

MALTA

ATT Nru. XXXVII ta' l-1988

ACT No. XXXVII of 1988

ATT mahruġ b'ligi mill-Parlament ta' Malta.

AN ACT enacted by the Parliament of Malta.

ATT biex ikompli jemenda l-Att ta' l-1973 dwar il-Bastimenti Merkantili.

AN ACT further to amend the Merchant Shipping Act, 1973.

Naghti l-kunsens tieghi.

(L.S.)

PAUL XUEREB
Aġent President

20 ta' Diċembru, 1988

ATT Nru. XXXVII ta' l-1988

ATT biex ikompli jemenda l-Att ta' l-1973 dwar il-Bastimenti Merkantili.

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità ta' l-istess, hareġ b'liġi dan li ġej:—

1. Dan l-Att jista' jissejjah l-Att ta' l-1988 li jemenda l-Att dwar il-Bastimenti Merkantili, u għandu jinqara u jiftiehem haġa wahda ma' l-Att ta' l-1973 dwar il-Bastimenti Merkantili, hawnhekk iżjed 'il quddiem imsejjah "l-Att prinċipali".

Titolu
fil-qosor.

2. Dan l-Att għandu jidhol fis-seħħ f'dik id-data li l-Ministru responsabbli għall-bastimenti jista' jistabbilixxi b'avviż fil-Gazzetta, u dati differenti jistgħu jiġu hekk stabbiliti għal dispożizzjonijiet u għal għanijiet differenti tiegħu.

Bidu
fis-seħħ.

3. L-Att prinċipali għandu jiġi emendat kif ġej:

Emenda Generali
ta' l-Att
prinċipali.

(a) kulfejn issir riferenza għall-kliem "ċertifikat jew ċertifikati ta' ipoteka navali" u għall-kliem "ċertifikat jew ċertifikati ta' bejgħ" dawk ir-riferenzi għandhom jithassru;

(b) kulfejn issir riferenza għall-kelma "pounds" fit-test Inġliż għandha tidhol il-kelma "liri".

4. L-artikolu 2 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

Emenda ta'
l-artikolu 2
ta' l-Att
prinċipali.

(a) is-subartikolu (1) tiegħu għandu jiġi emendat kif ġej:

(i) wara t-tifsira ta' "Ministru" ghandha tidzied it-tifsira ġdida li ġejja:

““xahar” tfisser “xahar kalendarju;”;

(ii) it-tifsira ta' “ktieb tar-reġistrazzjoni” ghandha tithassar u minflokha ghandha tidhol it-tifsira ġdida li ġejja:

““reġistru” tfisser id-dokumentazzjoni li ghandha tinzamm mir-reġistratur skond l-artikolu 365 ta' dan l-Att;”;

u kull fejn jinsabu l-kliem “ktieb tar-reġistrazzjoni” fl-Att prinċipali, minnflokhom ghandha tidhol il-kelma “reġistru”;

(iii) it-tifsira ta' “reġistratur” ghandha tithassar u minflokha ghandha tidhol it-tifsira ġdida li ġejja:

““reġistratur” tfisser persuna nominata bhala reġistratur skond l-artikolu 364 ta' dan l-Att, u tinkludi kull persuna li taġixxi taht l-awtorità tiegħu bil-permess tar-Reġistratur-Ġenerali;”;

(iv) it-tifsira ta' “Reġistratur-Ġenerali” ghandha tithassar u minflokha ghandha tidhol it-tifsira ġdida li ġejja:

““Reġistratur-Ġenerali” tfisser ir-Reġistratur-Ġenerali ta' Bastimenti u Bahrin nominat skond l-artikolu 363 ta' dan l-Att u jinkludi kull persuna li taġixxi taht l-awtorità tiegħu;”;

(v) it-tifsira ta' “bastiment” ghandha tithassar u minflokha ghandha tidhol it-tifsira ġdida li ġejja:

““bastiment” tfisser kull xorta ta' biċċa tal-baħar li tintuża fin-navigazzjoni, sew jekk titmexxa bil-makni tagħha stess sew jekk le, u tinkludi braken, puntuni u *oil rigs* u bċejjeċ tal-baħar ohra bhal dawn, iżda ma tinkludix biċċiet tal-baħar li jitmexxew permezz ta' mqadef, u għal dawk it-taqsimiet ta' l-Att kull fejn tapplika ghandha tinkludi wkoll bastiment fi stat ta' kostruzzjoni;”;

(vi) it-tifsira “reġistratur tal-bastiment” ghandha tithassar;

u kull fejn jinsabu l-kliem “ir-reġistratur tal-bastiment” fl-Att prinċipali, dawn ghandhom jithassru u minflokhom ghandhom jidhlu l-kliem “ir-reġistratur”; u

(b) minnufih wara s-subartikolu (1) tiegħu ghandu jizdied dan is-subartikolu ġdid li ġej:

“(2) Kull avviż li jkun mehtieg li jintbagħat taht dan l-Att lill-kaptan, sid jew xi persuna ohra li tirrapreżenta lill-

bastiment jitqies li jkun ġie debitament riċevut u notifikat jekk jintbaghat bil-posta reġistrata lill-ahħar indirizz tas-sid reġistrat mar-reġistratur.”.

5. L-artikolu 3 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 3 ta' l-Att prinċipali.

(a) fis-subartikolu (1) tiegħu, minnufih wara l-kliem “eżentat mir-reġistrazzjoni” għandhom jidhlu l-kliem “jew bastiment li għalih jirreferi is-subartikolu (7) ta' dan l-artikolu;

(b) fis-subartikolu (2) tiegħu, minflok il-kliem “piż ta' mhux iżjed minn hmistax-il tunnellata netta” għandhom jidhlu l-kliem “tul ta' mhux iżjed minn erbgħa u għoxrin metru”; u

(c) minnufih wara s-subartikolu (2) tiegħu għandhom jiżdiedu s-subartikoli ġodda li ġejjin:

“(3) Ikun jista' jiġi reġistrat kull bastiment li jkun qiegħed jinbena jew jitgħammar u li meta jinbena jew jitgħammar ikun bastiment li jkun jista' jiġi reġistrat taht dan l-Att.

(4) Waqt li jkun qiegħed jitlesta l-bastiment jista' jiġi mogħti numru ufficijali u isem.

(5) Għall-finijiet ta' identifikazzjoni, is-sid ta' dak il-bastiment li jkun qiegħed jinbena jew jitgħammar għandu jidentifikah billi jiżboh in-numru ufficijali, l-isem u l-port ta' reġistrazzjoni fuq il-karina, u dawn id-dettalji għandhom jiġu riprodotti fuq ġenb il-bastiment u eventwalment fuq il-poppa, skond kif ikun possibbli minn żmien għal żmien u qabel dan ta' hawn fuq ikun possibbli is-sid għandu jidentifikah billi jiżboh fuq tabella, miżmuma qrib il-post fit-tarznar tal-bennej fejn il-bastiment ikun qiegħed jinbena, in-numru assenjat, l-isem u l-port ta' reġistrazzjoni, fuq sfond skur, f'figuri u ittri bojod jew sofor ta' tul ta' mhux anqas minn għaxar centimetri.

(6) Il-htigiet ta' dan l-Att li għandhom x'jaqsmu ma' l-ispezzjon u s-sigurtà ta' bastimenti diġa' mibnija għandhom iġu sospiżi sakemm titlesta l-kostruzzjoni jew it-tagħmir tal-bastiment.

(7) Minkejja kull dispożizzjoni oħra ta' dan l-Att, bastimenti ta' anqas minn sitt metri tul, ma jkunux reġistrabbli taht dan l-Att.”.

6. Wara s-subartikolu (2) ta' l-artikolu 4 ta' l-Att prinċipali, għandu jiżdied is-subartikolu ġdid li ġej:

Emenda ta' l-artikolu 4 ta' l-Att prinċipali.

“(3) Għall-finijiet tal-paragrafu (b) tas-subartikolu (1) ta' dan l-artikolu, il-Ministru jista', permezz ta' regolamenti, jistabbilixxi dawk il-kondizzjonijiet oħra li huwa jista' jqis spedjenti sabiex tiġi assigurata l-applikazzjoni xierqa ta' dan l-Att, u l-harsien kif imiss tal-liġijiet ta' Malta dwar il-bastimenti merkantili.”.

Emenda ta' l-artikolu 5 ta' l-Att prinċipali.

7. Il-kliem “iċ-ċertifikat tar-registrazzjoni” fl-artikolu 5 ta' l-Att prinċipali għandhom jithassru u minflokhom għandhom jidhlu l-kliem “kull ċertifikat tar-registrazzjoni mahruġ taht l-artikolu 19 ta' dan l-Att.”.

Emenda ta' l-artikolu 7 ta' l-Att prinċipali.

8. L-artikolu 7 ta' l-Att prinċipali għandu jithassar u minflok għandu jidhol l-artikolu ġdid li ġejj:

“Hlas ta' drittijiet.

7. (1) Id-dritt dovut għall-ewwel registrazzjoni u d-dritt ta' kull sena għal sena waħda għandhom jithallsu qabel ma l-bastiment jiġi registrat, u ebda ċertifikat ta' registrazzjoni kif deskritt fl-artikolu 19 ta' dan l-Att ma għandu jinhareġ dwar bastiment kemm-il darba ma jkunux thallsu d-drittijiet imsemmija dwar il-bastiment.

(2) Minn dak in-nhar 'il quddiem, id-dritt għandu jithallas fl-anniversarju tar-registrazzjoni inizjali.

(3) Minkejja li bastiment jibqa' fuq ir-registru taht dan l-Att, ma jithallsu ebda drittijiet tar-registrazzjoni kemm-il darba u sakemm ma jkunux inhareġ ċertifikat taht dan l-Att:

Iżda f'ebda każ ma jista' jinhareġ ċertifikat minn data wara d-data ta' skadenza ta' l-aħhar ċertifikat validu u jekk iċ-ċertifikat jiġi konsenjat f'data wara, id-drittijiet dovuti jibqgħu jakkumulaw mid-data ta' skadenza ta' l-aħhar ċertifikat validu.

(4) Id-drittijiet speċifikati fis-subartikolu (1) ta' dan l-artikolu jithallsu fuq il-baži ta' tunnellaġġ dikjarat minn sid il-bastiment fuq l-applikazzjoni għar-registrazzjoni u daww id-drittijiet jiġu aġġustati skond it-tunnellaġġ speċifikat fiċ-ċertifikat tas-*surveyor* mahruġ skond l-artikolu 14 ta' dan l-Att meta dak iċ-ċertifikat jasal għand ir-registratur.

(5) Id-drittijiet ta' l-ewwel registrazzjoni u d-drittijiet ta' kull sena ma jkunux sugġetti għal tnaqqis jew għoti lura hlief kif provdut f'dan l-Att, jew skond regolamenti li jistgħu isiru mill-Ministru.”.

Thassir u sostituzzjoni ta' l-artikoli 9 sa 16 ta' l-Att prinċipali.

9. L-artikoli 9 sa 16, it-tnejn inklużi, ta' l-Att prinċipali, għandhom jithassru u minflokhom għandhom jidhlu l-artikoli ġodda li ġejjin:

“Nuqqas tal-hlas ta' drittijiet.

9. Registratur ikun intitolat li jitlob il-hlas ta' drittijiet mhux imhallsa, *charges* jew pieni dovuti taht dan l-Att qabel id-dokumentazzjoni ta' xi transazzjoni fir-registru ta' bastiment jew qabel l-għoti ta' xi servizzi f'konnessjoni ma bastiment:

Iżda li f'kull każ kull kreditur ipotekarju registrat ikun dejjem intitolat, mal-hlas ta' dak id-dritt kif jista' jiġi preskritt, għal xhieda dokumentarja uffiċjali dwar l-*istatus* ta' l-ipoteka navali tiegħu fir-registru ta' xi bastiment,

Proċedura għar-registrazzjoni

Applikazzjoni għal registrazzjoni.

10. Applikazzjoni għar-registrazzjoni ta' bastiment, sew proviżorja sew xort'ohra, għandu jkun fiha dik l-informazzjoni u dawk id-dettalji kif jista' jitlob ir-registratur, u għandha ssir, fil-każ ta' individwi mill-persuna li tkun qed titlob li tiġi registrata bhala s-sid jew minn wahda jew iktar mill-persuni li jkunu hekk qed jitolbu jekk ikun hemm iktar minn persuna wahda, jew mill-mandatarju tagħha jew tagħhom, u fil-każ ta' għaqdiet ta' persuni mill-mandatarju tagħhom; u l-awtorità tal-mandatarju għandha tkun dikjarata bil-miktub, jekk ikun nominat minn individwi bil-firma tal-mandanti, u, jekk nominat minn għaqda ta' persuni bil-firma ta' persuna jew persuni awtorizzati li jawtentikaw dokumenti għall-għaqda ta' persuni.

Dikjarazzjoni ta' proprjetà.

11. Persuna ma jkollhiex dritt li tiġi registrata bhala sid ta' bastiment jew ta' interess fih kemm-il darba hi, jew fil-każ ta' għaqda ta' persuni l-persuna awtorizzata b'dan l-Att li tagħmel dikjarazzjonijiet f'isem l-għaqda ta' persuni, ma tkunx għamlet u iffirmit dikjarazzjoni ta' proprjetà dwar il-bastiment kif deskritt fl-applikazzjoni msemmija fl-artikolu 10 ta' dan l-Att u li jkun fiha l-partikolaritajiet li ġejjin:

(a) dikjarazzjoni tal-kwalifika tagħha li tista' tkun sid ta' bastiment Malti jew, fil-każ ta' għaqda ta' persuni, dikjarazzjoni taċ-ċirkostanzi li jippruvaw li tista' tkun sid ta' bastiment Malti;

(b) dikjarazzjoni dwar iż-żmien meta u l-post fejn inbena l-bastiment jew, jekk dawn ma jkunux magħrufa, dikjarazzjoni li min qed jagħmel id-dikjarazzjoni ma jafx iż-żmien meta u l-post fejn inbena;

(ċ) dikjarazzjoni ta' l-isem u taċ-ċittadinanza tal-kaptan, fejn applikabbli;

(d) dikjarazzjoni ta' kemm hi jew l-għaqda ta' persuni, skond il-każ, għandhom dritt jiġu registrati bhala sid;

(e) dikjarazzjoni li skond l-aħjar tagħrif u twemmin tagħha ebda persuna jew għaqda ta' persuni li ma jistgħux ikunu sidien ta' bastiment Malti ma hi intitolata bhala sid f'xi interess fil-bastiment jew f'xi sehem minnu; u

(f) dikjarazzjoni dwar liema pizijiet registrati, jekk ikun hemm, jeżistu fuq il-bastiment.

Registrazzjoni proviżorja.

12. Meta jirċievi applikazzjoni għar-registrazzjoni, sew proviżorja sew xort'ohra, magħmula skond l-artikolu 10 ta' dan l-Att u li jkollha magħha dikjarazzjoni ta' proprjetà kif meħtieġ bl-artikolu 11 ta' dan l-Att, u mal-ħlas tad-drittijiet speċifikati f'dan l-Att jew f'xi regolament magħmul tahtu,

ir-registratur jista' proviżorjament jirregistra l-bastiment bhala bastiment Malti għal sitt xhur basta min japplika għar-registrazzjoni jkun ta prova li tissodisfa lill-Ministru li:—

(a) l-bastiment ikun jew bastiment fi stat ta' kostruzzjoni jew tagħmir, jew jekk ikun mibni diġa' ikun jista' jbaħħar; u

(b) fejn ikun meħtieġ is-sid registrat ikun issodisfa dawk il-kondizzjonijiet li jistgħu jiġu stabbiliti skond id-dispożizzjonijiet tas-subartikolu (3) ta' l-artikolu 4 ta' dan l-Att:

Izda r-registratur jista', meta jiġi muri raġuni tajba, iġedded ir-registrazzjoni proviżorja ta' bastiment għal perijodu ieħor ta', jew perijodi oħra li flimkien ma jagħmlux aktar minn sitt xhur.

Dokumenti
u provi
wara r-regis-
trazzjoni
proviżorja.

13. (1) Fi żmien xahar mir-registrazzjoni proviżorja, li tista' tiġi estiża għal perijodu ieħor ta' xahar fuq raġuni tajba, is-sid għandu, kemm-il darba l-bastiment ma jkunx xort'oħra eżentat, jipprezenta lir-registratur dawn id-dokumenti u provi li ġejjin:

(a) ċertifikat tal-bennej, jiġifieri ċertifikat iffirmit minn min bena l-bastiment (liema espressjoni tinkludi lil dik il-persuna li r-Registratur-Ġenerali jagħraf bhala li għandha n-negozju tal-bini ta' bastimenti) u li jkun fih tagħrif veru dwar id-denominazzjoni xierqa u tat-tunellaġġ tal-bastiment kif stmat minnu, u dwar iż-żmien meta u l-post fejn inbena, u dwar l-isem tal-persuna (jekk ikun hemm) li għaliha nbena l-bastiment jew, jekk ikun sar xi bejgħ, l-att tal-bejgħ jew dokument ieħor li bis-saħħa tiegħu il-bastiment jew sehem fih ġie trasferit lil min japplika għar-registrazzjoni;

(b) prova sodisfaċenti lir-registratur, jew skond kif jista' jiġi preskritt mill-Ministru, li xi ċertifikat barrani tar-registrazzjoni tal-bastiment, jew dokumenti ekwivalenti, ikun ġie legalment kanċellat jew li r-registrazzjoni tkun ġiet debitament magħluqa;

Izda l-Ministru jista, f'dawk iċ-ċirkostanzi li huwa jista' jqis xierqa, jordna li ebda ċertifikat tali ma jkun meħtieġ meta, sussegwentement għal ordni tal-qorti f'Malta b'bejgħ b'irkant tal-bastiment, jew xi ordni oħra ta' dik il-qorti, is-sid ikun ipprova jikseb dak iċ-ċertifikat iżda minhabba raġunijiet li ma kellux kontroll fuqhom ikun sar dewmien żejjed. Il-Ministru jista' jagħti kull direttiva dwar il-prezentazzjoni ta' dawk id-dokumenti l-oħra li huwa jqis xierqa;

(c) provi li l-isem tal-bastiment, in-numru uffiċjali tiegħu u l-port tar-registrazzjoni tiegħu ikunu ġew markati kif provduti fl-artikolu 15 ta' dan l-Att; u

(d) prova, a sodisfazzjon tar-registratur, dwar l-istat ta' pizijiet fuq il-bastiment.

(2) Fi żmien sitt xhur mir-registrazzjoni proviżorja, li tista' tiġi estiża għal perijodu ieħor ta' tliet xhur fuq raġuni tajba, is-sid għandu, kemm-il darba l-bastiment ma jkunx xort'ohra eżentat, jippreżenta lir-registratur dawn id-dokumenti u provi li ġejjin:

(a) lista ta' l-ekwipaġġ iffirmata mill-kaptan tal-bastiment u ittimbrata jew iffirmata mill-awtoritajiet tal-port ta' destinazzjoni;

(b) kopji ċertifikati taċ-ċertifikati ta' kompetenza ta' kull uffiċjal li jkun qed iservi fuq il-bastiment; ir-registratur jista' jkun irid li daww iċ-ċertifikati jiġu tradotti fl-ilsien Inġliż minn persuna kompetenti;

(ċ) kopji taċ-ċertifikati tas-sigurta' u tas-sinjali tat-tagħbija tal-bastiment mahruġa minn *surveyor* tal-bastimenti;

(d) ċertifikat tal-kejl tat-tunnellaġġ u ċertifikat ta' spezzjon mahruġa skond l-artikolu 14 ta' dan l-Att; u

(e) nota ta' inċiżjoni u markar mahruġa skond l-artikolu 15 ta' dan l-Att.

Spezzjon u kejl ta' bastiment.

14. (1) Qabel ma jiġi registrat, kull bastiment għandu jiġi spezzjonat minn *surveyor* tal-bastimenti u t-tunnellaġġ tiegħu jiġi stabbilit skond ir-regolamenti dwar it-tunnellaġġ skond dan l-Att.

(2) Is-*surveyor* għandu fiċ-ċertifikat tiegħu jispeċifika t-tunnellaġġ u kif hu mibni l-bastiment u daww il-partikolaritajiet l-oħra li jiddeskrivu l-identita' tal-bastiment li l-Ministru jista' minn żmien għal żmien jehtieg, u għandu jiċċertifika li t-tunnellaġġ ikun ġie stabbilit skond ir-regolamenti dwar it-tunnellaġġ ta' dan l-Att.

(3) Iċ-ċertifikat tas-*surveyor* u kopja taċ-ċertifikat ta' tunnellaġġ għandhom jiġu konsenjati lir-registratur qabel ir-registrazzjoni.

Markar ta' bastiment

15. (1) Qabel ma jiġi registrat, kull bastiment għandu jkun markat permanentement u b'mod li jidher għas-sodisfazzjon tar-registratur kif ġej:

(a) l-isem tiegħu għandu jkun markat fuq kull naħa tal-pruwa u l-isem tiegħu u l-isem tal-port ta' ritorn għandhom ikunu markati fuq il-poppa, fuq sfond skur b'ittri bojod jew sofor jew fuq sfond ċar b'ittri suwed, liema ittri għandhom ikunu ta' tul ta' mhux inqas minn għaxar ċentimetri u ta' wisgħa proporzjonata;

(b) in-numru uffiċċjali tiegħu u n-numru li juri t-tunnellaġġ registrat tiegħu għandhom ikunu inċiżi fuq il-prim tiegħu; u

(ċ) skala ta' piedi jew decimetri li turi l-għoli ta' l-ilma meħtieġ biex il-bastiment iżomm fil-wiċċ għandha tkun markata fuq kull naħa taz-zokk tiegħu u fuq *l-istern post* tiegħu b'ittri kapitali Rumani jew figuri ta' mhux inqas min hmistax-il ċentimetru tul, u li l-linja ta' isfel ta' dawk l-ittri jew figuri taħbat sewwa sew mal-linja ta' l-għoli ta' l-ilma indikata bihom, u dawk l-ittri jew figuri għandhom ikunu markati billi jiġu inċiżi u miżbugħin bojod jew sofor fuq sfond iswed jew b'dak il-mod l-iehor kif il-Ministru japprova.

(2) Il-Ministru jista' jeżenta kwalunkwe klassi ta' bastimenti mill-htigiet kollha jew minn uhud mill-htigiet ta' dan l-artikolu taħt dawk il-kondizzjonijiet li jidhirlu xierqa.

(3) Jekk l-iskala li turi l-għoli ta' l-ilma meħtieġ biex il-bastiment iżomm fil-wiċċ tkun f'xi dettall mhux eżatta hekk li x'aktarx tqarra, is-sid tal-bastiment jista' jehel multa ta' mhux iżjed minn mitt lira.

(4) Il-marki meħtieġa b'dan l-artikolu għandhom jithallew permanentement u ebda tibdil ma jista' jsir fihom hliet fil-każ li xi haġa mill-partikolaritajiet muriġa bihom ma tkunx tbiddlet bil-mod provdut b'dan l-Att.

(5) Jekk xi sid jew kaptan ta' bastiment reġistrat ma jiehux hsieb li l-bastiment tiegħu jibqa' markat kif meħtieġ b'dan l-artikolu, jew jekk xi persuna taħbi, tneħhi, tibdel jew thassar, jew thalli lill xi persuna taħt il-kontroll tagħha li taħbi, tneħhi, tibdel jew thassar xi waħda mill-imsemmija marki, hliet fil-każ imsemmi qabel, jew hliet sabiex jiġi evitat il-qbid minn għadu, dak is-sid, il-kaptan jew dik il-persuna jistgħu jehlu għal kull reat multa ta' mhux inqas minn mitt lira, u fuq ċertifikat ta' *surveyor* ta' bastimenti li bastiment ma jkunx markat biżżejjed jew kif imiss, il-bastiment jista' jiġi detenut sakemm dak in-nuqqas jiġi rimedjat.

Tharis
tal-htigiet
ta' dan
l-Att.

16. (1) Il-bastimenti kollha reġistrati proviżorjament taħt dan l-Att għandhom iharsu, hliet fejn ikunu espressament eżentati, il-htigiet ta' dan l-Att fiż-żminijiet speċifikati f'dan l-Att, u f'kull każ, fi żmien massimu ta' tnax-il xahar mid-data tar-reġistrazzjoni proviżorja u minn hemm 'il quddiem għandhom josservaw dawk il-htigiet imniżzla fl-Att jew f'xi regolamenti magħmulha tahtu.

(2) Kull persuna li tonqos li tosserva l-htigiet ta' dan l-Att fil-limiti ta' żmien speċifikati f'avviż bil-miktub notifikat mir-reġistratur lis-sid, tista' tehel penali ta' hamsin lira fix-xahar jew parti minnu għal kull ksur u kull bastiment li ma jharix il-htigiet ta' reġistrazzjoni proviżorja fi żmien massimu ta' tnax-il xahar jista' jehel penali ta' mitejn lira fix-xahar jew parti minnu u f'dawn il-każijiet ir-reġistratur jista' jiehu passi biex jikkancella dak il-bastiment skond dan l-Att.

(3) Ir-registratur ma jistax jirregistra mill-ġdid xi bastiment, proviżorjament jew xort'ohra, qabel il-hlas tal-penali kollha li jkunu ġġarrbu qabel u kemm-il darba ma tinghatax prova sodisfaċenti għar-registratur li l-bastiment kien ġie registrat f'registru barrani il-penali għall-perijodu intervenjenti għandhom jingabru wkoll.

(4) Ikun l-obliġu tas-sid matul il-perijodu kollu tar-registrazzjoni, kemm jekk din tkun proviżorja jew xort'ohra, li javża lir-registratur wara xi tibdil, li sata' jkun ġara fil-perijodu intervenjenti mir-registrazzjoni l-quddiem, fit-tagħrif li jkun hemm f'xi ċertifikat u prova preżentati qabel ir-registrazzjoni.

(5) Ir-registratur ma għandux għal aktar minn darbtejn fuq xulxin jirregistra bastiment proviżorjament f'isem l-istess sid.”.

10. L-artikolu 17 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 17 ta' l-Att prinċipali.

(a) wara l-kliem “qabel ir-registrazzjoni” għandhom jidhlu l-kliem, “sew jekk proviżorju sew xort'ohra,”;

(b) minnufih wara l-kliem “fiċ-ċertifikat tas-*surveyor*” fil-paragrafu (b) tiegħu għandhom jiżdiedu l-kliem “fejn applikabbli”; u

(ċ) minnufih wara l-paragrafu (d) tiegħu għandu jiżdied il-paragrafu ġdid li ġej:

“(e) xi piżijiet registrati li jistgħu ikunu ġew għall-konozzenza tar-registratur.”.

11. L-artikolu 19 ta' l-Att prinċipali għandu jithassar u minflok għandu jidhol l-artikolu ġdid li ġej:

Emenda ta' l-artikolu 19 ta' l-Att prinċipali.

“Ċertifikat tar-registrazzjoni proviżorja jew xorta'ohra.

19. (1) Meta titlesta r-registrazzjoni proviżorja ta' bastiment ir-registratur għandu, bla hsara għal dawk il-kondizzjonijiet li huwa jista' jqis xierqa, jagħti ċertifikat proviżorju ta' registrazzjoni:

Iżda, kemm-il darba ma jkunx eżentat, jekk il-bastiment ma jkollux ċertifikati validi dwar is-sigurta' u l-linja tat-tagħbija u dawk iċ-ċertifikati l-oħra li l-Ministru jista' b'regolamenti jippreskrivi, ir-registratur jagħti ċertifikat proviżorju mhux operattiv.

Iżda wkoll kemm-il darba l-htigiet għar-registrazzjoni ma jkunux tlestew, ir-registratur joħroġ ukoll ċertifikat proviżorju mhux operattiv għal xi bastiment qiegħed li jikkwalifika għal trattament speċjali taħt dan l-Att, jew għal bastiment li jkun qed jiġi rmunkat.

(2) meta titlesta r-registrazzjoni ta' bastiment ir-registratur jagħti ċertifikat tar-registrazzjoni:

Iżda, kemm-il darba ma jkunx eżentat xort'ohra, jekk il-bastiment ma jkollux ċertifikati validi dwar is-sigurta' u l-linja tat-tagħbija u dawk iċ-ċertifikati ohra li l-Ministru jista' b'regolamenti jippreskrivi, ir-registratur johroġ ċertifikat tar-registrazzjoni mhux-operattiv:

Iżda wkoll jekk il-htigiet tar-registrazzjoni ikunu tlestew ir-registratur johroġ ukoll ċertifikat mhux operattiv għal kull bastiment qieghed li jikkwalifika għal trattament speċjali taht dan l-Att, jew għal bastiment li jkun qieghed jiġi rmunkat.

(3) Il-perijodu tal-validità ta' ċertifikat tar-registrazzjoni ikun kif ġej:

(a) jekk jinhareġ fi żmien l-ewwel tnax-il xahar tar-registrazzjoni provizorja għall-bqija tal-perijodu ta' l-imsemmija tnax-il xahar; jew

(b) jekk mahruġ f'għeluq l-ewwel tnax-il xahar għal perijodu ta' tnax-il xahar:

Iżda r-registratur, fuq talba tas-sid u mal-hlas tad-dritt annwali relattiv, jista' johroġ ċertifikat ta' regjistrazzjoni għal perijodu kombinat taż-żewġ perjodi msemmija fil-paragrafi (a) u (b) hawnhekk, b'dana illi d-dritt speċifikat għal perijodu sussegwenti ta' tnax-il xahar ikunu mrodda lura jekk ir-registru tal-bastiment ikun magħluq qabel il-bidu ta' dak il-perijodu;

skond kif jista' jistabbilixxi s-sid mal-hlas tad-drittijiet għall-bastiment.

(4) Wara dan, iċ-ċertifikati ta' regjistrazzjoni jinharġu għal perijodu ta' tnax-il xahar b'dana illi fil-perijodu ta' tlett xhur qabel ma jagħlaq dak iċ-ċertifikat, ir-registratur mal-hlas tad-dritt annwali, għandu johroġ ċertifikat ta' t'gdid fuq il-formola preskritta.

(5) Ma jista' jinhareġ ebda ċertifikat, hlief f'każijiet ta' telfien jew distruzzjoni ta' ċertifikat, hlief meta jiġi ritornat iċ-ċertifikat li dak iż-żmien ikun qed jinżamm mis-sid jew fid-deskrizzjoni tar-registratur, meta s-sid jintrabat li jirritorna iċ-ċertifikat fi żmien massimu ta' xahar.

(6) Ċertifikat tar-registrazzjoni, sew provizorju sew xort'ohra, mahruġ lil bastiment skond id-dispożizzjonijiet ta' dan l-artikolu, jista' jinhareġ bla hsara għal dawk il-kundizzjonijiet li r-registratur jista' jqis xierqa u għandu jinkludi l-partikolaritajiet tal-bastiment imnizzla fir-registru li juru l-port tal-Belt Valletta bhala port tiegħu.

(7) Għall-finijiet ta' dan l-artikolu, bastiment qieghed ikun jikkwalifika għal trattament speċjali taht dan l-Att jew xi regolamenti magħmula tahtu jekk —

(a) is-sid registrat jagħmel dikjarazzjoni fis-sens li l-bastiment ikun qiegħed u jkun se jibqa' mqiegħed għal perijodu ta' mhux inqas minn tnax il-xahar; u

(b) tingħata prova sodisfaċenti lir-registratur li l-bastiment ikun qiegħed u li tiċċertifika l-post fejn il-bastiment ikun qiegħed;

Iżda jekk l-bastiment jiġi ri-attivat fi żmien sitt xhur mid-data tad-dikjarazzjoni speċifikata fil-paragrafu (a) ta' hawnhekk, il-bastiment jitqies li ma jkunx ġie qiegħed, u d-drittijiet li jithallsu skond l-artikolu 7 ta' dan l-Att isiru dovuti kollha kemm huma mid-data tad-dikjarazzjoni:

Iżda wkoll jekk il-bastiment jiġi ri-attivat wara li jkunu għaddew sitt xhur mid-data tad-dikjarazzjoni speċifikata fil-paragrafu (a) ta' hawnhekk id-drittijiet li jithallsu taht l-artikolu 7 ta' dan l-Att jithallsu mill-għeluq ta' l-ewwel sitt xhur:

Iżda wkoll meta dikjarazzjoni speċifikata fil-paragrafu (a) ta' hawnhekk issir f'data wara li jkun imissu jithallas id-dritt ta' kull sena, id-differenza fid-drittijiet li kienu jithallsu kieku id-dikjarazzjoni saret fi jew qabel id-data li fiha jkun imissu jithallas id-dritt ta' kull sena, titnaqqas biss mal-hlas tad-dritt ta' kull sena li jkun imiss.”.

12. L-artikoli 20, 21, 22 u 23 ta' l-Att prinċipali għandhom jiġu emendati kif ġej:

Emenda ta' l-artikoli 20, 21, 22 u 23 ta' l-Att prinċipali.

(a) fl-artikoli 20, 21, 22 u 23 ta' l-Att prinċipali, kull fejn hemm il-kliem “iċ-ċertifikat” u “ċertifikat” dawn għandhom jithassru u minflokhom għandhom jidhlu il-kliem “kull ċertifikat”;

(b) is-subartikoli (2) u (3) ta' l-artikolu 23 għandhom jithassru.

13. L-artikolu 24 ta' l-Att prinċipali għandu jithassar.

Thassir ta' l-artikolu 24 ta' l-Att prinċipali.

14. L-artikolu 25 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 25 ta' l-Att prinċipali.

(a) is-subartikolu (1) għandu jithassar u minflok għandu jidhol is-subartikolu ġdid li ġej:

“(1) Kull meta ssir xi bidla dwar il-propretarji registrati ta' bastiment, il-bidla dwar il-proprjeta' għandha tiġi mniżżla f'kull ċertifikat ta' registrazzjoni tal-bastiment.”;

(b) il-kliem “iċ-ċertifikat ta’ registrazzjoni” fis-subartikoli (2), (3) u (4) tiegħu għandhom jithassru u minflokhom għandhom jidhlu l-kliem “kull ċertifikat ta’ registrazzjoni”; u

(ċ) fis-subartikolu (3) tiegħu il-kliem “f’kull port, li ma jkunx il-port li fih il-bastiment ikun ġie registrat,” għandhom jithassru.

Emenda ta’
l-artikolu 26
ta’ l-att
prinċipali.

15. L-artikolu 26 ta’ l-Att prinċipali għandu jiġi emendat kif ġej:

(a) minnufih wara l-kliem “li bastiment registrat” fis-subartikolu (1) tiegħu għandhom jidhlu l-kliem “, sew proviżorjament sew xort’ohra,”; u

(b) is-subartikoli (2), (3) u (4) tiegħu għandhom jithassru u minflokhom għandu jidhol is-subartikolu ġdid li ġej:

“(2) F’kull każ bħal dan, hlief meta ċ-ċertifikat proviżorju jew ċertifikat iehor ta’ registrazzjoni tal-bastiment ikun mitluf jew distrutt, il-kaptan jew sid tal-bastiment għandu fi żmien erbat ijiem mindu jiġri dak jikkonsenja lir-registratur dawk iċ-ċertifikati u jekk is-sid jew kaptan jonqos, minghajr raġuni xierqa, li jħares id-dispożizzjonijiet ta’ dan l-artikolu, huwa jista’ jehel għal kull reat multa’ ta mhux iżjed minn mitt lira.”.

Thassir u
sostituzzjoni
ta’ l-artikoli
27 sa 31 ta’
l-Att prinċipali.

16. L-artikolu 27 sa l-artikolu 31, it-tnejn inklużi, ta’ l-Att prinċipali għandhom jithassru u minflokhom għandhom jidhlu l-artikoli ġodda li ġejjin:

“Validità
ta’ ċertifikati
proviżorji u
ċertifikati
ohra ta’
regis-
trazzjoni.

27. (1) Ċertifikat ma jibqax jiswa:

(a) fl-iskadenza tad-data tal-validità tiegħu;

(b) meta ċertifikat jiġi sostitwit b’ċertifikat iehor maħruġ skond id-dispożizzjonijiet ta’ dan l-Att; jew

(ċ) meta tinghalaq ir-registrazzjoni skond id-dispożizzjonijiet ta’ dan l-Att.

(2) Ir-registratur għandu jagħmel notament fir-registru dwar it-tip ta’ ċertifikat maħruġ lill-bastiment u d-data ta’ skadenza tiegħu.

(3) Meta ċertifikat ma jibqax jiswa is-sid jew kaptan għandu minnufh jgħaddi dan iċ-ċertifikat lir-registratur mhux aktar tard minn xahar minn meta jiskadi.

(4) Kull min , kif intqal qabel, jonqos minghajr raġuni xierqa li jikkonsenja ċ-ċertifikat kif meħtieġ b’dan l-artikolu, jista’ jehel multa ta’ mhux iżjed minn mitt lira.

Gheluq ta' Registrazzjoni

28. (1) Meta s-sid ta' bastiment Malti jkun jixtieq jaghlaq ir-registrazzjoni ta' bastiment ghandu jaghmel talba f'dak is-sens lir-registratur, li fiha jaghti dawk il-partikolaritajiet u informazzjoni kollha li r-registratur jista' jitlob ghal dak il-ghan.

Gheluq
volontarju
ta' regist-
razzjoni.

(2) Kull talba bhal dik maghmula u msahha kif intqal qabel tintlaqa' jekk —

(a) id-dejn kollu u l-obbligazzjonijiet kollha dwar il-bastiment lejn ir-Repubblika ta' Malta, sew ghad-drittijiet, *charges*, multi jew hwejjeġ oħra jkunu thallsu; u

(b) il-kunsens bil-miktub tal-kredituri ipotekarji kollha li l-ipoteka navali taghhom hija registrata kif imiss dwar il-bastiment jiġi prezentat lir-registratur.

(3) Meta xi applikazzjoni bhal dik tiġi milqugħa r-registratur ghandu jniżżel dak il-fatt fir-registru u malli dan isir il-bastiment ma jibqax bastiment Malti u r-registrazzjoni tal-bastiment titqies bhala maghluqa hliet safejn tirreferi għal xi ipoteki navali jew privileġġi mhux issodisfati mniżżla fiha.

29. (1) Il-Ministru jista' jordna li bastiment ma jibqax ikun registrat f'dawn il-każijiet li ġejjin:

Setgħa tal-
Ministru li
jordna l-
gheluq ta'
regis-
trazzjoni.

(a) jekk id-dritt ta' kull sena ma jkunx ġie mħallas kif imiss skond dan l-Att;

(b) jekk il-formalitajiet speċifikati fl-artikolu 13 ta' dan l-Att ma jkunux ġew imharsa fi żmien il-perijodi massimi speċifikati fih;

(c) jekk ikun fl-interess nazzjonali jew fl-interess tal-bastimenti Maltin u wara li jaghti lis-sidien tal-bastiment opportunità xierqa biex jagħtu l-osservazzjonijiet taghhom;

(d) jekk jiġri li bastiment registrat jiġi attwalment jew meqjus bhala mitluf, mehud mill-ghadu, mahruq jew imkisser, jew ma jibqax ikun bastiment Malti minhabba trasferiment lil persuni mhux kwalifikati li jipposjedu bastiment Malti jew minhabba xi raġuni oħra;

(e) jekk is-sid jonqos li josserva d-dispożizzjonijiet ta' dan l-Att;

(f) jekk jiġi stabbilit li l-bastiment ma jiġix jew ma jkunx jista' jiġi registrat taħt dan l-Att;

(g) jekk, fejn ikun mehtieg, xi kondizzjonijiet stabbiliti mill-Ministru skond is-subartikolu (3) ta' l-artikolu 4 ta' dan l-Att ma jgħux imħarsa għal perijodu ta' iżjed minn xahar;

(h) jekk is-sid jonqos li jhallas xi multa imposta skond dan l-Att jew xi penali fi żmien xahar minn meta jintalbu bil-miktub mir-registratur; jew

(i) jekk is-sid jonqos li jkollu fil-pussess tiegħu ċertifikat validu ta' registrazzjoni, sew proviżorju sew xort'oħra, għal perijodu ta' iżjed minn xahar.

(2) Qabel il-hruġ ta' xi ordni bħal dan, ir-registratur għandu jagħti avviż ta' xahar bil-miktub lis-sid registrat u lil kull kreditur ipotekarju registrat, dwar l-intenzjoni tiegħu li jirrakkomanda lill-Ministru biex jagħlaq ir-registru kemm-il darba l-kawża għal dak l-għeluq ma tiġix rimedjata. Ir-registratur għandu jispeċifika fl-avviż ir-raġuni ta' l-għeluq u d-data ta' skadenza għall-osservanza li fin-nuqqas jiġi ordnat l-għeluq.

(3) Mal-hruġ ta' xi avviż skond is-subartikolu (2) ta' dan l-artikolu, ir-registratur għandu jagħmel notament tiegħu fir-registru u għandu jiddokumenta d-data li fiha jiskadi l-perjodu ta' xahar.

(4) Ma' għeluq l-imsemmi xahar mill-ghoti ta' l-avviż u malli jirċievi l-ordni minghand il-Ministru, ir-registratur għandu jnizzel dan fir-registru u l-bastiment minnufih ma jibqax bastiment Malti u r-registrazzjoni tal-bastiment titqies bħala magħluqa hlief safejn tirriferi għal xi ipoteki navali u privileġġi mhux sodisfatti mnizzla fiha, u l-kredituri ipotekarji jkollhom id-dritt li jitolbu l-bejgħ immedjat tal-bastiment jew sehem fih bhallikieku d-debitur ma żammx mal-kundizzjonijiet kollha li tahtom ikun ingħata l-kreditu.

Certifikat ta' thassir.

30. (1) Meta r-registrazzjoni ta' bastiment, sew proviżorja sew xort'oħra, tkun giet magħluqa, ir-registratur għandu fuq talba tas-sid registrat, johroġ ċertifikat ta' thassir kemm-il darba jkunu thallsu d-drittijiet, *charges* u l-pieni kollha dovuti taht dan l-Att u, kull ċertifikat tar-registrazzjoni, sew proviżorju sew xort'oħra, ikun ingħata lura lir-registratur.

(2) Ir-registratur għandu jispeċifika fuq iċ-ċertifikat ta' thassir ir-raġuni ta' l-għeluq tar-registrazzjoni, u, meta r-registrazzjoni ta' bastiment, sew proviżorja sew xort'oħra, tkun ingħalqet bla hsara għal xi ipoteki jew privileġġi navali mhux sodisfatti mnizzla fiha, iċ-ċertifikat ta' thassir għandu jinkludi wkoll deskrizzjoni shiha ta' kull ipoteka jew privileġġ bħal dak, flimkien ma' dikjarazzjoni li r-registrazzjoni tkun ingħalqet bla hsara għal dawk l-ipoteki jew privileġġi.”.

17. Minnufh wara s-subartikolu (3) ta' l-artikolu 32 ta' l-Att prinċipali għandu jiżdied is-subartikolu ġdid li ġej:

Emenda ta' l-artikolu 32 ta' l-Att prinċipali.

“(4) Mar-registrazzjoni ta' trasferiment ta' bastiment registrat jew ta' sehem fih a favur ta' persuna kwalifikata biex tipposjedi bastiment Malti, ir-registratur għandu jinnotifika lid-detentur ta' xi ipoteka navali registrata f'dak is-sens.”.

18. L-artikolu 37 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 37 ta' l-Att prinċipali.

(a) minnufih wara l-kliem “b'dawk il-pattijiet u kondizzjonijiet li jidhrilha xierqa,” għandhom jidhlu l-kliem “maghduda, bla hsara għall-ġeneralità ta' hawn fuq, l-impożizzjoni ta' obbligu għall-provediment ta' garanzija xierqa, dwar danni, imgħax u spejjeż,”; u

(b) mad-dispożizzjoni eżistenti għandhom jiżdiedu dawn il-provisos li ġejjin:

“Izda jekk l-ordni jinhareġ biex jiġi garantit il-kreditu li jkun għadu ma ġiex ġudizjarjament verifikat, kemm-il darba l-proċedimenti dwar il-meriti tal-kreditu ma jkunux diġa pendenti, sew f'qorti Maltija jew xi qorti kompetenti ohra jew arbitraġġ, l-attur li jikseb dak l-ordni ikun obligat li jipproċedi għal dak il-kreditu, f'Malta jew f'xi ġurisdizzjoni kompetenti ohra jew f'arbitraġġ, fi żmien tmient ijiem tax-xogħol mill-hruġ ta' l-ordni u jekk jonqos li jagħmel dan, il-qorti, fuq talba tas-sid tal-bastiment, jew xi persuna ohra interessata, tirrevoka l-istess ordni:

Izda wkoll minkejja kull dispożizzjoni tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, ordni mogħti kif ingħad qabel ikun immedjatament esegwibbli sakemm il-Qorti ma tiddekreteax mod ieħor.”.

19. It-titolu “Ipoteki Navali” wara l-artikolu 37 ta' l-Att prinċipali, għandu jithassar u minflok għandu jidhol it-titolu ġdid “Privileġġi Marittmi u Ipoteki Navali”, u warajh għandhom jiżdiedu dawn l-artikoli ġodda li ġejjin:

Sostituzzjoni ta' titolu u żieda ta' artikoli ġodda 37A, 37B, 37C u 37D fl-Att prinċipali.

“Tifsira ta' bastimenti bhala garanzija għal dejn.

37A. (1) Bastimenti u bċejjeċ ohra tal-baħar jikkostitwixxu klassi partikolari ta' mobbli li bihom jiffurmaw assi separati u distinti fil-proprjetà tas-sidien tagħhom għall-garanzija ta' l-azzjonijiet u krediti li għalihom ikun suġġett il-bastiment. F'każ ta' falliment ta' sid ta' bastiment, l-azzjonijiet u l-krediti kollha, li għalihom ikun suġġett il-bastiment, għandhom, fuq l-istess bastiment, preferenza fuq id-djun l-ohra kollha tal-mara.

(2) Bastiment jinkludi flimkien mal-korp tal-bastimenti, it-tagħmir u l-makkinarju kollu u l-oġġetti l-ohra kollha li għandhom x'jaqsmu mal-bastiment jew aċċessorji li jkunu jappartjenu lill-bastiment, li jkunu abbord jew li jkunu ġew temporanjament tnehhew minnu.

Tipi ta' ipoteki fuq bastimenti.

37B. (1) Bastiment jista' jikkostitwixxi garanzija għal dejn jew obligazzjoni ohra jew bi ftehim jew bit-thaddim tal-liġi kif provdut hawnhekk iżjed 'il quddiem.

(2) Dejn jew obligazzjoni ohra jistghu jiġu garantiti —

(a) permezz ta' ipoteka navali li tkun ipoteka speċjali fuq bastimenti, jew

(b) b'ipoteka ġenerali li jolqtu fuq l-assi kollha tad-debitur, inklużi kull bastiment li jista' jkollu d-debitur, jew

(c) bi privileġġ speċjali fuq il-bastiment:

Izda l-privileġġi speċjali johorġu mill-liġi u ebda dejn jew obligazzjoni ohra hliet daww speċifikati fil-liġi ma għandhom jiġu garantiti bi privileġġ speċjali.

(3) Bla hsara għad-dispożizzjonijiet ta' l-artikolu 40 ta' dan l-Att, oġġetti separati fuq bastiment jistghu jkunu huma stess suġġetti għal privileġġi speċjali skond id-dispożizzjonijiet tal-Kodiċi Ċivili, bħala garanzija tad-djun speċifikati fih.

Preċedenza ta' krediti fuq vapuri fuq id-djun l-ohra kollha tas-sid.

37C (1) L-ipoteki navali registrati kollha, kull privileġġ speċjali u l-azzjonijiet u krediti kollha li jista' jkun suġġett għalihom bastiment ma jintlaqtux mill-falliment tad-debitur ipotekarju jew tas-sid tal-bastiment, li jiġri wara d-data li fiha tkun inholqot l-ipoteka navali jew il-privileġġ speċjali, l-azzjoni jew il-kreditu, minkejja l-fatt li s-sid fil-bidu tal-falliment kellu l-bastiment fil-pussess, taht l-ordni jew għad-dispożizzjoni tiegħu, jew kien magħruf bħala s-sid tiegħu, u dik l-ipoteka navali, privileġġ, azzjoni jew kreditu għandhom ikollhom preferenza, fuq l-imsemmi bastiment, fuq id-djun, krediti jew interessi l-ohra kollha ta' xi kreditur iehor tal-fallut jew ta' xi kuratur, *trustee* jew riċevitur li jaġixxi f'isem xi kredituri ohra.

(2) Xi proċedimenti ta' bejgħ bil-qorti istitwiti minn xi kreditur ipotekarju registrat jew kreditur privileġġat ma għandhomx jiġu interrotti jew b'xi mod imfexkla minn xi kuratur f'falliment, kemm volontarju kif ukoll obligatorju, jew minn xi stralċjarju jew riċevitur ta' sid il-bastiment għal kull kawża hliet kawża li tkun tista' tingieb mis-sid.

Sekwestru u kif jispiċċaw l-ipoteki.

37D (1) Ipoteka navali registrata tibqa tolqot bastiment jew sehem fih li dwaru tkun registrata sakemm tiġi mħallsa:

Izda meta l-bastiment jkun ġie konfiskat taht dan l-Att l-interess tal-kreditur ipotekarju fil-bastiment għandu jispiċċa jekk il-kreditur ipotekarju jkun awtorizzat, ikun ikkonsenta, jew ikkontribwixxa għall-att, nuqqas, jew omissjoni li bħala konsegwenza tagħha l-bastiment jiġi konfiskat:

Iżda wkoll, li meta bastiment ikun ġie mibjugħ wara ordni tal-qorti fil-bejgħ bl-irkant tal-bastiment, minn qorti kompetenti li fil-ġurisdiżzjoni tagħha l-bastiment kien fiż-żmien tal-bejgħ, l-interess tal-kredituri ipotekarji fil-bastiment jiġi mgħoddi għad-dhul mill-bejgħ tal-bastiment, u meta f'xi każ bħal dak ix-xerrej ma jkunx persuna li tkun kwalifikata li tippossjedi bastiment Malti, malli r-reġistratur isir jaf jew jiġi mgħarraf dwar dak il-fatt u malli jirċievi kopji tal-proċedimenti tal-bejgħ, iċċertifikati għas-sodisfazzjon tiegħu, huwa għandu jniżżel dan fir-reġistru u r-reġistru tal-bastiment jitqies bħala magħluq hlief safejn jirrigwardja xi ipoteki navali mhux issodisfati mniżżla fih.

(2) Kull ipoteka jew privileġġ sew generali, sew speċjali li għalihom jista' jkun suġġett bastiment taht id-dispożizzjonijiet tal-Kodiċi Ċivili ma jibqgħux jolqtu miegħu meta l-bastiment jiġi trasferit lil terzi.

(3) Bla ħsara għal kull kawża oħra li minhabba fiha tista' skond il-liġi tispiċċa obbligazzjoni, il-privileġġi speċjali msemmija fl-artikolu 50 ta' dan l-Att ma jispiċċawx mal-bejgħ tal-bastiment, hlief fil-każ ta' bejgħ b'irkant mill-qorti magħmul skond il-formi stabbiliti bil-liġi, jew meta, wara bejgħ volontarju jkun għadda perijodu ta' sena mid-data tar-reġistrazzjoni ta' dak il-bejgħ volontarju fir-reġistru li għalih il-bastiment jappartjeni, sakemm f'dak il-perijodu ta' sena ma tkunx inġiebet azzjoni quddiem qorti kompetenti biex tingabar is-somma garantita b'dak il-privileġġ.

Għall-finijiet ta' dan l-artikolu bastiment jitqies li jkun għamel vjaġġ:

(a) jekk ikun għadda xahar mit-tluq tiegħu minn port wiehed, u tkun ippruvata l-wasla tiegħu f'port ieħor;

(b) jekk ikunu għaddew aktar minn xahrejn bejn it-tluq tiegħu minn, u l-wasla tiegħu fi, l-istess port, għalkemm ma jkunx daħal f'xi port ieħor;

(ċ) jekk il-bastiment, li jkun bahħar fuq vjaġġ twil, kien ikun ilu fuq il-baħar għal aktar minn xahrejn, mingħajr ma jkun sar xi protest mill-kredituri tal-bejjiegħ:

Iżda kull protest tali jkun operattiv biss a favur tal-kreditur li jagħmlu.”.

20. L-artikolu 38 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 38 ta' l-Att prinċipali.

(a) id-dispożizzjoni preżenti għandha tiġi enumerata mill-ġdid bħala s-subartikolu (1) tiegħu;

(b) minnufih wara s-subartikolu (1) tiegħu kif enumerat mill-ġdid għandu jiżdied is-subartikolu ġdid li ġej:

“(2) Ipoteka navali tolqot ma' kull dhul minn xi inden-nizz li jinholoq minn kollizzjonijiet u disgrazzji oħra kif ukoll minn xi dhul mill-assigurazzjoni.”.

Emenda ta' l-artikolu 39 ta' l-Att prinċipali.

21. Minnufih wara s-subartikolu (2) ta' l-artikolu 39 ta' l-Att prinċipali, għandu jiżdied is-subartikolu ġdid li ġej:

“(3) Meta fid-dokument ta' l-ipoteka navali jkun dikjarat li jkun projbit li jinholqu aktar ipoteki navali fuq bastiment minghajr il-kunsens bil-miktub minn qabel tal-kreditur ipotekarju, ir-registratur għandu jagħmel notament fir-registru dwar hekk, u r-registratur ma għandux jiddokumenta dik l-ipoteka oħra kemm-il darba lilu ma jiġix ipprezentat il-kunsens bil-miktub tad-detentur ta' ipoteka navali preċedenti, u kull ipoteka navali registrata bi ksur ta' din id-dispożizzjoni tkun nulla u bla effett.”.

Thassir u sostituzzjoni ta' l-artikolu 40 ta' l-Att prinċipali.

22. L-artikolu 40 ta' l-Att prinċipali għandu jithassar u minfloku għandu jidhol l-artikolu ġdid li ġej:

“Konservazzjoni ta' privileġġi speċjali fuq aċċessorji ta' bastiment.

40. (1) Mar-registrazzjoni ta' xi ipoteka navali fir-registru d-drittijiet ta' xi kreditur ipotekarju ma jintlaqtux mir-n:

(a) il-holqien ta' xi privileġġ separat jew ipoteka fuq xi parti, oġġett li jkollu x'jaqsam ma', jew aċċessorju ta' bastiment li tista' tolqot bis-saħħa ta' xi liġi; jew

(b) it-tharis tad-drittijiet ta' proprjetà minn bejjiegħ ta' xi parti, oġġett li jkollu x'jaqsam ma' jew aċċessorju ta' bastiment mibjugħin lil sid ta' kuntratt ta' bejgħ *hire purchase* jew kuntratt simili:

Izda l-provizjon, *fuel* u oġġetti konsumabbli oħra ma jitqisux bħala oġġetti li għandhom x'jaqsmu mal-bastiment:

Izda wkoll id-dispożizzjonijiet ta' dan l-artikolu ma għandhom bl-ebda mod jippreġudikaw jew inaqqsu d-drittijiet ta' xi kreditur li jkun igawdi privileġġ jew li jkun qed jirriserva drittijiet tal-proprjetà fir-relazzjonijiet ma' xi kreditur li ma jkunx il-kreditur ipotekarju.

(2) F'kull żmien qabel ir-registrazzjoni ta' ipoteka navali fuq bastiment kull kreditur li jkollu privileġġ jew piż fuq xi parti, oġġett li jkollu x'jaqsam ma' jew aċċessorju ta' bastiment jista' jirreġistra dak il-privileġġ jew *charge* fir-registru tal-bastiment permezz ta' dokument magħmul mis-sid fil-preżenza ta' xhud fil-forma speċifikata mill-Ministru; u mal-produzzjoni ta' dak id-dokument ir-registratur għandu, b'*memorandum* iffirmat minnu jinnota fuq kull *charge* li dan ġie minnu hekk imniżżel u jgħid id-data u l-hin ta' dak in-notament.

(3) Bejjiegħ li jriserva drittijiet ta' proprjetà fuq xi parti, oġġett li jkollu x'jaqsam ma' bastiment, jew aċċessorju ta' bastiment jista' wkoll jirreġistra l-interess tiegħu fir-registru tal-bastiment f'kull żmien qabel ir-registrazzjoni ta' ipoteka navali.

(4) Ir-registrazzjoni ta' dak iċ-*charge* jew riserva ta' drittijiet tal-proprjetà qabel ir-registrazzjoni ta' ipoteka

navali tippriserva d-drittijiet tal-kreditur fuq dik il-parti, oġġett li jkollu x'jaqsam mal-bastiment jew aċċessorju f'relazzjoni għal xi kreditur ipotekarju sussegwenti.

(5) Privileġġ jew riserva ta' drittijiet ta' proprjetà reġistrati fuq bastiment taht is-subartikolu (2) ta' dan l-artikolu jiġu kanċellati meta s-sid juri riċevuta għall-prezz u spejjeż oħra li jkollhom x'jaqsmu mat-trasferiment ta' dik il-parti, oġġett li jkollu x'jaqsam mal-bastiment jew aċċessorju tal-bastiment, u r-reġistratur, mal-prezentazzjoni ta' dik l-irċevuta ffirmata u attestata għas-sodisfazzjon tiegħu, idahhal nota fir-reġistru li tgħid li l-privileġġ jew riserva ta' drittijiet ta' proprjetà jkunu ġew kanċellati.

(6) It-trasferiment ta' l-interess ta' xi kreditur li jkun igawdi privileġġ jew riserva ta' drittijiet ta' proprjetà reġistrati skond dan l-artikolu jista', jekk prova tiegħu tiġi pprezentata għas-sodisfazzjon tar-reġistratur, jiġi reġistrat mir-reġistratur fir-reġistru billi jdahhal fir-reġistru l-isem ta' min jakkwista u permezz ta' *memorandum* iffirmit minnu jagħti avviż fuq id-dokument ta' trasferiment illi jkun ġie reġistrat minnu.”.

23. L-artikolu 41 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) is-subartikolu (1) tiegħu għandu jithassar; u

(b) fis-subartikolu (2) tiegħu n-numru “(2)” u l-kliem “bla hsara tad-dispożizzjonijiet tal-paragrafu (5) ta' l-artikolu 51 ta' dan l-Att”, għandhom jithassru.

24. L-artikolu 42 ta' l-Att prinċipali għandu jiġi emendat kif ġej: Emenda ta' l-artikolu 42 ta' l-Att prinċipali.

(a) minnufih wara l-paragrafu (b) tas-subartikolu (1) tiegħu għandu jiżdied il-paragrafu ġdid li ġej:

“(c) ikollu s-setgħa li jitlob xi estensjonijiet, ihallas drittijiet, jircievi ċertifikati, u ġeneralment jagħmel dawk l-affarijiet kollha f'isem is-sid skond kif ikun mehtiegħ sabiex jinżammu l-*istatus* u l-validità tar-reġistrazzjoni tal-bastiment.”; u

(b) minnufih wara s-subartikolu (2) tiegħu għandhom jiżdiedu s-subartikoli ġodda li ġejjin:

“(3) Id-dispożizzjonijiet ta' dan l-artikolu għandhom japplikaw għal ipoteki navali reġistrati li jiggarrantixxu debiti li jirriżultaw minn kont kurrenti jew *overdraft* jew faċilità oħra ta' kreditu.

(4) In konnessjoni ma' l-esekuzzjoni ta' ipoteka navali, li ma tkunx ipoteka navali kkontemplata fis-subartikolu (2) ta' dan l-artikolu, biex jiġi determinat l-ammont ċert, likwidu u dovut in konnessjoni mal-bejgħ fl-irkant bil-qorti ta' bastiment il-kreditu ipotekarju għandu jispeċifika s-somma dovuta fiż-żmien ta' l-esekuzzjoni permezz ta' affidavit notifikat lid-debitur ipotekarju:

Iżda dan għandu jkun bla perġudizzju għad-dritt ta' kull parti interessata li tikkontesta dak l-ammont skond il-liġi.

(5) Għall-għanijiet tal-proċeduri msemmija f'dan l-artikolu id-debitur għandu jitqies li jkun notifikat sewwa jekk l-applikazzjoni jew att iehor jiġi notifikat lill-kaptan tal-bastiment, jew jekk dan ikun assenti minn dawn il-gżejjer, lill-aġent lokali mahtur għall-bastiment mis-sidien jew l-aġenti tagħhom, jew fin-nuqqas ta' dawk l-aġenti lokali fuq kuratur mahtur mill-Qorti biex jirrappreżenta lid-debitur u lill-bastiment.”.

Thassir ta' l-artikolu 43 ta' l-Att prinċipali.

25. L-artikolu 43 ta' l-Att prinċipali għandu jithassar.

Emenda ta' l-artikolu 45A ta' l-Att prinċipali.

26. Fit-test Ingliż tas-subartikolu (1) ta' l-artikolu 45A ta' l-Att prinċipali minflok il-kliem “together with the written consent of the said instrument,” għandhom jidhlu l-kliem “together with the written consent on the said instrument.”.

Thassir u sostituzzjoni ta' l-artikoli 48 sa 54A ta' l-Att prinċipali

27. L-artikoli 48 sa 54A, it-tnejn inklużi, ta' l-Att prinċipali għandhom jithassru u minflokhom għandhom jidhlu l-artikoli ġodda li ġejjin:

“Telf ta' l-Att originali ta' l-ipoteka navali.

48. (1) F'każ ta' telf ta' xi dokument ta' ipoteka navali reġistrat, ir-reġistratur għandu, fuq it-talba tal-kreditur ipotekarju waħdu, jew flimkien mad-debitur ipotekarju, jikkostitwixxi mill-ġdid l-ipoteka navali originali u jiċcertifika dan id-dokument bhala original ri-kostitwit tad-dokument ta' l-ipoteka navali. Ir-reġistratur għandhu jilqa' din it-talba biss mal-prezentazzjoni mill-parti li tagħmel it-talba ta' dikjarazzjoni mahlufa dwar il-fatt li l-original ikun intilef.

(2) F'każ bhal dan ir-reġistratur għandu jagħmel nota fir-reġistru li jkun inhareg dokument ta' ipoteka navali ri-kostitwit li fiha jgħid fuq it-talba ta' min tkun inharġet dik l-ipoteka navali ri-kostitwita.

(3) F'każ ta' telf ta' xi dokument originali ta' ipoteka navali, ir-reġistratur jista' jirreġistra kull trasferiment jew hlas ta' ipoteka navali jekk il-kreditur ipotekarju jippreżenta dikjarazzjoni mahlufa li huwa jkun id-detentur ta' l-ipoteka navali li d-dokument ikun intilef, u li huwa jkun qiegħed ihallas jew jitrasferixxi l-imsemmija garanzija bis-sahha tad-dikjarazzjoni mahlufa.

(4) F'każ bhal dak ir-reġistratur għandu, wara l-prezentazzjoni ta' l-imsemmija dikjarazzjoni mahlufa, jitratta dik id-dikjarazzjoni bhala d-dokument ta' l-ipoteka navali u jsegwi l-proċedura speċifikata f'dan l-Att għat-trasferiment jew hlas ta' ipoteka; ir-reġistratur għandu jdahhal fir-reġistru nota li tgħid li it-trasferiment jew hlas ta' l-ipoteka navali jkun sar bis-sahha ta' dikjarazzjoni mahlufa.

Għarfien ta' ipoteki navali barranin

49. Ipoteka navali barranija tiġi rikonoxxuta bhala ipoteka navali bl-*istatus* u d-drittijiet u s-setgħat kollha

speċifikati f'dan l-Att, minkejja l-fatt li ma tkunx qed tiġi dokumentata fuq bastiment reġistrat jekk:

- (a) dik l-ipoteka navali tkun ġiet validament dokumentata fir-reġistru ta' bastimenti tal-pajjiż li taht il-liġijiet tiegħu ikun dokumentat il-bastiment;
- (b) dak ir-reġistru ikun reġistru pubbliku;
- (ċ) dik l-ipoteka navali tidher wara riċerka tar-reġistru; u
- (d) dik l-ipoteka navali tingħata *status* preferenzjali u ġeneralment ekwivalenti bhala ipoteka navali taht dan l-Att taht il-liġijiet tal-pajjiż fejn tkun reġistrata l-ipoteka navali.

Privileġġi Speċjali

Privileġġi
speċjali fuq
bastimenti

50. Il-krediti speċifikati hawn taht jiġu garantiti permezz ta' privileġġ speċjali fuq il-bastiment kif ukoll fuq kull dħul minn xi indennizz li jinholq minn kollizjonijiet u disgrazzji oħra magħdud kull dħul mill-assigurazzjoni:

- (a) spejjeż ġudizzjarji sabiex isir il-bejgħ tal-bastiment u l-qsim tal-prezz li jgħib;
- (b) drittijiet u spejjes oħra dovuti taht dan l-Att lir-reġistratur ta' bastimenti Maltin;
- (ċ) drittijiet ta' tunnellaġġ;
- (d) is-salarji, l-ispejjes għal assistenza, irkupru jew salvataġġ, u għal drittijiet ta' bdoti;
- (e) il-hlas ta' gwardjani u l-ispejjes ta' għassa tal-bastiment minn x'hin jidhol fil-port sal-bejgħ;
- (f) il-kera ta' l-imħażen fejn jiġu merfughin l-armor u l-ghodda tal-bastiment;
- (g) l-ispejjeż magħmula għaż-żamma fi stat tajjeb tal-bastiment u ta' l-apparat tiegħu magħduda spejjeż ta' provisti u proviżjonijiet għall-ekwipaġġ tiegħu magħmula wara l-aħħar dħul tal-bastiment fil-port;
- (h) is-salarji tal-kaptan u ta' l-ekwipaġġ impjegat, għal perijodu ta' tliet xhur qabel l-aħħar vjaġġ għal tul l-aħħar vjaġġ u għall-perijodu ta' wara tidhol l-aħħar fil-port;
- (i) danni u imġaxijiet dovuti lil xi baħri għal mewt jew korriment tal-persuna u spejjeż li jsir f'konnessjoni mal-marda, wegħha jew korriment ta' xi baħri;

(j) il-flus li jkollhom jieħdu akkreditati għal xogħlijiet, xogħol ta' haddiema u tiswijiet qabel it-tluq tal-bastiment għall-aħħar vjaġġ tiegħu;

Iżda dan il-privileġġ ma jgħoddx jekk id-dejn ma jkunx ġie magħmul direttament minn sid il-bastiment, jew mill-kaptan, jew minn mandatarju tas-sid;

(k) drittijiet ta' aġenzija tal-bastimenti dovuti għall-bastiment wara l-aħħar dhul tiegħu fil-port, skond it-tariffi tal-port, u kull infieq magħmul matul dak il-perijodu li ma jgawdix privileġġi fil-paragrafi (a) sa (i) ta' dan l-artikolu, għalkemm f'kull każ għal somma totali ta' mhux iżjed minn erbat elef lira;

(l) il-flus mislufa lill-kaptan għall-bżonnijiet tal-bastiment matul l-aħħar vjaġġ u r-rimborż tal-prezz tal-merkanzija mibjugħa minnu għall-istess hsieb;

(m) il-flus li jkollhom jieħdu il-kredituri għal proviżjonijiet, hwejjeġ ta' ikel, armament u armar, qabel it-tluq tal-bastiment għall-aħħar vjaġġ tiegħu;

Iżda dan il-privileġġ ma jgħoddx jekk id-dejn ma jkunx ġie magħmul direttament minn sid il-bastiment jew mill-kaptan, jew minn mandatarju tas-sid;

(n) id-danni u l-imgħaxijiet li għandhom jithallsu lin-nolleġġaturi għal nuqqas ta' kunsinna tal-merkanzija mgħobbija, u għall-avariji li jkunu batew f'dik il-merkanzija bi htija tal-kaptan jew ta' l-ekwipaġġ;

(o) id-danni u l-imgħaxijiet li għandhom jithallsu lil bastiment ieħor jew lit-tagħbija tiegħu fil-każijiet ta' kolliżjoni ta' bastimenti;

(p) il-kreditu speċifikat fis-subparagrafu (d) ta' l-artikolu 2009 tal-Kodiċi Ċivili (Kapitolu 16) għall-bilanċ tal-prezz mill-bejgħ tal-bastiment.

Kreditu
magħmula
f'portijiet
differenti.

51. Meta l-kreditu tax-xorta li tixbah lil dawk imsemmin fil-paragrafi (a) sa (p), it-tnejn magħduda, ta' l-artikolu 50 ta' dan l-Att jiġu magħmula f'portijiet differenti, jew fl-okkażjoni ta' iżjed minn ritorn wieħed furzat fl-istess port, il-preferenza stabbilita mill-imsemmi artikolu għandha tiġi osservata għar-rigward tad-diversi krediti magħmula fl-okkażjoni ta' kull wasla jew ritorn, iżda l-kreditu magħmula f'wasla jew ritorn ta' wara jkollhom preferenza fuq dawk magħmula fil-wasla jew ritorn ta' qabel.

Il-privileġġi
tal-bejgiegħ
għandhom ikunu
reġistrati.

52. (1) Il-privileġġ li jingħata lill-bejgiegħ għall-prezz tal-ħaġa mibjugħa taħt id-dispożizzjonijiet tal-paragrafu (d) ta' l-artikolu 2009 tal-Kodiċi Ċivili (Kapitolu 16), ma għandux effett fil-każ ta' bastimenti, jekk il-kreditu għal dak il-prezz ma jkunx ġie reġistrat fil-każ ta' bastimenti reġistrati taħt it-Taqsima II ta' dan l-Att, fir-reġistru ta' dak il-bastiment fi żmien jumejn mid-data tal-bejgħ. Dak il-privileġġ jiġi reġistrat billi jiġi konsenjat lir-reġistratur fuq il-formola preskritta mimlija kif għandha tkun u iffirmata mill-bejgiegħ.

(2) L-imsemmi privileġġ ma għandux effett fil-każ ta' kull bastiment ieħor, jekk il-kreditur għal dak il-prezz ma jkunx ġie mniżżel fir-Registru Pubbliku fi żmien jumejn minn dak in-nhar tal-bejgħ.

(3) Din ir-regola tgħodd ukoll għall-jedd tar-rivindikazzjoni tal-ħaġa mibjugħa msemmi f'dak il-Kodiċi.

(4) Dak il-privileġġ jispicċa mal-ħlas tal-prezz u l-ispejjeż li jkollhom x'jaqsmu, u mal-preżentazzjoni ta' riċevuta mahruġa mill-bejjiegh, iffirmata minn xhud, ir-registratur jew id-Direttur tar-Registru Pubbliku, skond il-każ, idahħal nota fir-registru li tagħti avviz tal-ħlas tiegħu.

53. (1) Il-bejjiegha ta' bastiment għandu jgħarraf lix-xerrej bil-kreditu privileġġati kollha, u għandu jagħtih lista tagħhom iffirmata minnu.

Il-bejjiegh għandu jgħarraf lix-xerrej bil-kreditu kollha.

(2) Jekk din il-lista ma tiġix mogħtija lix-xerrej, jew jekk, fil-lista mogħtija lili, ikun hemm nieqes xi wiehed mill-kreditu hawn fuq imsemmija, ix-xerrej jista', jekk ibati ħsara b'daqshekk, jeżerċita l-jeddijiet tiegħu kontra l-bejjiegh, bil-mezzi kollha li l-igi tagħti kontra debitori li jagħmlu qerq meta jikkuntrattaw dejn.

54. (1) Kull min isewwi, jibni l-bastimenti jew kull kreditur ieħor li taħt il-harsien u awtorità tiegħu ikun tqieghed bastiment għall-eżekuzzjoni ta' xogħlijiet jew għanijiet oħra għandu jkollu plegġ possessorju fuq il-bastiment.

Plegġ jew privileġġ possessorju.

(2) Plegġ possessorju jintitola lill-kreditur li jzomm pussess fuq il-bastiment li jkun hadem fuqu jew li fuqu jkun għamel xi attività sakemm dak il-kreditur jiġi mħallas il-kreditu dovuti lili għal dak il-bini, tiswijiet jew attività.

(3) Plegġ possessorju jispicċa bir-rilaxx voluntarju tal-bastiment mill-kustodja tal-kreditur.

(4) Plegġ possessorju ma jispicċax jekk il-bastiment jiġi rilaxxat wara ordni tal-qorti jew wara bejgħ gudizzjarju tal-bastiment. Fil-każ ta' l-aħħar il-kreditur igawdi l-preferenza speċifikata fl-artikolu 54A ta' dan l-Att fuq id-dhul mill-bejgħ tal-bastiment.

(5) Il-kreditur ikun obligat li jrrilaxxa l-bastiment jekk jiġi mħallas is-somma kreditata, jew tiġi depożitata garanzija adegwata fil-Qorti Kummerċjali taħt id-dispożizzjonijiet tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili:

Iżda l-kreditur għandu jgawdi l-istess preferenza fuq dik is-somma.

54A. (1) Il-kreditu speċifikati fl-artikolu 50 ta' dan l-Att għandhom ikunu gradwati fl-ordni murija fih u fi preferenza għal kreditu ipotekarji u privileġġati oħra,

minkejja li l-bastiment ikun għadu fil-pussess tad-debitur, u l-kreditu speċifikati fil-paragrafi (a) u (b) ta' l-artikolu 50 ta' dan l-Att għandhom fiċ-ċirkostanzi kollha jigradwaw fi preferenza għal kull kreditu.

(2) Kull kreditu garantit bi plegg jew privileġġ possessorju fuq bastiment kif jinghad fl-artikolu 54 ta' dan l-Att, għandu jithallas fi preferenza għall-krediti l-oħra kollha hliel il-kreditu speċifikati fil-paragrafi (ċ), (d), (e), (f), (g), (h), (i) u (j) ta' l-artikolu 50 ta' dan l-Att jekk dawk il-kreditu jkunu nholqu qabel il-kreditu tal-kreditur li jkun igawdi l-plegġ possessorju.

(3) Kull kreditu garantit minn ipoteka navali registrata taht id-dispożizzjonijiet ta' dan l-Att jew garantiti minn ipoteka barranija rikonoxxuta taht dan l-Att għandu jigradwa wara l-kreditu speċifikati fl-artikolu 54 u fil-paragrafi (ċ), (d), (e), (f), (g), (h), (i), (j) u (k) ta' l-artikolu 50 ta' dan l-Att imma qabel il-kreditu speċifikati fil-paragrafi (l), (m), (n), (o) u (p) ta' l-artikolu 50 ta' dan l-Att.

(4) Meta l-fond ma jkunx suffiċjenti, il-kredituri li jikkonkorru taht l-istess intestatura għandhom jaqsmu dak il-fond skond ir-rata.”.

Emenda ta' l-artikolu 55 ta' l-Att prinċipali.

28. Minnufih wara s-subartikolu (2) ta' l-artikolu 55 ta' l-Att prinċipali għandhom jidiedu s-subartikoli godda li ġejjin:

“(3) Is-sid ta' bastiment li jkun fi hsiebu jirreġistra bastiment taht dan l-Att, jista', mal-hlas ta' dak id-dritt li jista' ikun preskritt u fuq talba lir-regjistratur, jirriserva l-isem propost tal-bastiment għal perijodu massimu ta' tliet xhur.

(4) It-talba msemmija fis-subartikolu (3) ta' dan l-artikolu tista' ssir flimkien mat-talba għar-regjistrazzjoni ta' bastiment, jew mat-talba għal permess biex jinbidel l-isem tal-bastiment li għalih tkun qed issir ir-riserva jkun identifikat adegwament.”.

Emenda ta' l-artikolu 56 ta' l-Att prinċipali.

29. L-artikolu 56 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) kull fejn tidher il-kelma “Ministru” din għandha tithassar u minflokha għandha tidhol il-kelma “Regjistratur-Ġenerali”; u

(b) minnufih wara l-kliem “jiġi pubblikat” fis-subartikolu (3) tiegħu għandhom jidhlu l-kliem “, jew xort'oħra tinghata pubblicità,”.

Emenda ta' l-artikolu 57 ta' l-Att prinċipali.

30. Is-subartikolu (1) ta' l-artikolu 57 ta' l-Att prinċipali għandu jithassar u minflokha għandu jidhol dan is-subartikolu ġdid li ġej:

“(1) Meta bastiment regjistrat jiġi mibdul hekk li ma jkunx jikkorrispondi mal-partikularitajiet dwar it-tunnellaġġ jew id-deskrizzjoni li jkunu jinsabu fir-regjistratur, applikazzjoni li magħha jkun hemm ċertifikat tas-*surveyor* xieraq, u li titlob ir-regjistrazzjoni

tat-tibdil, għandha ssir lir-registratur li għandu, meta jirċeviha flimkien maċ-ċertifikat kif intqal qabel, jew jirreġistra t-tibdil jew jordna li l-bastiment jiġi reġistrat mill-ġdid.”.

31. Is-subartikolu (2) ta' l-artikolu 58 ta' l-Att prinċipali għandu jithassar u minfloku għandu jidhol is-subartikolu ġdid li ġej:

Emenda ta' l-artikolu 58 ta' l-Att prinċipali.

“(2) Il-partikolaritajiet tat-tibdil hekk magħmul u l-fatt li ċertifikat ġdid ikun ġie mahruġ jew tkun saret reġistrazzjoni fuq iċ-ċertifikat oriġinali, għandhom jitnizzlu fir-registru mir-registratur.”.

32. L-artikoli 59, 62 u 66 ta' l-Att prinċipali għandhom jithassru.

Thassir ta' l-artikoli 59, 62 u 66 ta' l-Att prinċipali.

33. L-artikolu 67 ta' l-Att prinċipali għandu jithassar u minfloku, għandu jidhol l-artikolu ġdid li ġej:

Thassir u sostituzzjoni ta' l-artikolu 67 ta' l-Att prinċipali.

“Spezzjoni tal-ktieb tar-registrazzjoni u traskrizzjoni jew estratti tar-registru. 67. Bla hsara ta' kull dispożizzjoni oħra ta' dan l-Att, persuna tista', mal-hlas ta' dak id-dritt li jista' jiġi preskritt u fuq applikazzjoni lir-registratur f'kull hin xieraq matul il-hinijiet ta' l-attendenza uffiċjali tiegħu, tispezzjona kull registru, u tikseb traskrizzjoni jew estratt tar-registru.”.

34. Minnufih wara l-kliem “jew il-proprjetà ta’,” fil-paragrafu (a) ta' l-artikolu 71 ta' l-Att prinċipali, għandhom jidhlu l-kliem “xi piż jew ipoteka navali reġistrati eżistenti fuq,”.

Emenda ta' l-artikolu 71 ta' l-Att prinċipali.

35. L-artikoli 78 u 80 ta' l-Att prinċipali għandhom jithassru.

Thassir ta' l-artikoli 78 u 80 ta' l-Att prinċipali.

36. Minnufih wara t-tifsira ta' “thaddim” fis-subartikolu (1) ta' l-artikolu 85 ta' l-Att prinċipali għandha tidhol it-tifsira ġdida li ġejja:

Emenda ta' l-artikolu 85 ta' l-Att prinċipali.

“ “residenti f'Malta” tfisser —

(a) f'każ ta' individwu, persuna li ordinarjament jirresjedi f'Malta jew li hu domiciliat f'Malta; u

(b) f'każ ta' għaqda ta' persuni, kull għaqda bħal dik iffurmata u registrata f'Malta, jew li għandha l-post prinċipali tal-kummerċ tagħha f'Malta jew li hi kontrollata direttament jew indirettament minn persuna jew persuni residenti f'Malta;”.

37. L-artikolu 86 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 86 ta' l-Att prinċipali.

(a) fis-subartikolu (1) tiegħu minnufih wara l-kliem “fuq xi *dividend* mhallas lill-azzjonisti ta' dik il-kumpannija” għandhom jidhlu l-kliem “u meta l-azzjonista hu hu stess kumpannija, kull *dividend* imhallas lill-azzjonisti ta' kumpannija bħal dik”;

(b) is-subartikolu (2) tagħha għandu jiġi emendat kif ġej:

(i) il-paragrafu (b) tiegħu għandu jiġi mħassar; u

(ii) il-paragrafu (a) tiegħu għandu jiġi enumerat mill-ġdid bħala s-subartikolu (2);

(c) fis-subartikolu (3) tiegħu, minflok il-kliem “f’dak il-paragrafu” għandhom jidhlu l-kliem “f’dak il-paragrafu u fil-każ ta’ self imsemmi f’dak il-paragrafu jkun jista’ għall-finijiet ta’ dan l-Att, għall-ammont ta’ imghax dovut għar-rigward ta’ dak is-self jew ta’ xi dejn iehor, jeċċedi l-kapital dovut fuq dak is-self jew kull debitu iehor bħal dak”;

(d) minnufih wara s-subartikolu (4) tiegħu għandu jidhol is-subartikolu li ġej:

“(5) F’każ ta’ kumpannija li l-għanijiet tagħha jkunu limitati għall-iskop waħdieni li tkun sid ta’ u, jew, topera bastimenti eżentati, u negozji relatati u li fil-fatt tkun sid ta’ u, jew, topera biss bastimenti eżentati, tista’ tiġi mogħtija dikjarazzjoni lill-Kummissarju tat-Taxxi Interni fil-forma kif murija fis-Sitt Skeda li tinsab ma’ dan l-Att minn persuna li tkun tiddettjeni l-warrant ta’ uditur u *accountant* pubbliku ċċertifikat, skond l-Att ta’ l-1979 dwar il-Professjoni ta’ l-*Accountancy*, minflok prospett dwar taxxa a tenur ta’ l-Att ta’ l-1948 dwar it-Taxxa fuq l-*Income*, u d-dispożizzjonijiet relattivi ta’ l-Att ta’ l-1948 dwar it-Taxxa fuq l-*Income* għandhom, għall-finijiet ta’ dan l-Att, hekk jiġu miftehma.”.

38. Minnufih wara l-Hames Skeda għall-Att prinċipali, għandha tidhol l-iskeda li ġejja:

Zieda ta’ skeda ġdida ma’ l-Att prinċipali.

“IS-SITT SKEDA

(Artikolu 86)

DIKJARAZZJONI FLOK PROSPETT TA’ TAXXA
GHAR-RIGWARD TA’ KUMPANNIJA LI TKUN SID
U, JEW, TOPERA BASTIMENT EŻENTAT

Isem tal-Kumpannija

Isem u numru uffiċjali tal-bastiment

Dikjarazzjoni magħmula minn

ta’

Sena ta’ stima

Jien hawn taht iffirmat niddikjara solennement illi aċċertajt ruhi b’hilti kollha illi l-kumpannija fuq imsemmija hi s-sid tal-bastiment fuq imsemmi li hu bastiment eżentat taht id-dispożizzjonijiet ta’ l-Att ta’

l-1973 dwar il-Bastimenti Merkantili, u li l-ghanijiet tal-kumpannija jillimitaw l-operazzjonijiet tagħha biex tkun sid ta', jew biex topera bastiment eżentat, u li l-kumpannija tikkwalifika għall-konċessjonijiet mogħtija b'dak l-Att għal perjodu li jibda

 u li jispiċċa
 u li d-drittijiet ta' reġistrazzjoni relattivi għal dan il-perjodu ġew imħallsa.

Jien niddikjara wkoll illi aċċertajt ruhi b'hilti kollha illi l-kumpannija ma nnegożjatx f'xi kummerċ ieħor, barra milli tkun sid ta' u, jew, l-operazzjoni ta' bastimenti eżentati u li matul il-perjodu mhux kopert bid-dati fuq imsemmija il-kumpannija ma nnegożjatx u ma kellhiex *income* li ma kienx ikun eżentat taħt l-imsemmi Att ta' l-1973 dwar il-Bastimenti Merkantili.

Jien niddikjara fl-aħhar illi sa fejn nista' nkun naf il-kumpannija mhijiex sugġetta li titef xi konċessjoni mogħtija u lanqas irrinunzjat għal xi wahda mill-konċessjonijiet taħt dak l-Att.

Jien qed nagħmel din id-dikjarazzjoni meta naf sewwa l-konsegwenzi ta' dikjarazzjonijiet foloz taħt il-ligijiet ta' Malta.

Firma:

Numru tal-karta ta' identità:

Status:

Data:”.

39. Minnufih wara l-paragrafu (ċ) ta' l-artikolu 88 ta' l-Att prinċipali, għandu jiżdied il-paragrafu ġdid li ġej:

Emenda ta' l-artikolu 88 ta' l-Att prinċipali.

“(d) ir-reġistrazzjoni ta' kull ipoteka navali jew piż ieħor fuq xi bastiment, it-trasferiment jew il-ħlas tagħhom, kull riċevuta li jkollha x'taqsam magħhom, u kull assenjazzjoni mogħtija f'konnessjoni ma'

(i) l-iffinanzjar ta' xi bastiment reġistrat; jew

(ii) il-garanzija ta' xi kreditu kontra dak il-bastiment.”.

40. Minnufih wara l-artikolu 88 ta' l-Att prinċipali, għandu jidhol l-artikolu ġdid li ġej:

Zieda ta' artikolu 88A ma' l-Att prinċipali.

“Konċessjonijiet ikunu għall-ghażla tal-kumpannija.

88A. Il-konċessjonijiet u benefiċċji oħra mogħtija permezz ta' din il-parti ta' dan l-Att jiġu hekk mogħtija skond kif tagħzel il-kumpannija li tibbenefika minnhom u kull kumpannija bħal dik tista', b'avviż bil-miktub lill-Ministru, tagħzel li ma tkunx intitolata għal xi konċessjoni bħal dik, li b'hekk tiġi rinunzjata, u kull rinunzja bħal dik għandha tkun indefinita u irrevokabbli dwar hekk.”.

Thassir ta' l-artikoli 338 sa 360 u 469 sa 476 tal-Kodiċi Kummerċjali.

41. L-artikoli 338 sa 360 fit-*Titolu II* u l-artikoli 469 sa 476 fit-*Titolu V* tal-Kodiċi Kummerċjali għandhom jithassru.

Emenda ta' l-artikolu 363 ta' l-Att prinċipali.

42. L-artikolu 363 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) id-dispożizzjoni li hemm għandha tiġi enumerata mill-*għdid bħala s-subartikolu (1) tiegħu*; u

(b) minnufih wara s-subartikolu (1) tiegħu kif enumerat mill-*għdid għandu jidhol is-subartikolu li ġej:*

“(2) Ir-Registatur-Ġenerali jista' jaqdi kull dmir u jkollu l-poteri kollha li b'dan l-Att irid jiġi moqdi, jew hu mogħti lil registaturi.”.

Emenda ta' l-artikolu 364 ta' l-Att prinċipali.

43. Is-subartikolu (1) ta' l-artikolu 364 ta' l-Att prinċipali għandu jithassar u minflok għandu jidhol is-subartikolu *għdid li ġej:*

“(1) Il-Ministru jista' wkoll jinnomina registaturi għall-finijiet ta' dan l-Att f'dak in-numru li huwa jista' jqis meħtieġ għall-eżekuzzjoni kif imiss ta' dan l-Att.”.

Thassir u sostituzzjoni ta' l-artikolu 365 ta' l-Att prinċipali.

44. L-artikolu 365 ta' l-Att prinċipali għandu jithassar u minflok għandu jidhol dan l-artikolu *għdid li ġej:*

“Registru. 365. (1) Kull registatur għandu jzomm dokumentazzjoni li tissejjaħ ir-registru u għandu jitnizzel fih dak kollu li hu meħtieġ li jitnizzel fih b'dan l-Att.

(2) Kull registatur għandu jiffajlja u jindieja sewwa d-dokumenti kollha li hu għandu jzomm.”.

Zieda ta' artikoli godda 372A u 372B ma' l-Att prinċipali.

45. Minnufih wara l-artikolu 372 ta' l-Att prinċipali għandhom jiżdiedu l-artikoli godda li ġejjin:

“Iffissar u impożizzjoni ta' multi. 372A. (1) Il-penalitajiet kollha maħsubin b'xi dispożizzjoni ta' dan l-Att jistgħu jiġu stabbiliti u imposti mir-Registatur-Ġenerali.

(2) L-impożizzjoni ta' penali skond dan l-Att tikkostitwixxi titolu eżekuttiv fis-sens u għall-finijiet tat-*Titolu VII* tat-Taqsima I tat-Tieni Ktieb tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili.

Eżekuzzjoni ta' multi.

372B. Ir-Registatur-Ġenerali għandu jinnotifika sejha għall-*hlas* lill-persuna li lilha tkun ġiet inflitta penali u jekk il-*hlas* ma jsirx fi żmien sebat ijiem mid-data tan-notifika ta' dik is-sejha għall-*hlas*, ir-Registatur-Ġenerali jista' jipproċedi bl-eżekuzzjoni tal-*hlas* wara jumejn min-notifika lid-debitur ta' sejha għall-*hlas* magħmula b'att ġudizzjarju.”.

46. L-artikolu 9 ta' l-Att dwar ir-Registru Pubbliku ghandu jigi mhassar.

Emenda ta' Att dwar ir-Registru Pubbliku, (Kap. 56).

47. Minflok il-kliem "l-artikoli mit-38 sal-51, it-tnejn inkluzi, u ta' l-artikoli 53, 54 u 62" fl-artikolu 15A ta' l-Att ta' l-1972 dwar l-Avjazzjoni Ċivili ghandhom jidhlu l-kliem "l-artikolu 37C, is-subartikolu (1) ta' l-artikolu 37D, l-artikoli 38, 39, 41, 42, 44, 45, 45A, 46, 47, 48 u 49".

Emenda ta' l-Att ta' l-1972 dwar l-Avjazzjoni Ċivili.

48. (1) L-anniversarju tar-registrazzjoni inizjali għar-rigward ta' bastimenti rreġistrati qabel il-bidu fis-seħħ ta' l-artikoli 8 u 11 ta' dan l-Att, għandha għall-finijiet ta' l-artikoli 7 u 19 ta' l-Att prinċipali kif emendat b'dan l-Att, tiġi ffixxata skond regolamenti li jistgħu jigu magħmula mill-Ministru, liema regolamenti għandhom jipprovdu wkoll illi dritt ikun dovut għal kull perjodu ta' mhux iżjed minn tmax-il xahar b'mod illi dak id-dritt ikun wara dak il-pagament kif intqal jerga' jkun dovut wara dak l-anniversarju kif iffissat fir-regolamenti.

Dispożizzjonijiet transitorji.

(2) Hlief kif provdut fis-subartikolu li jigi minnufih wara dan, l-Att prinċipali kif emendat b'dan l-Att, għandu japplika għall-bastimenti Maltin u ipoteki navali mdaħħla fir-registru qabel il-bidu fis-seħħ ta' xi dispożizzjoni ta' dan l-Att.

(3) Id-detentur ta' ipoteka navali registrat qabel id-data li fiha l-artikolu 21 ta' dan l-Att jibda fis-seħħ, jista' wara li jagħti lir-registratur prova ta' ftehim minn sid il-bastiment li ma jigux rreġistrati ipoteki navali ohra minghajr il-kunsens ta' dak il-kreditur ipotekarju, u wara li jippreżenta d-dikjarazzjoni relattiva, jitlob illi jiddaħħal notament fir-registru tal-bastiment fis-sens illi ebda ipoteka navali ohra ma tkun tista' tiġi rreġistrata minghajr il-kunsens mogħti qabel bil-miktub mill-kreditur ipotekarju.

Mgħoddi mill-Kamra tad-Deputati fis-Seduta Nru. 165 tad-9 ta' Novembru, 1988.

LAWRENCE GONZI
Speaker

P. MUSCAT TERRIBILE
Skrivan tal-Kamra tad-Deputati

I assent.

(L.S.)

PAUL XUEREB
Acting President

20th December, 1988

ACT No. XXXVII of 1988

AN ACT further to amend the Merchant Shipping Act, 1973.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the Merchant Shipping (Amendment) Act, 1988 and shall be read and construed as one with the Merchant Shipping Act, 1973, hereinafter referred to as “the principal Act”.

Commencement.

2. This Act shall come into force on such date as the Minister responsible for shipping may, by notice in the Gazette, appoint, and different dates may be so appointed for different provisions and different purposes thereof.

General amendment of the principal Act.

3. The principal Act shall be amended as follows:

(a) wherever reference is made to the words “certificate or certificates of mortgage” and to the words “certificate or certificates of sale” such reference shall be deleted; and

(b) wherever reference is made to the word “pounds” it shall be substituted by the word “liri”.

Amendment of section 2 of the principal Act.

4. Section 2 of the principal Act, shall be amended as follows:

(a) subsection (1) thereof shall be amended as follows:

(i) after the definition of “Minister” there shall be added the following new definition:

“ “month” means “calendar month;”;

(ii) the definition of “register book” shall be deleted and substituted by the following new definition:

“ “register” means the record to be kept by the registrar under section 365 of this Act;”;

and wherever the words “register book” occur in the principal Act, they shall be substituted by the word “register”;

(iii) the definition of “registrar” shall be deleted and substituted by the following new definition:

“ “registrar” means a person appointed as registrar under section 364 of this Act, and includes any person acting under his authority with the permission of the Registrar-General;”;

(iv) the definition of “Registrar-General” shall be deleted and substituted by the following new definition:

“ “Registrar-General” means the Registrar-General of Shipping and Seamen appointed under section 363 of this Act and includes any person acting under his authority;”;

(v) the definition of “ship” shall be deleted and substituted by the following new definition:

“ “ship” means every description of vessel used in navigation, whether self propelled or not, and it includes barges, pontoons and oil rigs and other similar vessels, but not including vessels propelled by oars, and for those parts of the Act wherever applicable it shall also include a ship under construction;”;

(vi) the definition of “ship’s registrar” shall be deleted;

and wherever the words “the ship’s registrar” occur in the principal Act, they shall be deleted and substituted by the words “the registrar”; and

(b) immediately after subsection (1) thereof there shall be added the following new subsection:

“(2) Any notice required to be sent under this Act to the master, owner, or any other person representing the ship shall be deemed to have been duly received and notified if sent by registered post to the last address of the owner registered with the registrar.”.

5. Section 3 of the principal Act, shall be amended as follows:

(a) in subsection (1) thereof, immediately after the words “exempted from registry” there shall be inserted the words “or a ship referred to in subsection (7) of this section;”;

Amendment
of section 3
of the
principal Act.

(b) the words “fifteen net tons” in subsection (2) thereof shall be deleted and substituted by the words “twenty-four metres in length”; and

(c) immediately after subsection (2) thereof there shall be added the following new subsections:

“(3) It shall be lawful to register any ship which is being built or equipped and that when built or equipped will be a ship registrable under this Act.

(4) Pending completion the ship may be assigned an official number and a name.

(5) For the purposes of identification the owner of such ship that is being built or equipped shall identify it by painting the official number, name and port of registry on the keel, such details to be reproduced on the ship’s side and eventually on the stern, as may be possible from time to time and prior to the above being possible the owner shall identify it by painting on a board, maintained near the place in the yard of builder where the ship is being built, the assigned number, name and port of registry, on a dark background, in white or yellow figures and letters of not less than ten centimetres in length.

(6) The requirements of this Act relating to survey and safety of ships already built shall be suspended until the construction or equipping of the ship is completed.

(7) Notwithstanding any other provision of this Act, ships under six metres in length shall not be registrable under this Act.”.

Amendment of section 4 of the principal Act.

6. Following subsection (2) of section 4 of the principal Act, there shall be added the following new subsection:

“(3) For the purposes of paragraph (b) of subsection (1) hereof the Minister may, by regulations, establish such other conditions as he may deem expedient in order to ensure the proper application of this Act, and the due observance of the laws of Malta relating to merchant shipping.”.

Amendment of section 5 of the principal Act.

7. The words “the certificate of registry” in section 5 of the principal Act, shall be deleted and substituted by the words “any certificate of registry issued under section 19 of this Act.”.

Amendment of section 7 of the principal Act.

8. Section 7 of the principal Act, shall be deleted and substituted by the following new section:

“Payment of fees.

7. (1) The fee due on initial registration and the annual fee for one year shall be paid before the ship is registered, and no certificate of registry as described in section 19 of this Act shall be issued in respect of a ship unless the said fees have been paid in respect of the ship.

(2) Thereafter the annual fee shall be payable on the anniversary of the initial registration.

(3) Notwithstanding that a ship remains on the register under this Act, no registry fees shall be payable unless and until a certificate is issued under this Act:

Provided that in no case may a certificate be issued as of a date later than the date of expiry of the last valid certificate and should the certificate be delivered at a later date, the fees due shall still accrue from the date of expiry of the last valid certificate.

(4) The fees specified in subsection (1) of this section are paid on the basis of the tonnage declared by the owner of the ship on the application for registry and such fees shall be adjusted in accordance with the tonnage specified in the surveyor's certificate issued in accordance with section 14 of this Act upon receipt of such certificate by the registrar.

(5) Fees on initial registration and annual fees shall not be subject to abatement or refund save as provided for in this Act, or in accordance with regulations which may be made by the Minister.”.

9. Sections 9 to 16, both inclusive, of the principal Act, shall be deleted and substituted by the following new sections:

Deletion and substitution of sections 9 to 16 of the principal Act.

“Default of payment.

9. A registrar is entitled to demand payment of any outstanding fees, charges or penalties due under this Act prior to recording any transaction in the register of a ship or prior to granting any services in connection with a ship:

Provided that in any case any registered mortgagee shall always be entitled, on payment of such fee as may be prescribed, to official documentary evidence as to the status of his mortgage in the register of any ship.

Procedure for registration

Applica-
tion
for
registry.

10. An application for registry of a ship, whether provisional or otherwise, shall contain such information and details as may be required by the registrar, and shall be made, in the case of individuals by the person requiring to be registered as owner or by some one or more of the persons so requiring if more than one, or by his or their agent, and in the case of bodies corporate by their agent; and the authority of the agent shall be testified by writing, if appointed by individuals under the hand of the appointors, and, if appointed by a body corporate under the hand of a person or persons authorised to authenticate documents for the body corporate.

Declara-
tion of
owner-
ship.

11. A person shall not be entitled to be registered as owner of a ship or of a share therein until he, or in the case of a body corporate the person authorised by this Act to make declarations on behalf of the body corporate, has made and signed a declaration of ownership referring to the ship as described in the application referred to in section 10 of this Act and containing the following particulars:

(a) a statement of his qualification to own a Maltese ship or, in the case of a body corporate, of such circumstances as prove it to be qualified to own a Maltese ship;

(b) a statement of the time and place where the ship was built or if these are not known, a statement that the declarant does not know the time and place of her building;

(c) a statement of the name and citizenship of the master, where applicable;

(d) a statement of the extent to which he or the body corporate, as the case may be, is entitled to be registered as owner;

(e) a declaration that to the best of his knowledge and belief no unqualified person or body of persons is entitled as owner to any interest in the ship or any share therein; and

(f) a declaration as to what registered encumbrances, if any, exist on the ship.

Provi-
sional
registra-
tion.

12. Upon receipt of an application for registry, whether provisional or otherwise, made in accordance with section 10 of this Act accompanied by a declaration of ownership as required by section 11 of this Act, and upon the payment of the fees specified in this Act or any regulations made thereunder, the registrar may provisionally register the ship as a Maltese ship for six months provided the applicant for registry has furnished evidence satisfactory to the Minister that:

(a) the ship is either a vessel being built or equipped, or if already built is seaworthy; and

(b) where required the registered owner has satisfied such conditions as may be established in accordance with the provisions of subsection (3) of section 4 of this Act:

Provided that the registrar may, on good cause being shown, renew the provisional registry of a ship for a further period of, or further periods not exceeding in the aggregate, six months.

Documents and evidence after provisional registration.

13. (1) Within one month of provisional registry, extendable for good reason for another period of one month, the owner shall, unless the ship is otherwise exempted, produce to the registrar the following documents and evidence:

(a) a builder's certificate, that is to say a certificate signed by the builder of the ship (which expression includes such person as the Registrar-General recognises as carrying on the business of the builder of a ship) and containing true account of the proper denomination and of the tonnage of the ship as estimated by him, and of the time when and the place where she was built, and of the name of the person (if any) on whose account the ship was built or, if there has been any sale, the bill of sale or other document under which the ship or a share therein was transferred to the applicant for registry;

(b) evidence satisfactory to the registrar, or as may be prescribed by the Minister, that any foreign certificate of registry of the ship, or equivalent documents, has been legally cancelled or the registry has been duly closed:

Provided that the Minister may, in such circumstances as he may deem appropriate, direct that no such certificate shall be required where subsequent to a court order in Malta in sale by auction of the ship, or any other order of that court, the owner has attempted to obtain such certificate but due to reasons beyond the control of the owner inordinate delay has occurred. The Minister may give any direction as to the production of such other documents as he deems fit;

(c) evidence that the ship's name, her official number and her port of registry have been marked as provided for in section 15 of this Act; and

(d) evidence, to the satisfaction of the registrar of the state of registered encumbrances on the ship.

(2) Within six months of provisional registry, extendable for good reason for another period of three months, the owner shall, unless the ship is otherwise exempted, produce to the registrar the following documents and evidence:

(a) a crew list signed by the master of the ship and stamped or endorsed by the port authorities of a port of call;

(b) certified copies of the certificate of competency of every officer serving on the ship; the registrar may require such certificates to be translated into the English language by a competent person;

(c) copies of the safety and load line certificates of the ship issued by a surveyor of ships;

(d) a tonnage measurement certificate and a certificate of survey issued in terms of section 14 of this Act; and

(e) a carving and marking note issued in accordance with section 15 of this Act.

Survey and measurement of ship.

14. (1) Every ship shall before registry be surveyed by a surveyor of ships and her tonnage ascertained in accordance with the tonnage regulations of this Act.

(2) The surveyor shall in his certificate specify the ship's tonnage and build and such other particulars descriptive of the identity of the ship as may from time to time be required by the Minister, and shall certify that the tonnage has been ascertained in accordance with the tonnage regulations of this Act.

(3) The surveyor's certificate and the copy of the tonnage certificate shall be delivered to the registrar before registry.

Marking of ship.

15. (1) Every ship shall before registry be marked permanently and conspicuously to the satisfaction of the registrar as follows:

(a) her name shall be marked on each of her bows, and her name and the name of the home port shall be marked on her stern, on a dark ground in white or yellow letters or on a light ground in black letters, such letters to be of a length of not less than ten centimetres and of proportionate breadth;

(b) her official number and the number denoting her registered tonnage shall be cut in on her main beam; and

(c) a scale of feet, or decimetres denoting her draught of water shall be marked on each side of her stem and of her stern post in Roman capital letters or in figures not less than fifteen centimetres in length, the lower line of such letters or figures to coincide with the draught line denoted thereby, and those letters or figures must be marked by being cut in and painted white or yellow on a dark ground or in such other way as the Minister approves.

(2) The Minister may exempt any class of ships from all or any of the requirements of this section under such conditions as he may deem appropriate.

(3) If the scale showing the ship's draught of water is in any respect inaccurate so as to be likely to mislead, the

owner of the ship shall be liable to a fine (*multa*) not exceeding one hundred liri.

(4) The marks required by this section shall be permanently continued and no alteration shall be made therein except in the event of any of the particulars thereby denoted being altered in the manner provided by this Act.

(5) If any owner or master of a ship neglects to keep his ship marked as required by this section, or if any person conceals, removes, alters, defaces or obliterates, or suffers any person under his control to conceal, remove, alter, deface or obliterate any of the said marks, except in the event aforesaid, or except for the purpose of escaping capture by an enemy, that owner, master or person shall for each offence be liable to a fine (*multa*) not exceeding one hundred liri, and, on a certificate from a surveyor of ships that a ship is insufficiently or inaccurately marked, the ship may be detained until the insufficiency or inaccuracy has been remedied.

Com-
pliance
with the
require-
ments
of this
Act.

16. (1) All ships provisionally registered under this Act shall comply, except where expressly exempted, with the requirements of this Act within the periods specified in this Act, and in any case, within a maximum period of twelve months of the date of provisional registration and thereafter shall observe such requirements that are laid down in the Act or in any regulations made thereunder.

(2) Any person who fails to observe the requirements of this Act within the time limits specified in a notice in writing served by the registrar upon the owner shall be liable to a penalty of fifty liri per month or part thereof for each violation and any ship not complying with the requirements of provisional registry within a maximum period of twelve months shall be liable to a penalty of two hundred liri per month or part thereof and in these cases the registrar may take steps to cancel such ship in accordance with this Act.

(3) The registrar may not re-register any ship, provisionally or otherwise, prior to the payment of all penalties previously incurred and unless satisfactory evidence is supplied to the registrar that the ship has been registered in a foreign register the penalties for the intervening period shall also be collected.

(4) It shall be the obligation of the owner throughout the whole period of registry, whether provisional or otherwise, to notify the registrar of any changes which might have occurred in the intervening period since registry, to the information contained in any certificates and evidence produced before registry.

(5) The registrar shall not consecutively register provisionally a ship more than two times in the name of the same owner.”.

Amendment of section 17 of the principal Act.

10. Section 17 of the principal Act, shall be amended as follows:

(a) following the words “preliminary to registry” there shall be inserted the words “, whether provisional or otherwise,”;

(b) immediately after the words “the surveyor’s certificate” in paragraph (b) thereof there shall be added the words “where applicable”; and

(c) immediately after paragraph (d) thereof there shall be added the following new paragraph:

“(e) any registered encumbrances that may come to the knowledge of the registrar.”.

Amendment of section 19 of the principal Act.

11. Section 19 of the principal Act, shall be deleted and substituted by the following new section:

“Certificates of registry, provisional or other.

19. (1) On completion of the provisional registry of a ship the registrar, shall, subject to such conditions as he may deem proper, grant a provisional certificate of registry:

Provided that, unless exempted, if the ship is not in possession of valid safety and load line certificates and such other certificates as the Minister may by regulations prescribe, the registrar shall grant a non-operational provisional certificate:

Provided further that unless the requirements for registry have been completed the registrar shall also issue a non-operational provisional certificate to any laid up ship qualifying for special treatment under this Act, or to a ship under tow.

(2) On completion of registry of a ship the registrar shall grant a certificate of registry:

Provided that, unless otherwise exempted, if the ship is not in possession of valid safety and load line certificates and such other certificates as the Minister may by regulations prescribe, the registrar shall issue a non-operational certificate of registry:

Provided further that if the requirements for registry have been completed the registrar shall also issue a non-operational certificate to any laid up ship qualifying for special treatment under this Act, or to a ship under tow.

(3) The period of validity of a certificate of registry shall be as follows:

- (a) if issued within the first twelve months of provisional registry for the remaining period of the said twelve months; or
- (b) if issued at the expiry of the first twelve months for a period of twelve months:

Provided that the registrar, at the request of the owner and on payment of the relative annual fees, may issue a certificate of registry for the combined period of the periods specified in paragraphs (a) and (b) hereof, so however that the fee specified for the subsequent period of twelve months shall be refunded if the registry of the ship is closed prior the commencement of such period;

as may be determined by the owner upon payment of fees for the ship.

(4) Thereafter, all certificates of registry shall be issued for a period of twelve months provided that within a period of three months prior to the expiry of such certificate, the registrar, upon the payment of the annual fee, shall issue a renewal certificate in the prescribed form.

(5) No certificate may be issued, except in cases of loss or destruction of a certificate, other than on the return of the certificate currently being held by the owner or at the discretion of the registrar, upon the issue of an undertaking by the owner to return the certificate within a maximum period of one month.

(6) A certificate of registry, whether provisional or otherwise, issued to a ship in terms of the provisions of this section, may be issued subject to such conditions as the registrar may deem proper and shall include her particulars entered in the register showing the port of Valletta as the port to which she belongs.

(7) For the purpose of this section a laid up vessel shall qualify for special treatment under this Act or any regulations made thereunder if —

- (a) the registered owner makes a declaration to the effect that the ship is laid up and shall remain laid up for a period of not less than twelve months; and
- (b) evidence satisfactory to the registrar is produced to the effect that the ship is laid up certifying the location where the ship lies:

Provided that should the ship be reactivated within six months from the date of the declaration specified in paragraph (a) hereof, the ship shall be deemed not to

have been laid up, and the fees payable in accordance with section 7 of this Act shall become due in full from the date of the declaration:

Provided further that should the ship be reactivated after the lapse of six months from the date of the declaration specified in paragraph (a) hereof the fees payable under section 7 of this Act shall be payable from the lapse of the initial six months:

Provided further that where a declaration specified in paragraph (a) hereof is made on a date after the annual fee becomes due, the difference in the fees payable had the declaration been made on or before the date on which the annual fee becomes due, will be deducted only upon the payment of the next annual fee.”.

Amendment of sections 20, 21, 22 and 23 of the principal Act.

12. Sections 20, 21, 22, and 23 of the principal Act, shall be amended as follows:

(a) in sections 20, 21, 22 and 23 of the principal Act, wherever the words “the certificate” and “a certificate” occur they shall be deleted and substituted by the words “any certificate”;

(b) subsections (2) and (3) of section 23 shall be deleted.

Deletion of section 24 of the principal Act.

13. Section 24 of the principal Act, shall be deleted.

Amendment of section 25 of the principal Act.

14. Section 25 of the principal Act, shall be amended as follows:

(a) subsection (1) thereof shall be deleted and substituted by the following new subsection:

“(1) Whenever a change occurs in the registered ownership of a ship, the change of ownership shall be endorsed on any certificate of registry of the ship.”;

(b) the words “the certificate of registry” in subsections (2), (3) and (4) thereof shall be deleted and substituted by the words “any certificate of registry”; and

(c) in subsection (3) thereof the words “at any port, not being the port at which the ship has been registered,” shall be deleted.

Amendment of section 26 of the principal Act.

15. Section 26 of the principal Act, shall be amended as follows:

(a) immediately after the words “of a registered ship” in subsection (1) thereof there shall be inserted the words “, whether provisionally or otherwise,”; and

(b) subsections (2), (3) and (4) thereof shall be deleted and substituted by the following new subsection:

“(2) In any such case except where the ship’s provisional or other certificate of registry is lost or destroyed, the master or owner of the ship shall within four days of such occurrence deliver such certificates to the registrar and if the owner or master fail, without reasonable cause, to comply with the provisions of this section, he shall for each offence be liable to a fine (*multa*) not exceeding one hundred liri.”.

16. Section 27 to section 31, both inclusive, of the principal Act, shall be deleted and substituted by the following new sections:

Deletion and substitution of sections 27 to 31 of the principal Act.

“Validity of provisional and other certificates of registry.

27. (1) A certificate shall cease to have effect:

(a) on the expiry of its validity date;

(b) on its substitution by another certificate issued in accordance with the provisions of this Act; or

(c) on closure of registry in accordance with the provisions of this Act.

(2) The registrar shall make note in the register of the type of certificate issued to the ship and the expiry date thereof.

(3) Upon a certificate ceasing to have effect the owner or the master shall forthwith forward this certificate to the registrar not later than one month of its expiry.

(4) If any such person as aforesaid fails without reasonable cause to deliver up the certificate as required by this section, he shall be liable to a fine (*multa*) not exceeding one hundred liri.

Closure of Registry

Voluntary closure of registry.

28. (1) Where the owner of a Maltese ship desires to close the register of a ship he shall make an application to that effect to the registrar, giving all such particulars and information as the registrar may require for the purpose.

(2) Any such application made and substantiated as aforesaid shall be acceded to if —

(a) all liabilities and obligations in respect of the ship towards the Republic of Malta, whether for fees, charges, fines or otherwise have been paid; and

(b) the consent in writing of all mortgagees whose mortgage is duly registered in respect of the ship is produced to the registrar.

(3) Where any such application is acceded to the registrar shall make an entry thereof in the register and thereupon the ship shall cease to be a Maltese ship and the registry of the ship shall be considered as closed except so far as relates to any unsatisfied mortgages or privileges entered therein.

Power of
Minister
to order
closure of
registry.

29. (1) The Minister may order that a ship shall cease to be registered in the following cases:

(a) if the annual fee has not been duly paid in accordance with this Act;

(b) if the formalities specified in section 13 of this Act are not complied with within the maximum periods therein specified;

(c) if it is the national interest or in the interest of Maltese shipping and after giving the owners of the ship a reasonable opportunity to make representation;

(d) if in the event of a registered ship being either actually or constructively lost, taken by the enemy, burnt or broken up, or ceasing, whether by reason of a transfer to persons not qualified to own a Maltese ship or for any other reason, to be a Maltese ship;

(e) if the owner fails to observe the provisions of this Act;

(f) if it is established that the ship will not or cannot be registered under this Act;

(g) if, where required, any conditions established by the Minister in accordance with subsection (3) of section 4 of this Act are not observed for period in excess of one month;

(h) if the owner fails to pay any fine imposed under this Act, or fails to pay any penalty within one month of their being demanded in writing by the registrar; or

(i) if the owner fails to be in possession of a valid certificate of registry, whether provisional or otherwise, for a period in excess of one month.

(2) Prior to the issue of any such order the registrar shall give one month's notice in writing to the registered owner and any registered mortgagee of his intention to recommend to the Minister to close the registry unless the cause for such closure is remedied. The registrar shall specify in the notice the reason for closure and the expiry date for compliance failing which closure will be ordered.

(3) Upon the issue of any notice in terms of subsection (2) of this section the registrar shall make a note thereof in the register and shall record the date on which the one month period shall lapse.

(4) Upon the lapse of the said one month from the giving of notice and upon receipt of the order from the Minister, the registrar shall make an entry thereof in the register and thereupon the ship shall cease to be a Maltese ship and the registry of the ship shall be considered as closed except so far as relates to any unsatisfied mortgages or privileges entered therein, and the mortgagees shall have the right to demand the immediate sale of the ship or share therein as if the debtor had not adhered to all the conditions under which the credit was granted.

Deletion
Certificate.

30. (1) When the registry of a ship, whether provisional or otherwise, has been closed, the registrar shall, upon request of the registered owner, issue a deletion certificate provided that, all fees, charges and penalties due under this Act have been paid and any certificate of registry, whether provisional or otherwise, has been surrendered to the registrar.

(2) The registrar shall specify on the deletion certificate the reason for closure of registry, and, where the registry of a ship, whether provisional or otherwise, has been closed saving any unsatisfied mortgage or privilege entered therein, the deletion certificate shall also include a full description of any unsatisfied mortgage or privilege, together with a statement that the registry of the ship was closed saving such mortgage or privilege.”.

17. Immediately after subsection (3) of section 32 of the principal Act, there shall be added the following new subsection:

Amendment of
section 32 of the
principal Act.

“(4) Upon the entry of a transfer of a registered ship or a share therein in favour of a person qualified to own a Maltese ship the registrar shall notify accordingly the holder of any registered mortgage.”.

18. Section 37 of the principal Act, shall be amended as follows:

Amendment of
section 37 of the
principal Act.

(a) immediately after the words “on any terms and conditions it thinks just,” there shall be inserted the words “including, without prejudice to the generality of the above, the imposition of an obligation to provide appropriate security, for damages, interests and costs,”; and

(b) the following provisos shall be added to the existing provision:

“Provided that if the order is issued in order to secure a claim which has not yet been judicially verified, unless proceedings on the merits of the claim are already pending, whether in a Maltese court or any other competent court or

arbitration, the plaintiff obtaining such order shall be obliged to prosecute such claim, in Malta or in any other competent jurisdiction or in arbitration, within eight working days of the issue of the order failing which the court issuing the order shall, on the application of the shipowner, or any other interested party, revoke the same:

Provided further that notwithstanding any provision of the Code of Organisation and Civil Procedure, an order given as aforesaid shall be immediately enforceable, unless the Court otherwise decrees.”.

Substitution of title and addition of new sections, 37A, 37B, 37C and 37D to the principal Act.

19. The title “Mortgages” following section 37 of the principal Act, shall be deleted and substituted by the new title “Maritime privileges and mortgages”, and thereafter there shall be added the following new sections:

“Definition of ships as security for debts.

37A. (1) Ships and other vessels constitute a particular class of moveables whereby they form separate and distinct assets within the estate of their owners for the security of actions and claims to which the vessel is subject. In case of bankruptcy of the owner of a ship, all actions and claims, to which the ship may be subject, shall have preference, on the said ship, over all other debts of the estate.

(2) A ship shall include together with the hull, all equipment, machinery and other appurtenances or accessories belonging to the ship, which are on board or which have been temporarily removed therefrom.

Types of charges over ships.

37B. (1) A ship may constitute security for a debt or other obligation either by agreement or by operation of the law as hereinafter provided.

(2) A debt or other obligation may be secured —

(a) by means of a mortgage which is a special charge over a vessel, or

(b) by a general hypothec which attaches to all the assets of a debtor including any vessel such debtor may own, or

(c) by a special privilege upon the vessel:

Provided that special privileges arise in virtue of law and no debt or other obligation other than those specified at law shall be secured by a special privilege.

(3) Subject to the provisions of section 40 of this Act, separate items upon a vessel may themselves be subject to special privileges in accordance with the provisions of the Civil Code, in security of the debts therein specified.

Priority
of claims
on ship
over all
other debts
of owner.

37C. (1) All registered mortgages, any special privileges and all actions and claims to which a vessel may be subject shall not be affected by the bankruptcy of the mortgagor or shipowner happening after the date on which the mortgage was created or the special privilege, action or claim arose, notwithstanding that the owner at the commencement of the bankruptcy had the ship in his possession, order or disposition, or was the reputed owner thereof, and such mortgage, privilege, action or claim shall have preference, on the said vessel, over all other debts, claims or interests of any other creditor of the bankrupt or of any curator, trustee or receiver, acting on behalf of any other creditors.

(2) Any judicial sale proceedings instituted by any registered mortgagee or privileged creditor shall not be interrupted or in any way hindered by any curator in bankruptcy, whether voluntary or compulsory, or any liquidator or receiver of the shipowner for any cause other than a cause that could be set up by the owner.

Attach-
ment and
extinguish-
ment of
charges.

37D. (1) A registered mortgage shall attach to the ship or share therein in respect of which it is registered until it is discharged:

Provided that where the ship has been forfeited under this Act the interest of the mortgagee in the ship shall terminate if the mortgagee has authorised, consented to, or conspired, to the act, failure or omission in consequence of which the ship is forfeited:

Provided further, that where a ship has been sold pursuant to a court order in the sale by auction of the ship, by a competent court within whose jurisdiction the vessel was at the time of the sale, the interest of the mortgagees in the ship shall pass on to the proceeds of the sale of the ship, and where in any such case the purchaser is not a person who is qualified to own a Maltese ship, upon obtaining knowledge or being given notice of such a fact and upon receiving copies of the proceedings of the sale, certified to his satisfaction, the registrar shall make an entry thereof in the register and the register of the vessel shall be considered as closed except in so far as relates to any unsatisfied mortgages entered therein.

(2) Any hypothec or privilege whether general or special to which a ship may be subject under the provisions of the Civil Code shall not continue to attach to it when the vessel is transferred to third parties.

(3) Without prejudice to any other cause which may at law extinguish an obligation the special privileges specified in section 50 of this Act are not extinguished by the sale of the vessel, except in case of a judicial sale made according to the forms prescribed by law, or where,

subsequent to a voluntary sale a period of one year has elapsed from the date of the registration of that voluntary sale in the registry to which the ship belongs, unless within such period of one year an action for the recovery of the claim secured by such privilege has been brought before a competent court.

For the purposes of this section a vessel is deemed to have made a voyage:

(a) if one month has elapsed since her departure from one port, and her arrival in another port is proved;

(b) if more than two months have elapsed between her departure from, and her return to, the same port, although she has not put into any other port;

(c) if the vessel, having sailed for a long voyage, shall have been at sea for more than two months, without any protest having been made by the creditors of the seller:

Provided that any such protest shall only be operative in favour of the creditor making it.”.

Amendment of section 38 of the principal Act.

20. Section 38 of the principal Act, shall be amended as follows:

(a) the present provision shall be renumbered as subsection (1) thereof; and

(b) immediately after subsection (1) thereof as renumbered there shall be added the following new subsection:

“(2) A mortgage shall attach to any proceeds from any indemnity arising from collisions and other mishaps as well as any insurance proceeds.”.

Amendment of section 39 of the principal Act.

21. Immediately after subsection (2) of section 39 of the principal Act, there shall be added the following new subsection:

“(3) Where it is stated in the mortgage instrument that it is prohibited to create further mortgages over a vessel without the prior written consent of the mortgagee, the registrar shall make a note in the register to such effect, and the registrar shall not record such further mortgage unless the consent in writing of the holder of a prior mortgage is produced to him, and any mortgage registered in violation of this provision shall be null and void.”.

Deletion and substitution of section 40 of the principal Act.

22. Section 40 of the principal Act, shall be deleted and substituted by the following new section:

“Preservation of special privileges on accessories of ship.

40. (1) Upon the registration of any mortgage in the register the rights of any mortgagee shall not be affected by:

(a) the creation of any separate privilege or charge on any part, appurtenance or accessory of a ship which may attach in virtue of any law; or

(b) the reservation of ownership rights by a seller of any part, appurtenance or accessory sold to a shipowner under a contract of sale, hire purchase or any similar contract:

Provided that provisions, fuel and other consumable goods shall not be considered as appurtenances:

Provided further that the provision of this section shall in no way prejudice or reduce the rights of any creditor enjoying a privilege or reserving ownership rights in relation to any creditor other than the mortgagee.

(2) At any time prior to the registration of a mortgage over a ship any creditor having a separate privilege or charge over any part, appurtenance or accessory of a ship may register such privilege or charge in the register of the ship by means of an instrument executed by the owner in the presence of a witness in the form specified by the Minister; and on the production of such instrument the registrar shall by memorandum under his hand notify on each charge that it has been recorded by him stating the day and hour of that record.

(3) A seller reserving ownership rights in any part, appurtenance or accessory of a ship may also register his interest in the register of the ship at any time prior to the registration of a mortgage.

(4) The registration of such a charge or reservation of ownership rights prior to the registration of a mortgage shall preserve the creditor's rights on that part, appurtenance or accessory in relation to any subsequent mortgagee.

(5) A privilege or reservation of ownership rights registered over a ship under subsection (2) of this section shall be cancelled upon production by the owner of a receipt for the price and other charges relative to the transfer of such part, appurtenance or accessory, and the registrar, upon production of such receipt duly signed and attested to his satisfaction, shall make an entry in the register to the effect that the privilege or reservation of ownership rights have been cancelled.

(6) The transfer of the interest of any creditor enjoying a privilege or reservation of ownership rights registered in terms of this section may on the production of proof to the satisfaction of the registrar be recorded by the registrar who shall enter in the register the name of the transferee and shall by memorandum under his hand notify on the instrument of transfer that it has been recorded by him.”.

Amendment of section 41 of the principal Act.

23. Section 41 of the principal Act, shall be amended as follows:

(a) subsection (1) thereof shall be deleted; and

(b) in subsection (2) thereof the number “(2)” and the words “saving the provisions of paragraph (5) of section 51 of this Act” shall be deleted.

Amendment of section 42 of the principal Act.

24. Section 42 of the principal Act, shall be amended as follows:

(a) immediately after paragraph (b) of subsection (1) thereof there shall be added the following new paragraph:

“(c) have power to apply for any extensions, pay fees, receive certificates, and generally do all such things in the name of the owner as may be required in order to maintain the status and validity of the registration of the ship.”; and

(b) immediately after subsection (2) thereof there shall be added the following new subsections:

“(3) The provisions of this section shall apply to all registered mortgages which secure debts resulting from any account current or overdraft or other credit facility.

(4) In connection with the enforcement of any mortgage, not being a mortgage contemplated in subsection (2) of this section, for the purpose of determining the amount certain liquidated and due in connection with any judicial sale of a ship, the mortgagee shall specify the sum due at the time of enforcement by means of an affidavit served on the mortgagor:

Provided that this shall be without prejudice to the right of any interested party to contest such amount according to law.

(5) For the purpose of the proceedings referred to in this section the debtor shall be deemed to be duly served if the application or other Act is served on the master of the vessel, or if he is absent from these Islands, on the local agent appointed for the vessel by the owners or their agent, or in the absence of such local agent on a curator appointed by the Court to represent the debtor and the ship.”.

25. Section 43 of the principal Act, shall be deleted.

Deletion of section 43 of the principal Act.

26. In the English text of subsection (1) of section 45A of the principal Act, for the words “together with the written consent of the said instrument,” there shall be substituted the words “together with the written consent on the said instrument,”.

Amendment of section 45A of the principal Act.

27. Sections 48 to 54A, both inclusive, of the principal Act shall be deleted and substituted by the following new sections:

Deletion and substitution of sections 48 to 54A of the principal Act.

“Loss of original mortgage deed.

“48. (1) In case of loss of any registered mortgage instrument the registrar shall, at the request of the mortgagee alone, or together with the mortgagor, reconstitute the original mortgage and certify this instrument as a reconstituted original of the mortgage instrument. The registrar shall only accede to such a request upon the production by the party making the request of a sworn declaration to the effect that the original has been lost.

(2) In such a case the registrar shall make a note in the register that a reconstituted mortgage instrument has been issued, reciting at whose request such a reconstituted mortgage has been issued.

(3) In case of loss of any original mortgage instrument, the registrar may enter any transfer or discharge of mortgage if the mortgagee produces a sworn declaration that he is the holder of the mortgage, the instrument of which has been lost, and that he is discharging or transferring the said security in virtue of the sworn declaration.

(4) In such a case the registrar shall, on production of the said sworn declaration, treat such declaration as the mortgage instrument and shall follow the procedure specified in this Act for the transfer or discharge of mortgage; the registrar shall make a note in the register that the transfer or discharge of mortgage has taken place in virtue of a sworn declaration.

Recognition of foreign mortgages.

49. A foreign mortgage shall be recognised as a mortgage with the status and all the rights and powers specified in this Act, notwithstanding the fact that it is not entered over a registered ship if:

(a) such mortgage has been validly recorded in the registry of ships of the country under whose laws the ship is documented;

(b) such registry is a public registry;

(c) such mortgage appears upon a search of the registry; and

(d) such mortgage is granted a preferential and generally equivalent status as a mortgage under this Act under the laws of the country where the mortgage is registered.

Special privileges

Special
privileges
on ships.

50. The debts hereunder specified are secured by a special privilege upon the vessel, as well as any proceeds from any indemnity arising from collisions and other mishaps as well as any insurance proceeds:

(a) judicial costs incurred in respect of the sale of the ship and the distribution of the proceeds thereof;

(b) fees and other charges due to the registrar of Maltese ships arising under this Act;

(c) tonnage dues;

(d) wages and expenses for assistance, recovery or salvage, and for pilotage;

(e) the wages of watchmen, and the expenses of watching the ship from the time of her entry into port up to the time of sale;

(f) rent of the warehouses in which the ship's tackle and apparel are stored;

(g) the expenses incurred for the preservation of the ship and of her tackle including supplies and provisions to her crew incurred after her last entry into port;

(h) wages of the master and the crew employed for a period of three months prior to the last voyage, for the last voyage and for all the period after her last entry into port;

(i) damages and interest due to any seaman for death or personal injury and expenses attendant on the illness, hurt or injury of any seaman;

(j) moneys due to creditors for labour, work and repairs previously to the departure of the ship on her last voyage:

Provided that such privilege shall not be competent where the debt has not been contracted directly by the owner of the ship, or by the master, or by an authorised agent of the owner;

(k) ship agency fees due for the ship after her last entry into port, in accordance with port tariffs, and any

disbursements incurred during such period not enjoying a privilege in paragraphs (a) to (i) of this section, though in any case for a sum in the aggregate not in excess of four thousand liri;

(l) moneys lent to the master for the necessary expenses of the vessel during her last voyage, and the reimbursement of the price of goods sold by him for the same purpose;

(m) moneys due to creditors for provisions, victuals, outfit and apparel, previously to the departure of the ship on her last voyage;

Provided that such privilege shall not be competent where the debt has not been contracted directly by the owner of the ship, or by the master, or by an authorised agent of the owner;

(n) damages and interest due to the freighters for non-delivery of the goods shipped, and for injuries sustained by such goods through the fault of the master or the crew;

(o) damages and interest due to another vessel or to her cargo in cases of collision of vessels;

(p) the debt specified in sub-paragraph (d) of section 2009 of the Civil Code (Chapter 16) for the balance of the price from the sale of a ship.

Debts
contracted
in different
ports.

51. Where debts of a nature similar to the ones mentioned in paragraphs (a) to (p), both inclusive, of section 50 of this Act shall have been contracted in different ports, or on the occasion of several forced returns to the same port, the priority established by the said section shall be observed with regard to the several debts contracted on the occasion of each arrival or return, but the debts contracted on the occasion of a subsequent arrival or return shall have preference over those contracted on the occasion of a former arrival or return.

Privileges
of seller
to be
registered.

52. (1) The privilege granted to the seller for the price of the thing sold under the provisions of paragraph (d) of section 2009 of the Civil Code (Chapter 16), is not effectual in regard to vessels, unless the claim for such price be registered, in the case of ships registered under Part II of this Act, in the register of the said ship, within two days from the date of the sale. Such privilege is registered by delivery to the registrar on the prescribed form duly completed and signed by the seller.

(2) The said privilege shall not be effectual in regard to any other vessel unless the claim for such price be registered in the Public Registry within two days from the date of the sale.

(3) The same rule shall apply with regard to the right of recovering the thing sold, as provided in the said Code.

(4) Such privilege shall be extinguished upon payment of the price and relative charges, and upon production of a receipt issued by the seller, attested by a witness, the registrar or the Director of Public Registry, as the case may be, shall make a note in the register notifying the discharge thereof.

Seller bound to make debts known to buyer.

53. (1) The seller of a vessel is bound to inform the purchaser of all privileged debts, and to furnish him with a list thereof duly signed by himself.

(2) If the aforesaid list is not given to the purchaser, or if, in the list given to him, any of the aforesaid debts is omitted, he may, in the event of his sustaining any damage therefrom, exercise such rights as are competent to him against the seller, with all such means as the law provides against debtors committing fraud in contracting debts.

Possessory lien or privilege.

54. (1) Any shiprepairer, shipbuilder or other creditor into whose care and authority a ship has been placed for the execution of works or other purposes shall have a possessory lien over the ship.

(2) A possessory lien shall entitle the creditor to retain possession over the ship on which he has worked or carried out activity until such creditor is paid the debts due to him for such building, repairs or activity.

(3) A possessory lien shall be extinguished by the voluntary release of the ship from the custody of the creditor.

(4) A possessory lien shall not be extinguished if the vessel is released pursuant to a court order or following a judicial sale of the vessel. In the latter case the creditor shall enjoy the priority specified in section 54A of this Act over the proceeds of sale of the ship.

(5) The creditor shall be obliged to release the ship if he is paid the sum claimed, or adequate security is deposited in the Commercial Court under the provisions of the Code of Organisation and Civil Procedure:

Provided that the creditor shall enjoy the same priority over such sum.

Ranking of creditors.

54A. (1) The debts specified in section 50 of this Act shall rank in the order therein set out and in preference to other hypothecary and privileged claims, notwithstanding that the ship is still in the possession of the debtor, and the debts specified in paragraphs (a) and (b) of section 50 of this Act shall under all circumstances rank in preference to any claim.

(2) Any debt secured by a possessory lien or privilege over a ship as stated in section 54 of this Act, shall be paid in preference to all other claims except the debts specified in paragraphs (c), (d), (e), (f), (g), (h), (i) and (j) of section 50 of this Act if such debts were created prior to the debt of the creditor enjoying the possessory lien.

(3) Any debt secured by a mortgage registered under the provisions of this Act or secured by a foreign mortgage recognised under this Act shall rank after the debts specified in section 54 and in paragraphs (c), (d), (e), (f), (g), (h), (i), (j) and (k) of section 50 of this Act but before the debts specified in paragraphs (l), (m), (n), (o) and (p) of section 50 of this Act.

(4) Where the fund is insufficient, competing creditors under the same heading shall share in such fund ratably.”.

28. Immediately after subsection (2) of section 55 of the principal Act, there shall be added the following new subsections:

Amendment of section 55 of the principal Act.

“(3) The owner of a ship intending to register a ship under this Act, may, on payment of such fee as may be prescribed and on application to the registrar, reserve the proposed name of the ship for a maximum period of three months.

(4) The application referred to in subsection (3) of this section may be made together with the application for registry of a ship, or with the application for permission to change the name of a ship, or by any other writing provided that the ship for which the reservation is being made is adequately identified.”.

29. Section 56 of the principal Act, shall be amended as follows:

Amendment of section 56 of the principal Act.

(a) wherever the word “Minister” occurs it shall be deleted and substituted by the word “Registrar-General”; and

(b) immediately after the words “to be published” in subsection (3) thereof there shall be inserted the words “, or otherwise publicised,”.

30. Subsection (1) of section 57 of the principal Act, be deleted and substituted by the following new subsection:

Amendment of section 57 of the principal Act.

“(1) Where a registered ship is so altered as not to correspond with the particulars relating to her tonnage or description contained in the register, an application accompanied by a certificate from the proper surveyor, requesting the registration of the alteration shall be made to the registrar who shall, on receipt thereof accompanied as aforesaid, either cause the alteration to be registered or direct that the ship be registered anew.”.

Amendment of section 58 of the principal Act.

31. Subsection (2) of section 58 of the principal Act, shall be deleted and substituted by the following new subsection:

“(2) The particulars of the alteration so made and the fact of the new certificate having been granted or endorsement having been made, shall be entered by the registrar in the register.”.

Deletion of sections 59, 62 and 66 of the principal Act.

32. Sections 59, 62 and 66 of the principal Act, shall be deleted.

Deletion and substitution of section 67 of the principal Act.

33. Section 67 of the principal Act, shall be deleted and substituted by the following new section:

“Inspection of register and transcript and extract of register.

67. Saving any other provisions of this Act, a person may, on payment of such fee as may be prescribed and on application to the registrar at all reasonable time during the hours of his official attendance, inspect any register, and obtain a transcript or extract of the register.”.

Amendment of section 71 of the principal Act.

34. Immediately after the words “or ownership of,” in paragraph (a) of section 71 of the principal Act, there shall be inserted the words “any registered encumbrance or mortgage existing on,”.

Deletion of sections 78 and 80 of the principal Act.

35. Sections 78 and 80 of the principal Act, shall be deleted.

Amendment of section 85 of the principal Act.

36. Immediately after the definition of “operation” in subsection (1) of section 85 of the principal Act, there shall be inserted the following new definition:

“resident in Malta” means:

(a) in the case of an individual, a person who is either ordinarily resident in Malta or is domiciled in Malta; and

(b) in the case of a body of persons, any such body as is formed and registered in Malta, or which has its principal place of business in Malta or which is controlled, directly or indirectly by a person or persons resident in Malta;”.

Amendment of section 86 of the principal Act.

37. Section 86 of the principal Act, shall be amended as follows:

(a) in subsection (1) thereof immediately after the words “on any dividend paid to the shareholders of such company” there shall be inserted the words “, and where the shareholder is itself a company, any dividend paid to the shareholders of such company”;

(b) subsection (2) thereof shall be amended as follows:

(i) paragraph (b) thereof shall be deleted; and

(ii) paragraph (a) thereof shall be renumbered as subsection (2);

(c) in subsection (3) thereof for the words “in that paragraph.” there shall be substituted the words “in that paragraph

and in case of loans referred to in that same paragraph it shall be permissible, for the purposes of this Act, for the amount of interest due in respect of any such loan or of any such other debt to exceed the amount of capital due in respect of any such loan or of any such other debt.”;

(d) immediately after subsection (4) thereof there shall be added the following new subsection:

“(5) In the case of a company whose objects are limited for the sole purpose of owning and, or, operating exempted ships, and ancillary transactions and which actually owns and, or, operates only exempted ships, a declaration may be submitted to the Commissioner of Inland Revenue in the form set out in the Sixth Schedule to this Act by a person holding the warrant of a certified public accountant and auditor under the Accountancy Profession Act, 1979, in lieu of a tax return required in terms of the Income Tax Act, 1948, and the relative provisions of the Income Tax Act, 1948, shall, for the purpose of this Act, be construed accordingly.”.

38. Immediately after the Fifth Schedule to the principal Act, there shall be added the following new Schedule:

Addition of new schedule to the principal Act.

“SIXTH SCHEDULE

(Section 86)

DECLARATION IN LIEU OF TAX RETURN IN RESPECT OF A COMPANY OWNING AND, OR, OPERATING AN EXEMPTED SHIP

Name of Company

Name and official number of ship

Declaration made by

of

Year of Assessment

I the undersigned do solemnly declare that I have ascertained to the best of my ability that the above mentioned company is the owner of the above mentioned ship which is an exempted ship under the provisions of the Merchant Shipping Act, 1973, and that the objects of the company limit its operations to the owning and, or, operation of an exempted ship, and the company qualifies for the concessions granted by the said Act for the period commencing and ending and that the relative registration fees for this period have been paid.

I also declare that I have ascertained to the best of my ability that the company has not engaged in any business other than the ownership and, or, operation of exempted ships and that during any period not covered by the above mentioned dates the company has not traded and has not had any income which would not be exempted under the said Merchant Shipping Act, 1973.

I finally declare that to the best of my knowledge the company does not stand to lose any of the concessions granted nor has it waived any of the said concessions under the Act.

I make this declaration in full knowledge of the consequence of false declarations under the laws of Malta.

Signature

Identity Document No.

Status

Date: ”.

Amendment of section 88 of the principal Act.

39. Immediately after paragraph (c) of section 88 of the principal Act, there shall be added the following new paragraph:

“(d) the registration of any mortgage or other charge over any registered ship, the transfer or the discharge thereof, any receipt relative thereto, and any assignments granted in connection with:

- (i) the financing of any registered ship, or
- (ii) the securing of any claims against such ship.”.

Addition of new section 88A to the principal Act.

40. Immediately after section 88 of the principal Act, there shall be added the following new section:

“Concessions at option of company.

88A. The concessions and other benefits granted by this Act are so granted at the option of the company benefitting therefrom and any such company may, by notice in writing to the Minister, opt not to be entitled to any such concession which shall be thereby waived and such waiver shall be indefinite and irrevocable in respect thereof.”.

Deletion of sections 338 to 360 and 469 to 476 of the Commercial Code.

41. Sections 338 to 360 in Title II and sections 469 to 476 contained in Title V of the Commercial Code shall be deleted.

Amendment of section 363 of the principal Act.

42. Section 363 of the principal Act, shall be amended as follows:

- (a) the present provision shall be renumbered as subsection (1) thereof; and

(b) immediately after subsection (1) thereof as renumbered there shall be added the following new subsection:

“(2) The Registrar-General may carry out any of the duties, and shall have all the powers which by this Act are to be carried out, or are conferred on by the registrars.”.

43. Subsection (1) of section 364 of the principal Act, shall be deleted and substituted by the following new subsection:

Amendment of section 364 of the principal Act.

“(1) The Minister may also appoint registrars for the purposes of this Act in such number as he may deem necessary for the proper execution of this Act.”.

44. Section 365 of the principal Act, shall be deleted and substituted by the following new section:

Deletion and substitution of section 365 of the principal Act.

“Register 365. (1) Every registrar shall keep a record to be called the register and there shall be made therein all such entries as required so to be made by this Act.

(2) Every registrar shall file and properly index all documents that are required to be kept by him.”.

45. Immediately after section 372 of the principal Act, there shall be added the following new sections:

Addition of new sections 372A and 372B to the principal Act.

“Fixing and imposition of fines. 372A. (1) All penalties contemplated by any provision of this Act may be fixed and imposed by the Registrar-General.

(2) The imposition of a penalty in terms of this Act shall constitute an executive title within the meaning and for the purposes of Title VII Part I of Book Second of the Code of Organisation and Civil Procedure.

Enforcement of fines. 372B. The Registrar-General shall serve a demand note upon the person upon whom a fine is imposed and if payment is not made within seven days from the date of the service of such demand note, the Registrar-General may proceed to enforce payment after two days from the service on the debtor of an intimation for payment made by means of a judicial act.

46. Section 9 of the Public Registry Act, shall be deleted.

Amendment of the Public Registry Act, (Cap. 56).

47. For the words “sections 38 to 51, both inclusive, and of sections 53, 54 and 62” in section 15A of the Civil Aviation Act, 1972, there shall be substituted the words “section 37C, subsection (1) of section 37D, sections 38, 39, 41, 42, 44, 45, 45A, 46, 47, 48 and 49”.

Amendment of the Civil Aviation Act, 1972.

48. (1) The anniversary of initial registration with regard to ships registered before the coming into force of sections 8 and 11 of this Act shall for the purposes of sections 7 and 19 of the principal Act as amended by this Act, be fixed in accordance with regulations as may be made by the Minister, which regulations shall also provide that a fee shall be payable for any period not exceeding twelve months in such manner that such fee shall subsequent to its payment as aforesaid be next due on such anniversary date as fixed in the regulations.

(2) Save as provided for in the next following subsection, the principal Act as amended by this Act shall apply to Maltese ships and to mortgages entered in the registry prior to the coming into force of any of the provisions of this Act.

(3) The holder of any mortgage registered prior to the date upon which section 21 of this Act comes into force may, upon furnishing the registrar with evidence of an agreement by the shipowner not to register any further mortgages without the consent of the said mortgagee, and upon filing the relevant declaration, request that a note be entered in the register of the ship to the effect that no other mortgage may be registered without the prior written consent of the mortgagee.

Passed by the House of Representatives at Sitting No. 165 of the 9th November, 1988.

LAWRENCE GONZI
Speaker

P. MUSCAT TERRIBILE
Clerk to the House of Representatives