

**FIRST SUPPLEMENT TO THE GIBRALTAR  
GAZETTE**

**No. 2,462 of 24<sup>th</sup> November, 1988.**

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I ASSENT,  
PETER TERRY,  
GOVERNOR.

24<sup>th</sup> November, 1988.



**GIBRALTAR**

**No. 19 of 1988.**

**AN ACT** to amend the Merchant Shipping Act.

**ENACTED** by the Legislature of Gibraltar.

**Title.**

1. This Act may be cited as the Merchant Shipping (Amendment) (No. 2) Act, 1988.

**Amendments to section 204A..**

2. Section 204A of the Merchant Shipping Act (hereinafter called "the principal Act") is amended as follows-

(a) in paragraph (a) of subsection (1) by omitting the words "every share in the ship is owned by a qualified person" and substituting therefor "the provisions of this Part which concern

the qualification of persons to be owners of ships registered in Gibraltar are complied with";

(b) in paragraph (b) of subsection (1) by omitting all the words from "Before exercising" to the end of the paragraph;

(c) by repealing paragraph (c) of subsection (1);

(d) by re-lettering the last paragraph of subsection (1) as "(c)" in place of "(b)";

(e) by repealing subsections (2), (4) and (5).

**New sections.**

3. The principal Act is amended by inserting after section 204A the following new sections –

**"Persons qualified to be owners of ships registered in Gibraltar.**

204B. (1) For the purposes of this Part the following persons are qualified to be owners of ships registered in Gibraltar, namely-

(a) British citizens;

(b) British Dependent Territories citizens;

(c) British Overseas citizens;

(d) persons who under the British Nationality Act 1981 are British subjects;

(e) persons who under the Hong Kong (British Nationality) Order 1986 are British Nationals (Overseas);

(f) bodies corporate incorporated and having their principal place of business in Gibraltar, in the United Kingdom, the Isle of Man, any of the Channel Islands or any colony;

(g) citizens of the Republic of Ireland.

(2) It is hereby declared that a person who is not qualified under subsection (1) to be an owner of a ship registered in Gibraltar may nevertheless be one of the owners of such a ship if-

(a) a majority interest in the ship (within the meaning of section 204c) is owned by persons who are qualified to be owners of ships registered in Gibraltar; and

(b) the ship is registered, in accordance with the provisions of that section, under this Part.

**Entitlement to registration.**

204C. (1) Subject to sections 204E and 204F, this section has effect for the purpose of determining whether a ship is entitled to be registered under this Part in Gibraltar.

(2) Subject to subsection (3), a ship shall be entitled to be registered if a majority interest in the ship is owned by one or more persons qualified to be owners of ships registered in Gibraltar by virtue of section 204B(1)(a), (b), (e) or (f) above.

(3) Where the person, or (as the case may be) each of the persons, by whom the majority interest in the ship is owned is not resident in Gibraltar the ship shall only be entitled to be registered if a representative person is appointed in relation to the ship.

(4) Where a majority interest in a ship is owned by one or more persons qualified to be owners of ships registered in Gibraltar by virtue of section 204B(1)(c), (d) or (g) above, the ship shall be entitled to be registered-

(a) if that person, or (as the case may be) any of those persons, is resident in Gibraltar, or

(b) (where that condition is not satisfied) if the Governor furnishes him or them with a declaration that he consents to the ship being registered, and, in addition, a representative person is appointed in relation to the ship.

(5) Where a majority interest in a ship is owned by the following persons, namely-

(a) one or more persons qualified to be owners of ships registered in Gibraltar by virtue of section 204B(1)(a), (b), (e) or (f), and

(b) one or more persons so qualified by virtue of section 204B(1)(c), (d) or (g),

the ship shall be entitled to be registered-

(i) if any of those persons is resident in Gibraltar, or

(ii) (where that condition is not satisfied) if a representative person is appointed in relation to the ship.

(6) For the purposes of this section-

(a) one or more persons shall be treated as owning a majority interest in a ship if there is vested in that person or , in those persons, taken together, the legal title to 33 or more of the 64 shares into which the property in the ship is divided, for the purposes of registration, in accordance with section 5 of the Merchant Shipping Act 1894 (there being left out of account for this purpose any share in which any beneficial interest is owned by a person who is not qualified to be an owner of a ship registered in Gibraltar); and

(b) a body corporate shall be treated as resident in Gibraltar if it is incorporated in Gibraltar and has its principal place of business there.

(7) Nothing in this section applies to a ship to which section 80 of the Merchant Shipping Act 1906 applies.

**Representative persons.**

244D (1) Where the entitlement of any ship to be registered is, by virtue of any provision of section 204C, conditional on the appointment of a representative person in relation to the ship, the owner of the ship shall-

(a) before applying for the ship to be registered, appoint an individual or body corporate satisfying the prescribed requirements to be the representative person in relation to the ship, and

(b) secure that, so long as the ship remains registered, an individual or body corporate satisfying those requirements is so appointed.

(2) For the Purposes of subsection (1) the Prescribed requirements are –

(a) that the representative person is either –

(i) an individual resident in Gibraltar, or

(ii) a body, corporate incorporated in Gibraltar and having its principal place of business there; and

(b) such other requirements as the Governor may by regulations prescribe.

(3) The owner of any ship in relation to which any representative person is for the time being appointed shall –

(a) on applying for the ship to be registered, notify the registrar of the name and address of the representative person; and

(b) in the event of any change in the identity, or in the address, of the representative person so appointed, notify the registrar of the name and address of the new representative Person, or (as the case may be) of the new address as soon as practicable after the change Occurs;

and the registrar shall record any Particulars notified to him in pursuance of this section in the register kept by him under Part I of the Merchant Shipping Act 1894.

(4) Any document required or authorised, by virtue of any statutory provision, to be served for the purpose of the institution of, or otherwise in connection with, proceedings for an offence under the Merchant Shipping Act, shall, where the person to be served is the owner of a registered ship, be treated as duly served on him if-

- (a) delivered to any representative person for the time being appointed in relation to the ship, or
- (b) sent to any such person by Post at the address notified (or, as the case May be, last notified) to the registrar under subsection (3) in relation to that person, or
- (c) left for any such person at that address.

(5) Any person who contravenes subsection (1)(b) or (3)(b) above shall be guilty of an offence and liable on summary conviction to a fine of £400.

**Refusal of registration.**

204E (1) If for any reason it appears to the Governor that a ship in respect of which an application for registration has been made may not be entitled to be registered, he may by notice served on-

- (a) the applicant, or
- (b) any representative person for the time being appointed in relation to the ship,

require that person to furnish him with such information as he thinks necessary for the purpose of determining whether the ship is entitled to be registered.

**Representative persons.**

204D (1) Where the entitlement of any ship to be registered is, by virtue of any provision of section 204C, conditional on the appointment of a representative person in relation to the ship, the owner of the ship shall-

(a) before applying for the ship to be registered, appoint an individual or body corporate satisfying the prescribed requirements to be the representative person in relation to the ship, and

(b) secure that, so long as the ship remains registered, an individual or body corporate satisfying those requirements is so appointed.

(2) For the purposes of subsection (1) the prescribed requirements are –

(a) that the representative person is either-

(i) an individual resident in Gibraltar, or

(ii) a body corporate incorporated in Gibraltar and having its principal place of business there; and

(b) such other requirements as the Governor may by regulations prescribe.

(3) The owner of any ship in relation to which any representative person is for the time being appointed shall-

(a) on applying for the ship to be registered, notify the registrar of the name and address of the representative person; and

(b) in the event of any change in the identity, or in the address, of the representative person so appointed, notify the registrar of the name and address of the new representative person, or (as the case may be) of the new address, as soon as practicable after the change occurs;

and the registrar shall record any particulars notified to him in pursuance of this section in the register kept by him under Part I of the Merchant Shipping Act 1894.

(4) Any document required or authorised, by virtue of any statutory provision, to be served for the purpose of the institution of, or otherwise in

connection with, proceedings for an offence under the Merchant Shipping Act, shall, where the person to be served is the owner of a registered ship, be treated as duly served on him if-

- (a) delivered to any representative person for the time being appointed in relation to the ship, or
- (b) sent to any such person by post at the address notified (or, as the case may be, last notified) to the registrar under subsection (3) in relation to that person, or
- (c) left for any such person at that address.

(5) Any person who contravenes subsection (1)(b) or (3)(b) above shall be guilty of an offence and liable on summary conviction to a fine of £400.

**Refusal of registration.**

204E (1) If for any reason it appears to the Governor that a ship in respect of which an application for registration has been made may not be entitled to be registered, he may by notice served on-

- (a) the applicant, or
- (b) any representative person for the time being appointed in relation to the ship,

require that person to furnish him with such information as he thinks necessary for the purpose of determining whether the ship is entitled to be registered.

(2) Where the Governor has served a notice under subsection (1) with respect to any ship, then, unless he has become satisfied that the ship is entitled to be registered, he shall, as soon as practicable after the end of the period of 30 days beginning with the date of service of that notice, give to the registrar a direction requiring him not to register the ship.

(3) Notwithstanding that any ship in respect of which an application for registration has been made is entitled to be registered, the Governor may give to the registrar a direction requiring him not to register the ship if he is satisfied that, having regard-



(a) to the condition of the ship so far as relevant to its safety or to any risk of pollution, or

(b) to the safety, health and welfare of persons employed or engaged in any capacity on board the ship,

it would be inappropriate for the ship to be registered.

**Power of Governor to direct removal from the register.**

204F. (1) If for any reason it appears to the Governor that a registered ship may no longer be entitled to be registered, he may by notice served on-

(a) the owner of the ship, or

(b) any representative person for the time being appointed in relation to the ship,

require that person to furnish him with such information as he thinks necessary for the purpose of determining whether the ship is entitled to be registered.

(2) Where the Governor has served a notice under subsection (1) with respect to any ship, then, unless he has become satisfied that the ship is entitled to be registered, he shall, as soon as practicable after the end of the period of 30 days beginning with the date of service of that notice, serve a notice under subsection (4) on the owner or on any representative person for the time being appointed in relation to the ship.

(3) Where the Governor is satisfied-

(a) that, having regard to the matters mentioned in paragraph (a) or (b) of section 204E(3), it would be inappropriate for a registered ship to continue to be registered, or

(b) that any penalty imposed on the owner of a registered ship in respect of a contravention of the Merchant Shipping Act, has remained unpaid for a period of more than three months (and no appeal against the penalty is pending), or

(c) that any summons for any such contravention has been duly served on the owner of a registered ship but the owner failed to appear at the time and place appointed for the trial of the information or complaint in question and a period of not less than three months has elapsed since that time, or

(d) that no representative person in relation to the ship is resident in Gibraltar as required by section 204D,

the Governor shall serve a notice under subsection (4) either on the owner or on any representative person for the time being appointed in relation to the ship.

(4) A notice under this subsection is a notice stating-

(a) that the Governor is not satisfied that the ship in question is entitled to be registered or (as the case may be) that he is satisfied as mentioned in subsection (3); and

(b) that he intends, after the end of the period of 30 days beginning with the date of service of the notice, to direct that the ship in question should cease to be registered unless he is satisfied that it would be inappropriate to do so by any representations made to him by or on behalf of the owner within that period.

(5) As soon as practicable after the end of that period, the Governor shall accordingly direct the registrar to terminate the ship's registration unless he is satisfied that it would be inappropriate to do so by any such representations.

(6) Where the registration of any ship has terminated by virtue of this section, the Governor may subsequently, if he is satisfied that it would be appropriate to do so, direct the registrar to restore the ship's registration.

**Offences relating to furnishing of information, and duty to comply with directions.**

204G. (1) Any person who-

(a) in purported compliance with the requirements of a notice under section 204E(1) or 204F(I),or

(b) in connection with the making of any representations in pursuance of section 204F(4)(b),

knowingly or recklessly furnishes information which is false in a material particular shall be guilty of an offence and liable-

(i) on summary conviction, to a fine of £1000;

(ii) on conviction on indictment, to a fine.

(2) It shall be the duty of any person to whom the Governor gives a direction under this Part to give effect to that direction.

**Duty of owner of registered ship to secure termination of any overseas registration.**

204H.(1) Where a ship becomes registered at a time when it is already registered under the law of any country outside Gibraltar, the owner of the ship shall take all reasonable steps to secure the termination of the ship's registration under the law of that country.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable on summary conviction to a fine of £400.

**Interpretation.**

204I. In this Part unless the context otherwise requires-

"length", in relation to a ship, is the length ascertained for the purpose of Schedule I to this Act;

"owner", in relation to a registered ship, means "registered owner";

"registered" and "registration" means respectively registered and registration under the provisions of this Part;

"registrar" means the Captain of the Port;

"representative person" means a person appointed as such under section 204D."

*Merchant Shipping (Amendment) (No.2) Act, 1988* [No.19 of 1988]

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Passed by the Gibraltar House of Assembly on the 16th day of November, 1988.

C. M. COOM,  
Clerk to the Assembly.