

**SHIP AGENTS (REGISTRATION) ORDINANCE, 1987**

**Repealed by Ord. 2005-12 as from 1.6.2006**

**Principal Ordinance**

<b>Ord. No. 1987-08</b>	<i>Commencement</i>	1.3.1987
	<i>Assent</i>	19.2.1987

Amending enactments	Relevant current provisions	Commencement date
1995-08*	ss. 3(1)(b)(3A), 6(1)(2), 8, 9, 10(2A), 11(1)(3), 12(1)(b), 13(1)(b), 15(1)(2), 18(2)(4) and 19(c)	1.4.1996

English sources

None cited

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\* *Note: (a) ss. 7(b) [amending s.11(3) of the main Ordinance] and 11(a) [amending s.18(2) of the main Ordinance] shall apply in respect of an offence committed on or after 1.4.1995; and*

*(b) s. 8(b) [amending s.12(b) of the main Ordinance] shall not apply in respect of a person registered as a ship agent before the 1<sup>st</sup> day of April 1996.*

ARRANGEMENT OF SECTIONS.

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AN ORDINANCE TO PROVIDE FOR THE REGISTRATION AND CERTAIN OTHER MATTERS RELATING TO THE CARRYING ON OF THE BUSINESS OF SHIP AGENTS.

**Short title and commencement.**

1.(1) This Ordinance may be cited as the Ship Agents (Registration) Ordinance, 1987.

(2) This Ordinance shall come into operation on such date as the Governor may by notice in the Gazette appoint.

**Interpretation.**

2. In this Ordinance—

“Board” means the Ship Agents Board established under section 3;

“register” means the register of ship agents established under section 5;

“Registrar” means the Registrar of Ship Agents;

“registration” means registration under this Ordinance and “registered” has a corresponding meaning;

“ship agent” means a person whose business it is, on behalf of the owners, charterers, managers or master of a ship or otherwise to deal with the ship’s business at the port, receive and deliver, and attend to clearance of goods, embark and disembark passengers, bunkering ships, prepare contracts and other documents relating to the carriage of goods by sea, assist with reception, enrolment and repatriation of crews, and generally to attend to the requirements of the owners, charterers, managers and masters of ships in matters affecting ships, their crews, passengers and goods.

**Ship Agents Board.**

3.(1) There is hereby established a board to be known as the Ship Agents Board consisting of—

- (a) the Registrar of Ship Agents who shall be Chairman of the Board; and
- (b) three other members appointed by the Government one of whom shall be a barrister or solicitor of the Supreme Court.

(2) The members of the Board appointed under subsection (1)(b) shall hold and vacate office in accordance with the terms of their appointment.

(3) The Board shall decide any matters before them by a majority vote of the members present at any meeting and, in the case of an equality of votes, the Chairman shall have a second or casting vote.

(3A) A quorum of the Board shall be the chairman and two other members.

(4) The Board shall have power to regulate their own procedure.

**Registrar of ship agents.**

4. The Captain of the Port shall be the Registrar of Ship Agents.

**Register of ship agents.**

5. The Board shall establish and maintain a register of ship agents containing the names, addresses and such other particulars as may be prescribed, of all persons who are qualified in accordance with this Ordinance to be registered and apply to be so registered.

**Qualifications for being registered.**

6.(1) Subject to section 7, a person is qualified for registration if he shows to the satisfaction of the that he has and does comply with the prescribed requirements in respect of competence, experience, facilities, staffing and financial and professional standing and can satisfy the Board that he has and does comply with statutory requirements in respect of the setting up and operation of the activity of ship agent.

(2) For the purpose of satisfying itself so provided for in sub-section (1), the Board may require such information in such form and accompanied by such confirmatory evidence as it may specify and in the absence of such information, shall not be required to consider an application or register an applicant.

**Persons disqualified for registration.**

7. A person is disqualified for registration if—

- (a) he has been convicted by any court of any criminal offence involving fraud or dishonesty and sentenced to a term of imprisonment without the option of a fine;

- (b) he is an undischarged bankrupt, or in the case of a body corporate, is in the process of being wound up.

## **Registration of bodies corporate.**

8. A body corporate is eligible for registration if it satisfies the Board that a majority of its directors have, or, in the case of a body corporate having only two directors, one of them has, satisfied any matter prescribed under section 6 and required to be satisfied by an individual qualified to be registered as a ship agent, and that no director is disqualified as provided in section 7.

## **Effect of charge of directors.**

9.(1) Where a body corporate is registered under this Ordinance, the registration shall cease if there is any change of director, such that the provisions of section 8 cease to be satisfied and it shall be an obligation of the directors of the body corporate to give written notice to the Registrar of any change in respect of any director.

(2) Where there is a change of director, the Board may attach a condition to the registration of that body corporate.

## **Applications for and certificates of registration.**

10.(1) Application for registration under this Ordinance shall be made to the Board in the prescribed form and shall be accompanied by such fee as may be prescribed.

(2) If the Board grants an application it shall direct the Registrar to register the application in respect of the business named in the application and issue to him a certificate of registration.

(3) A registered person may at any time apply to the Registrar for the alteration of any particulars included in the entry in the register relating to that person.

(4) The certificate of registration shall be kept affixed in a conspicuous place in the principal place of business in Gibraltar of the person registered.

## **Board may require information.**

11.(1) The Board shall have power to require a person registered under this Ordinance to supply to the Board such information relating to that person's business as a ship agent and such other matters as the board shall think relevant for the purposes of this Ordinance and without prejudice to the generality of this sub-section, the Board may require a person to provide to

it an annual return of ships in respect of which ship agent services have been provided.

(2) The power of the Board under subsection (1) shall also be exercisable as respects a person who has applied for registration pending the determination of his application.

(3) A person who knowingly or recklessly supplies information which is false in any material particular is guilty of an offence and liable--

- (a) on summary conviction to a fine at level 4 on the standard scale;
- (b) on conviction on indictment to a fine.

(4) If it appears to the Board that a person who has applied for registration or a person registered under this Ordinance has failed to comply with any requirement under this section, the Board may refuse the application, or, as the case may be, direct the Registrar to delete the name and particulars of that person from the register.

**Offices, books of account etc.**

12. Every person, while carrying on business of a ship agent and registered under this Ordinance, shall--

- (a) keep in Gibraltar proper books of account and have them audited annually by an auditor duly registered under the Auditors Registration Ordinance; and
- (b) enter into a bond in a sum of £20,000 or depositing an equivalent amount (the choice of which is to be determined by the Board) to the account of the Government of Gibraltar conditioned for the due payment of all port dues and expenses and the costs of the repatriation of members of the crew incurred in Gibraltar by any ship of which he is acting as the ship agent.

**Deletions from register.**

13.(1) The Board shall direct the Registrar to delete the name and particulars of a person from the register on the ground that--

- (a) any information required to be furnished by that person or on his behalf in conjunction with the application for registration was false or misleading in a material particular; or

- (b) the person registered has ceased to comply with the requirements prescribed in section 6 or has become disqualified as provided for in section 7; or
- (c) has failed to comply with any of the provisions of section 12.

(2) If a registered person has not carried on the business of a ship agent within the period of 12 months beginning on the date on which his application for registration was granted, or has ceased to carry on such business for a period of 12 months, the Board may direct the Registrar to delete the name and particulars of that person from the register.

### **Procedure before the Board.**

14.(1) Where the question of a deletion of a person's name and particulars from the register arises before the Board, that person shall be first informed of the nature of the allegation, and shall be entitled to appear in person or by a legal representative before the Board and be heard thereon.

(2) Where after due inquiry the Board decides to order the name of any person to be deleted from the register, notice of the intention of the Board so to do shall be served on such person either personally or, if he cannot be found, by leaving it at his registered address.

(3) The Board shall not cause the name of any person to be deleted from the register until one month has elapsed since the date of the service of the notice referred to in subsection (2) and it has been ascertained that no appeal under section 15 has been lodged, or, if an appeal has been lodged, until the determination thereof.

(4) If the Board orders the name and particulars of a person to be deleted from the register it shall record its decision, with its reasons, in writing and shall serve that person with a copy thereof.

### **Appeals from decisions of the Board.**

15.(1) A person who is aggrieved by a decision of the Board—

- (a) to refuse to grant an application for registration; or
- (b) to delete his name and particulars from the register

may appeal against the decision to the person appointed by the Government for the purpose of hearing such an appeal.

(2) On the determination of an appeal under this section, the person appointed under sub-section (1) may confirm, vary or reverse the decision appealed against, and may—

- (a) take any action which the Board could have taken at the time it took that decision; and
- (b) give such directions as the person appointed under sub-section (1) thinks just for the payment of the costs of the appeal.

**Gazetting of registration.**

16.(1) The Registrar shall cause the name and address of any person—

- (a) registered under this Ordinance; or
- (b) who has for any reason ceased to be so registered;

to be published in the Gazette.

**Transitional provisions.**

17.(1) A person who—

- (a) has been carrying on in Gibraltar the business of a ship agent for a continuous period of not less than three years immediately before the date of commencement of this Ordinance; and
- (b) within a period of three months of that date, applies for registration under this Ordinance,

may be registered irrespective of whether or not he has all or any of the qualifications mentioned in section 6.

(2) Notwithstanding the provisions of section 18, any such person as is mentioned in subsection (1) shall be deemed to be registered and to have complied with all the requirements of this Ordinance until such date as he is in fact registered under that subsection.

**Offences.**

18.(1) A person who—

- (a) without being registered under this Ordinance as a ship agent in respect of any business—
  - (i) carries on such business; or
  - (ii) uses in connection with any business carried on by him a description implying that he is so registered; or



- (b) contravenes or fails to comply with any provisions of this Ordinance,

is guilty of an offence.

(2) A person who is guilty of an offence against this Ordinance is liable upon summary conviction to a fine at the level 4 on the standard scale and in addition, where the offence is a continuing offence, to a fine not exceeding an amount at level 1 on the standard scale for each day during which the offence continues after such conviction.

(3) Where any offence against this Ordinance is committed by a body corporate, any person who, at the time of the commission of the offence, was a director, general manager or secretary or other similar officer of that body corporate or who was, at that time, acting or purporting to act in such capacity, is guilty of such offence unless he proves—

- (a) that the offence was committed without his knowledge or consent; and
- (b) that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in such capacity.

(4) Where the affairs of the corporate entity is managed by its members, sub-section (3) shall apply in relation to the acts and defaults of a member in connection with its functions of management as if he were a director of the entity.

## **Regulations.**

19. The Government may make regulations—

- (a) to prescribe anything that may be prescribed under this Ordinance;
- (b) for the better carrying out of this Ordinance;
- (c) for the prescribing of fees in respect of matters falling to be dealt with under this Ordinance.