



**MINISTRY OF COMMUNICATIONS AND WORKS
DEPARTMENT OF MERCHANT SHIPPING
LEMESOS**

Circular No 26/2004

TEN 5.13.09

TEN 12.3.01.1

To all Owners, Managers
and Representatives
of Ships under the Cyprus Flag

27 May 2004

Subject: Implementation of EU harmonising Legislation : The Merchant Shipping (Registration of Ships, Sales and Mortgages) Laws 1963-2004 (Law 45/63 as amended)/ 2003 and 2004 Amendments

1. I wish to inform you that the House of Representatives has enacted the following two laws which amend the principal Law 45/63:

- *The Merchant Shipping (Registration of Ships, Sales and Mortgages) (Amendment) Law of 2003 (Law 138(I) /2003)*, published in Greek, in the Official Gazette of the Republic of Cyprus, no 3758, Supplement I(I) dated 3.10.2003, which entered into force on 3rd October 2003.
- *The Merchant Shipping (Registration of Ships, Sales and Mortgages) (Amendment) Law of 2004 (Law 169(I)/ 2004)*, published in Greek, in the Official Gazette of the Republic of Cyprus, no 3851, Supplement I(I) dated 30.04.2004 , which entered into force on 1st May 2004.

A consolidated version of the relevant extracts of Law 45/63, as recently amended, is herewith attached for your easy guidance.

2. Law 138(I)/2003 has amended the principal Law by inserting a new paragraph (iii) immediately after paragraph (ii) of sub-section (b), of section 6A.

The above amendment became necessary in order to honour the commitment undertaken by the Republic of Cyprus during the accession negotiations, to reduce its fishing fleet, in order to comply with the EU fisheries common policy. This is achieved by extending the powers of the Minister of Communications and Works and enabling him to order the revocation of the character of Cyprus ships and the deletion thereof from the Register of Cyprus Ships whenever they are engaged in fishing activities without a fishing licence issued by the Department of Fisheries and Marine Research or they are in breach of the conditions of such licence.

3. Law 169(I) /2004 was enacted for the purpose of transposing into our legislation the European Union Acquis and in particular the principle of freedom of establishment (Articles 52-58 of the EC Treaty).

The main amendments/provisions incorporated by Law 169(I) /2004 into the principal Law 45/63 are the following:

- Section 5 of the principal Law has been amended so that as from the 1st of May 2004, citizens of Member States of the EU and corporations established and operating in Member States of the EU are also qualified to own Cyprus ships, thus removing the discrimination between Cypriot citizens and citizens of other EU Member States.

Under the same amendment, this possibility is also extended to citizens or corporations of Member States of the European Economic Area (EEA), namely: Norway, Iceland and Liechtenstein.

- In order for a Cyprus ship to be registered in the name of a citizen /corporation of a Member State of the EU /EEA, section 5 of the principal Law as amended, imposes as a pre-condition for such registration, either the appointment of an authorised representative in the Republic in accordance with the new section 5A or, alternatively, the effective management of the vessel from Cyprus, in accordance with the new section 5B.

4. The above provisions- requirements apply only to ships for which an application to be registered in the Register of Cyprus Ships was submitted on or after the 1st of May 2004.

Ships already registered in the Register of Cyprus Ships prior to the 1st of May 2004 are not affected by these new provisions. In this respect, section 12 of Amendment Law 169(I)/2004 expressly provides:

“ Ships, which prior to the entry into force of the present Law were deemed Cyprus ships and were registered in the Register in accordance with the provisions of the principal Law, shall as from the entry into force of the present Law, continue to be deemed Cyprus ships registered in the Register in accordance with the provisions of the Merchant Shipping (Registration of Ships, Sales and Mortgages) Laws of 1963 to 2004.”

5. Further details and requirements with regard to the effective implementation of this harmonising legislation will be communicated to you by a new Circular to be issued in the next few weeks.

Serghios S. Serghiou
Director
Department of Merchant Shipping

- cc. - Permanent Secretary, Ministry of Communications and Works
- Attorney General of the Republic
 - Governor, Central Bank of Cyprus
 - Permanent Secretary, Planning Bureau
 - Permanent Secretary, Ministry of Foreign Affairs
 - Maritime Offices of the Department of Merchant Shipping abroad
 - Registrar of Companies
 - Diplomatic Missions and Honorary Consular Officers of the Republic
 - Association of Cypriot Shipowners (Searovers) Ltd
 - Cyprus Shipping Council
 - Union of Cypriot Shipowners
 - Cyprus Bar Association
 - Cyprus Association of Chartered Accountants

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CONSOLIDATED EXTRACTS

THE MERCHANT SHIPPING (REGISTRATION OF SHIPS, SALES AND MORTGAGES) LAWS OF 1963-2004¹

LAW No 45 OF 1963 AS AMENDED

A LAW TO PROVIDE FOR THE REGISTRATION OF SHIPS, THE TRANSFER OR TRANSMISSION AND THE MORTGAGE THEREOF AND FOR MATTERS INCIDENTAL THERETO

45 of 1963
32 of 1965
82 of 1968
62 of 1973
102 of 1973
42 of 1979
25 of 1980
14 of 1982
57 of 1986
64 of 1987
28(I) of 1995
37(I) of 1996
138(I) of 2003
169(I) of 2004.

The House of Representatives enacts as follows:

PART I - PRELIMINARY

- Short title.*
Cap 292
38 of 1963.
- 1.** This Law may be cited as the Merchant Shipping (Registration of Ships, Sales and Mortgages) Laws of 1963-2004, and shall be read as one with the Code, and the Merchant Shipping (Safety and Seamen) Law.
- Interpretation.*
- 2.** (1) In this Law, unless the context otherwise requires -
- 57 and 58 Vict.*
c. 60- 2 and 3
Eliz. 2 c. 18.
- "Code" means the Merchant Shipping Acts, 1894 to 1954, of the United Kingdom, to the extent of their application to the Republic and subject to the necessary modification required under its Constitution;
- "consular officer of the Republic" means the member of the consular service of the Republic nominated by the Council of Ministers for this purpose and includes any other person nominated by the Council of Ministers to be a consular officer of the Republic for the purposes of this Law;
- "Court" means a court of competent jurisdiction;
- 2(a) of 169(I)/ 2004.*
- "Cyprus ship" means a ship registered in the Register;
- 2(b) of 169(I)/ 2004.*
- "European Economic Area Agreement" means the European Economic Area Agreement signed in Oporto on 2 May 1992, as amended from time to time;

¹ Includes the latest amendments introduced by Law 169(I)/2004. All these Laws were published in the Greek language in the Official Gazette of the Republic of Cyprus. This is an "unofficial" consolidated translation into English prepared by the Department of Merchant Shipping, and does not intend to replace any translation prepared by the Law Commissioner's Office.

*According to Article 3 of the Constitution of the Republic of Cyprus, the official languages of the Republic of Cyprus are Greek and Turkish and therefore the present translation into English is **not the authentic version.***

2(b) of 169(I)/ 2004.

"Member State" means a Member State of the European Union or other contracting party to the European Economic Area Agreement ;

"Minister" means the Minister of Communications and Works and includes any person duly authorized by the Minister for any of the purposes of this Law;

"qualified person" means a person who under the provisions of this Law is entitled to own a share in a Cyprus ship;

"Register" means the Register of ships provided by section 4;

"Registrar" means the Registrar provided by section 3;

"Republic" means the Republic of Cyprus;

"ship" includes every description of vessel used in navigation not propelled by oars;

"Sovereign Base Areas" has the meaning assigned to that expression by section 18 of the Courts of Justice Law of 1960.

*14 of 1960
50 of 1962
11 of 1963
8 of 1969
40 of 1970
58 of 1972
1 of 1980
35 of 1982
16 of 1983
29 of 1983
91 of 1983
16 of 1984
51 of 1984
83 of 1984
93 of 1984
18 of 1985
71 of 1985
89 of 1985
96 of 1986
317 of 1987
49 of 1988
64 of 1990
136 of 1991
149 of 1991
237 of 1991
42(I) of 1992
43(I) of 1992
102(I) of 1992
26(I) of 1993.*

(2) Expressions in this Law not otherwise defined shall, unless the context otherwise requires, have the meaning assigned to such expressions by the Code.

PART II - REGISTRAR AND OTHER OFFICERS - REGISTER

Registrar and other officers.

3. (1) The Director of the Department of Ports of the Ministry of Communications and Works shall be the Registrar for the purposes of registration of ships and the

38 of 38/73*
4 of 28/79*.

performance of such other functions as are entrusted to him under this Law or any other law in force for the time being.

(2) The Council of Ministers may appoint-

(a) any person it thinks fit to be a surveyor of ships for the purposes of this Law and of the Code, either generally or for special purposes and on special occasion ;

(b) any person as an inspector of ships for the purposes of this Law and of the Code, when it thinks fit ;

(c) such other officers to assist the Registrar in the performance of his functions, as it may think fit.

Register.
3 of 169(I)/ 2004.

4. (1) The Registrar shall keep a book and/or a computerized system to be called the Register for entering therein of Cyprus ships and of any transfer or transmission or mortgage of any such ship or any share or interest therein.

(2) The Register shall be kept in the form prescribed by law and shall consist of such parts as may be prescribed.

(3) Entries in the Register shall be made in accordance with the following provisions:

(a) the property in a ship shall be divided into one hundred shares;

(b) subject to the provisions of this Law with respect to joint owners or owners by transmission, not more than one hundred individuals shall be entitled to be registered at the same time as owners of any one ship; but this rule shall not affect the beneficial title of any number of persons or of any corporation represented by or claiming under or through any registered owner or joint owner;

(c) a person shall not be entitled to be registered as owner of a fractional part of a share in a ship; but any number of persons not exceeding five may be registered as joint owners of a ship or of any share or shares therein;

(d) joint owners shall be considered as constituting one person only as regards the persons entitled to be registered, and shall not be entitled to dispose in severalty of any interest in a ship, or in any share therein in respect of which they are registered;

(e) a corporation may be registered as owner by its corporate name.

** Note: Originally according to Law 45 of 1963 the duties of the Registrar were exercised by the Director of the Department of Ports of the Ministry of Communications and Works.*

As from 31.7.1976 by virtue of section 38 of the Cyprus Ports Authority Law (Law 38/73) and P.I. 167/76 the duties of the Registrar have been transferred to the Minister of Communications and Works.

Finally by virtue of section 38 of Law 38/73, as amended by section 4 of Law 28/79, the duties of the Registrar are exercised by the Director of the Department of Merchant Shipping of the Ministry of Communications and Works.

PART III - CYPRUS SHIPS

*Ships entitled
to be
Cyprus ships.
4 of 169(I)/ 2004.*

5. -(1) A ship may not be registered in the Register unless:

(a) more than fifty percent (50%) of the shares of the ship are owned:

(i) by Cypriot citizens, or

(ii) by citizens of Member States who, in the instance of not being permanent residents of the Republic, will have appointed and maintain, during the whole period of the registration of the ship in the Register, an authorised representative in the Republic in accordance with section 5A;

(b) the total (100%) of the shares of the ship are owned by one or more corporations, which have been established and operate:

(i) in accordance with the laws of the Republic and have their registered office in the Republic, or

(ii) in accordance with the laws of a Member State and have their registered office in the European Union and which will, during the whole period of the registration of the ship in the Register, have either appointed and maintain an authorised representative in the Republic in accordance with section 5A, or ensured that the management of the ship in respect of her safety is entrusted in full to a Cypriot shipmanagement company or a Community shipmanagement company, having its place of business in the Republic, in accordance with section 5B, or

(iii) outside the territory of the Republic and outside the territory of a Member State, which are controlled by Cypriot citizens or natural persons who are citizens of a Member State and who will, during the whole period of the registration of the ship in the Register, have either appointed and maintain an authorised representative in the Republic in accordance with section 5A, or ensured that the management of the ship in respect of her safety is entrusted in full to a Cypriot shipmanagement company or a Community shipmanagement company, having its place of business in the Republic, in accordance with section 5B:

Provided always that the registration of any ship in the Register may be subject to any conditions imposed under section 14B.

(2) For the purposes of subsection (1), "Cypriot citizen" means any person who acquires the status of Cypriot citizen due to birth or descent, registration or naturalization, in accordance with the provisions of the Civil Registry Law.

*141 (I) of 2002
65 (I) of 2003
76(I) of 2003.*

*Authorised
representative.
5 of 169(I)/ 2004.*

*Cap.116
77 of 1977.*

*Cap. 113
9 of 1968
76 of 1977
17 of 1979
105 of 1985
198 of 1986
19 of 1990
46 (I) of 1992
96 (I) of 1992
41 (I) of 1994
15 (I) of 1995
21(I) of 1997
82(I) of 1999
149 (I) of 1999
2 (I) of 2000
135 (I) of 2000
151 (I) of 2000
76 (I) of 2001
70 (I) of 2003
167 (I) of 2003.*

5A. -(1) For the purposes of section 5, an authorised representative may be-

- (a) a Cypriot citizen who permanently resides in the Republic, or
- (b) a partnership which has been established and is registered in accordance with the provisions of the Partnerships and Business Names Laws, having its place of business in the Republic and which employs permanent staff in the Republic, or
- (c) a corporation which has been established and is registered in accordance with the provisions of the Companies Law, having its place of business in the Republic and which employs permanent staff in the Republic, or

(d) a branch which has been established and is registered in accordance with the provisions of the Companies Law, having its place of business in the Republic.

(2) The requirement of the appointment of an authorised representative applies in so far as natural persons or corporations under section 5, remain registered as owners of a Cyprus ship or a share therein.

(3) (a) The name/business name, address and other details of the authorised representative are notified in writing to the Registrar and are filed in the Register.

(b) Every change of any of the details of the authorised representative is notified in writing as soon as possible to the Registrar and is filed in the Register.

(4) Any document which is required to be served on a person, who in accordance with the provisions of section 5, must have appointed and must maintain during the whole period of the ship's registration in the Register an authorised representative, is deemed to have been duly served on that person if –

(a) it is delivered to any authorised representative at the material time, in accordance with this section, or

(b) it is left or is sent by post to the address which is notified or, as the case may be, which was last notified to the Registrar, in accordance with subsection (3) in relation to that person.

(5) For the purposes of this section, the term “documents” includes writs, notices, orders and anything else which is required to be served by any legal, judicial or administrative procedure in accordance with the Laws of the Republic.

(6) The authorised representative is not responsible for the acts or omissions of the person by whom he has been appointed.

(7) The Registrar will carry out, at least once a year, an inspection to ascertain compliance with the provisions of the present section and the authorised representative is obliged to provide the Registrar with any information requested for this purpose in connection with the ship.

(8) Any person who contravenes the provisions of subsections (2), (3) and (7) shall be guilty of an offence and, in case of conviction, shall be liable to imprisonment not exceeding two years or to a fine not exceeding one thousand five hundred pounds or to both such sentences.

*Shipmanagement.
6 of 169(I)/ 2004.*

*Official Gazette
Third Schedule (I):
31.12.1997.*

5B. - (1) For the purposes of section 5, “management of the ship in respect of her safety” means the management of the ship by the shipmanagement company to which the relevant Document of Compliance (DOC) is issued to and which is referred to in the Safety Management Certificate of the ship (SMC), in accordance with the provisions of the International Safety Management Code for the Safety of Ships and Prevention of Pollution (ISM Code) of the International Maritime Organization, which was adopted by the decision of the Council of Ministers dated 20 November 1997.

(2)(a) The requirement of the management of the ship in respect of her safety from the territory of the Republic, as provided by section 5, is fulfilled when it is entrusted in full to a Cypriot shipmanagement company or a Community shipmanagement company, which keeps an office in the Republic and is staffed with a sufficient in number and qualifications personnel.

(b) The determination of the minimum number and the qualifications of the personnel required for the purpose of this section shall be regulated by Regulations issued by the Council of Ministers and published in the Official Gazette of the Republic.

(3) The entrusting of the management of the ship to a Cypriot shipmanagement company or a Community shipmanagement company, in accordance with the provisions of this section, is proved by the shipmanagement agreement which is concluded between the shipowner or the bareboat charterer of a Cyprus ship registered in parallel in a foreign register, and the company.

(4) The Registrar will carry out, at least once a year, an inspection to ascertain compliance with the provisions of the present section and the shipmanagement company is obliged to provide the Registrar with any information requested for this purpose in connection with the ship.

(5) Any person who contravenes the provisions of the present section shall be guilty of an offence and, in case of conviction, shall be liable to imprisonment not exceeding two years or to a fine not exceeding one thousand five hundred pounds or to both such sentences.

Acquisition of Cyprus nationality by ships
7(a) (b) of 169(I)/ 2004.

6. (1) Subject to the provisions of subsection (2), ships acquire the Cyprus nationality upon their registration in the Register:

Provided that ships under construction may be registered in the Register and, in such case, there shall be entered in the Register such particulars as may be prescribed

7(c) of 169(I)/ 2004.

(2) The following ships are not registered under this Law:

(a) ships not exceeding fifteen tons burden employed solely in navigation on the coast of the Republic or of the Sovereign Base Areas;

3(a) of 32/65*.

(b) ships not having a whole or fixed deck and employed solely in fishing, lightering or trading coastwise on the shore of the Republic or of the Sovereign Base Areas or within such a radius therefrom as may be prescribed.

2(b) of 14/82

(3) A ship shall not be recognised as a Cyprus ship if -

7(d) (e) of 169(I)/ 2004.

(a) the same has not been registered under this Law;

(b) following directions under section 14A, the same is not registered; and

(c) the same is deleted from the Register under section 6A.

Power of the Minister to revoke the character of a Cyprus ship.
2 of 42/79.

6A. Notwithstanding the provisions of this Law or of any other Law for the time being in force, the Minister shall have additional power, whenever there are reasonable grounds which satisfy him that -

(a) a Cyprus ship is used in a manner which may arouse contempt or cause discredit or weaken the faith in the Cyprus character of the ship or the Cyprus flag;

2 of 37(I)/96.

(b) the owner or the master of a Cyprus ship or any person being in charge of any Cyprus ship -

2 of 37(I)/96.

(i) directly or indirectly, contravenes or omits to comply with the obligations imposed by this Law or any international treaties which are in force in the Republic, provided the contravention or the omission is repetitive or seriously affects the seaworthiness or the functional use of the ship or the working and living conditions of the seamen who are working on board.

(ii) uses or permits or allows the Cyprus ship to be used in operations inconsistent with the interests of the Republic or the public interest in general,

2 of 138(I)/2003.

(iii) directly or indirectly contravenes or omits to comply with any provision of the legislation of the Republic which governs the activities of certain ship types or with the conditions for the issue of a licence for the carrying out of such activities ;

* Note: The registration of fishing vessels and especially of small fishing vessels exempted from registration under this Law is governed by the Fishing Vessels (Registration, Sale, Transfer and Mortgage) Law of 1971 (Law 77/71). Under Law 77/71 registrations of small fishing vessels are effected before the Fisheries Department of the Ministry of Agriculture, Natural Resources and Environment.

3 of 14/82.

(c) the owner or the master of a Cyprus ship or any person being in charge of any Cyprus ship does not comply with any condition for the registration of that ship imposed by the Minister under section 14B;

to order, in accordance with the prescribed procedure, the revocation of the Cyprus character of the ship and the deletion thereof from the Register:

Provided that the deletion of the said ship from the Register, as above provided, does not affect the liability to pay taxes, fees and fines, the forfeitures and punishments for offences committed on board or by persons belonging thereto, provided that they relate to the period before the deletion of the ship from the Register.

2 of 37(I)/96.

Further provided that for the purposes of the present section, the seaworthiness of a ship is seriously affected, when by reason of the defective condition of its hull, equipment or its machinery, or by reason of a deficient manning either in terms of number or quality, or of overloading or improper loading, the ship is unfit for use in navigation and endangers human life, having regard to the nature of the voyages for which she is intended.

PART IV- PROCEDURE ON REGISTRATION

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PART VA*
PARALLEL REGISTRATION OF SHIPS

Parallel registration.

23A. “Parallel registration” is the registration of a ship in the register of a country for a certain period of time and under specified legal prerequisite conditions, whilst the ship remains registered in the register of another country.

Bareboat chartering.

23B. “Bareboat chartering” is a chartering by virtue of which the charterer for the agreed period of time, acquires full control and possession of the ship, has the nautical control and management of the ship, appoints and dismisses the master and the crew of the ship, is responsible towards third parties as if he was the shipowner and, generally, so long as the chartering continues, substitutes in all respects the shipowner, save that he has no right to sell or mortgage the ship.

*Parallel registration in the Cyprus Register.
10 of 169(I)/2004.*

23C. - (1) The parallel registration in the Cyprus Register of a ship registered in a foreign register shall be allowed if she is bareboat chartered by a natural person or by a corporation who or which is entitled under section 5 to register a ship in the Register, so long as the prerequisite conditions specified in the following provisions of this Part apply.

* Note: Part VA (sections 23A-23H) has been originally introduced by section 2 of Law 57 of 1986, and then repealed and substituted by section 2 of Law 64 of 1987, and amended with Law 28(I) of 1995.

(2) For the parallel registration of a ship in the Cyprus Register the deletion of the registration in the foreign register shall be suspended, save as regards the matters specified in sections 23I and 23J.