name a certificate of registry, provisional or otherwise, has been issued, shall be deemed to have submitted to the jurisdiction of the Maltese courts in terms of article 742(1)(g) of the Code of Organization and Civil Procedure for any action in connection with the ship while it is or was so registered.

Functions of the
resident agent.

6. (1) It shall be the function of the resident agent to –

(a) act as the channel of communication between the international owner and Maltese government departments and authorities;

(b) sign and file with Maltese government departments and authorities, on behalf of the international owner, all declarations and forms required in terms of Maltese law;

(c) act as the judicial representative of the international owner for judicial proceedings in Malta, and for the purposes of the Act, any official notice sent to the resident agent at his last registered address shall be deemed to have been duly received by and notified to the international owner.

(2) Notwithstanding the provisions of subregulation (1) hereof, the resident agent shall not be personally liable for non-compliance by the international owner with any law, unless the resident agent has personally undertaken liability in writing or has willfully or recklessly made a false declaration.

7. (1) Without prejudice to the powers enjoyed by the international owner, the resident agent shall have the power to – Powers of resident agent.

(a) sign and file, on behalf of the international owner, applications, declarations, notices, returns and any other document required in terms of Maltese law;

(b) apply, on behalf of the international owner, for the registration of a ship under the Act and for the closure of register of a ship, and to perform any ancillary act in relation thereto;

(c) pay all relative fees and taxes payable in terms of Maltese law;

(d) do, on behalf of the international owner, all other things as may be considered conducive or ancillary for the registration of a ship under the Act or for the maintenance of such registration;

(e) do, on behalf of the international owner, all other things as may be considered conducive or ancillary for the cancellation of the registration of a ship under the Act;

(f) authenticate documents issued by the international owner.

(2) Except with regards to matters in relation to the registration of the ship under the Act and to the maintenance of such registration the international owner may restrict any of the above powers of the resident agent:

Provided that where the international owner limits such powers he shall file with the Registrar-General a declaration to that effect in the prescribed form and such limitation shall not have effect with regards to third parties until it is so filed.

(3) The resident agent may appoint in writing another person to act on his behalf provided that in so doing the resident agent shall not be relinquishing the functions, powers and responsibilities conferred on him by these regulations.

Resignation or
removal of resident
agent.

8. (1) A resident agent may resign by giving at least fifteen days notice (or such other shorter period as the international owner, the Registrar-General and any registered mortgagee may consent to) in writing to the international owner, the Registrar-General and to any registered mortgagee.

(2) The international owner may remove the resident agent by giving at least fifteen days notice (or such other shorter period as the Registrar-General and any registered mortgagee may consent to) in writing to the Registrar-General and to any registered mortgagee.

(3) A registered mortgagee shall be deemed to enjoy the power to appoint a resident agent on behalf of the international owner in case of failure of the international owner to appoint such an agent.

(4) Where the international owner is in default of his obligations under subregulation 4(3) the Registrar-General may, without prejudice to any other action that can be taken under the Act, apply to the Civil Court, First Hall for the appointment of a curator to act as resident agent until such time as another resident agent is validly appointed or the ship ceases to be registered:

Provided that any expense incurred will be considered as a charge due to the Registrar-General under article 50(b) of the Act.