

Ship Agents (Registration)

SHIP AGENTS (REGISTRATION) REGULATIONS, 1996

1987-08

Revoked
Subsidiary
1996/038

Regulations made under section 19 of the Ship Agents (Registration) Ordinance, 1987.

SHIP AGENTS (REGISTRATION) REGULATIONS, 1996

Revoked by LN. 2005/037 as from 1.6.2006

(LN. 1996/038)

1.4.1996

Amending enactments	Relevant current provisions	Commencement date
None		

ARRANGEMENT OF REGULATIONS

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Title and commencement.

1. These regulations may be cited as the Ship Agents (Registration) Regulations 1996 and shall come into effect on the 1st day of April, 1996.

Application to be registered.

2. (1) A person making an application to be registered under the provisions of section 5 shall make the application in the form prescribed for the purpose in Schedule 1 and such application shall be accompanied by the fee prescribed in regulation 7.

(2) Subject to sub-regulation (7), the Board may require a person making an application to which sub-regulation (1) applies, to provide such further information as, in the opinion of the Board, is necessary for the Board to determine whether the application satisfies the requirements of the Ordinance and these regulations, and in the absence of such information and subject to section 11(4), the Board shall not be required to consider the application.

(3) Subject to sub-regulation (7), but without prejudice to the generality of sub-regulation (2), the Board may require such evidence as in its view is necessary in order that it may be satisfied in respect of the matters set out in regulation 3 including, but not limited to, certificates issued by, or confirmation in writing from, the person who, under any legislation falling within paragraph (h) of that regulation is in a position to be satisfied or confirm that the requirements of the legislation have been or, as the case may be, are being, complied with.

(4) A person who knowingly or recklessly supplies information in support of an application which is false in any material particular, is guilty of an offence under section 11 of the Ordinance.

(5) If it appears to the Board that a person who has made an application has failed to comply with any requirement under this regulation, the Board may refuse the application.

(6) The members of the Board shall not reveal at any time even after ceasing to be members of the Board, any commercial secrets or working processes which may come to their knowledge in the course of their membership of the Board and shall treat as absolutely confidential the information supplied to them by an applicant in support of his application.

(7) Where, in respect of an application, information which the Board would otherwise require has already been supplied by the applicant to the Board for the purposes of some other application by that person and the

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information was provided no earlier than 90 days prior to the present application, the applicant shall not be required to supply that same information but the Board may require him to indicate the relevance of the information to the present application.

Qualifications for registration as a ship agent.

3. (1) The Board shall not register an applicant as a ship agent unless it is satisfied that in respect of the business he conducts or proposes to conduct, the applicant—

- (a) satisfies the requirements of the Ordinance;
- (b) has available to him adequate premises in Gibraltar which premises shall have been inspected for this purpose by the Registrar;
- (c) has available to him staff in possession of the training and practical experience necessary to conduct the business of ship agent;
- (d) has, or if the applicant is a firm or a body corporate a majority of the partners or directors of that firm or body corporate has, sufficient knowledge of the English language to comprehend and execute documents and communications which normally occur in the course of the business of ship agent;
- (e) has available to him equipment of an amount, type and quality necessary in the opinion of the Board for the proper conduct of the business of ship agent;
- (f) is a fit and proper person, or, if the applicant is a company or a partnership, the directors and shareholders or the partners, as the case may be, are fit and proper persons to carry on the business;
- (g) has available financial and managerial resources appropriate to the business;
- (h) has complied with statutory requirements in respect of the commencement of the business and now complies with statutory requirements in respect of the operation of the business; and
- (j) will, by his registration, contribute to the efficiency and viability of the Port and ensure continuity of service.

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(2) Where the Board is of the opinion that it is reasonable to do so, it may register an applicant provisionally subject to him satisfying within such time period as the Board shall specify the requirements of paragraphs (b), (c) and (e) of sub-regulation (1) but shall cancel such provisional registration if the applicant shall fail to have satisfied the Board as to those conditions within the specified time.

Processing of applications.

4. (1) The Board shall meet no later than 40 days after an application for registration has been received by the Board and shall consider that application.

(2) The Board may require an applicant to appear before it in person in support of his application and where an applicant declines or fails to so appear, the Board shall not be required to consider the application.

(3) No application shall be considered unless the applicant shall have provided to the Board evidence that a notice in respect of the application in the form prescribed for the purpose in Schedule 2 has been published in the Gazette and in one newspaper circulating at least weekly in Gibraltar no later than 21 days before the date fixed for the Board to consider the application.

(4) The Board in considering an application shall consider any objections made by any person in respect of that application provided that such objections shall be in writing and shall have been received by the Board no later than 7 days prior to the date fixed for consideration by the Board of the application, and where in exercise of its powers in sub-regulation (2) to require the applicant to appear before it in support of its application the Board has so required, it shall also permit any person whose objection to that application has been received by the Board to make oral representations to it.

Particulars for registration.

5.(1) The Register of Ship Agents shall contain the following particulars –

- (a) the full name of the ship agent including, where applicable, the business name as defined in the Business Names Ordinance;
- (b) the address and telephone and telex number of the permanent place of business of the ship agent in Gibraltar;
- (c) if the ship agent is a firm, the names and addresses of its partners;

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- (d) if the ship agent is a company, the names and addresses of its directors.

(2) The certificate of registration issued under section 10 shall be in the form prescribed in Schedule 4.

Appeals.

6. (1) Any person who is aggrieved by—

- (a) the refusal of the Board to register him as a ship agent;
- (b) the registration of an applicant and who was an objector to the grant of such registration; or
- (c) a decision to delete his name and particulars from the register,

may appeal to a person appointed for this purpose under section 15.

(2) Any person wishing to appeal in accordance with sub-regulation (1), shall give notice of appeal to the Minister in the form prescribed in Schedule 3 for this purpose within 21 days of the decision of the Board being notified to him, and shall, at the time of giving such notice, serve the Registrar with a copy of the notice of appeal.

(3) On receiving notice of appeal, the Minister shall appoint a person in accordance with section 15 and shall notify the name of that person to the appellant and to the Board.

(4) On receiving notice of appeal, the Board shall, within 21 days, furnish to the person appointed to hear the appeal and the appellant, a notice in the form prescribed for this purpose in Schedule 3 of the reasons for the decision complained of.

(5) The person appointed to hear the appeal may, in his discretion, extend the time for the doing of anything specified in this regulation.

(6) Upon receiving notice of the reasons of the Board, the person appointed to hear the appeal shall appoint a day for the hearing, which day shall be not less than 21 days after he has received such notice and he shall inform the appellant and the Registrar of the time, date and place of the hearing.

(7) In the case of an appeal against the decision of the Board to register, the person appointed to hear the appeal shall also give notice of the time, place and date of the hearing of such appeal to the applicant for such registration together with the reasons of the Board for registering the

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applicant and the applicant shall have a right to be heard at the hearing of the appeal.

(8) On hearing an appeal, the person appointed for the purpose, shall consider the matter in accordance with the provisions of the Ordinance and these regulations and shall have all the powers of the Board and shall be subject to any restrictions so placed on the exercise of those powers and in particular by regulation 2(6).

(9) At the hearing of any appeal, which hearing shall be in private, the appellant may appear in person and the Board may appear by one of its members, and parties may be represented by counsel.

(10) The person appointed to hear an appeal under this regulation shall provide a reasoned decision in writing and shall provide a copy of his decision to the appellant, the applicant (if he is not the appellant) and to the Board and shall do so within 30 days of the hearing of the appeal.

(11) The Board shall, upon notification of the decision in respect of an appeal, give immediate effect to that decision.

Fees.

7. The fee payable in respect of an application for registration as a ship agent shall be £500.

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SCHEDULE 1

Regulation 2

FORM 1

Ship Agents (Registration) Regulations 1996.
Application for registration as a Ship Agent.

Name:

If a company, names and addresses of directors and shareholders indicating distribution of shareholding:

Registration No. under the Companies Ordinance:

If trading as a business name, registration No. under the Business Names Ordinance:

If a partnership, names and addresses of partners:

Registration No. under the Business Trades and Professions (Registration) Ordinance 1989:

If a company, address of registered office:

Address of principal place of business:

Telephone No:

Proposed date of commencement of business as a ship agent:

Details of any relevant trade licences (attach copies):

Details of any relevant licences under the Imports and Exports Ordinance (attach copies):

Number of full time staff employed (attach list indicating whether or not the staff are entitled workers under the Employment Regulations 1994, and if not, indicating beside each person the date of issue of the work permit, the date of termination of the permit and details of that person's permit under the Immigration Control Ordinance, and against each person, give the registration number of that worker with the Employment and Training Board):

Particulars of premises approved or to be approved by the Registrar:

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Details of principal equipment engaged or to be engaged in the business (attach a list showing against any item which under any statute is required to have been inspected and approved, details of the date of the last inspection and a copy of the approval or extract from the book of records of inspection):

Details of any vessels engaged (or to be engaged) in the business including details of berthing and manning:

Details of capitalisation of the business (except where section 17 applies) and of the business plan for a period of five years indicating at least the source and volume of business and turnover on which the business plan is based:

Details of the training and practical experience of the applicant as a ship agent or in the case of a partnership or a company of its partners or directors, as the case may be, in the business of a ship agent.

Details of the fluency of applicant and the staff to be engaged in the ship agency (and in the case of a partnership or a company the partners or directors,) in English language and in particular in the language necessary to comprehend and execute documents and communications normally occurring in the course of the business of a ship agent.

Name and address of the applicant's auditor in Gibraltar.

Full particulars of the bond in the sum of £20,000 which it would be intended to enter into (should the Board determine that a bond rather than a deposit was appropriate).

I warrant that the above information is complete and accurate to the best of my knowledge and I confirm to the Board that I have not 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 and that I am not an undischarged bankrupt and where I sign on behalf of a partnership I warrant that none of the partners 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 and that none of the partners is an undischarged bankrupt and where I sign on behalf of a company, I warrant that none of the directors or shareholders 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

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fine and that none of them is an undischarged bankrupt and that the company is not in the process of being wound up.

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Date of application:

Signature of applicant:

Position in organisation:

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SCHEDULE 2

Regulation 4(3)

SHIP AGENTS (REGISTRATION) REGULATIONS 1996

Notice of intention to apply for registration as a Ship Agent.

I/We give notice that the meeting of the Ship Agents Board to be held on the

the application I/we have made to be registered as a ship agent for the purposes of the Ship Agents (Registration Ordinance 1987 will be considered.

If the application is successful, the business will be operated from with premises approved by the Registrar of Ship Agents, situate at (and with a berth at)

Any person who wishes any objection to the application to be heard by the Board, shall supply details of such objections to the Board at , no later than the close of business on the day 7 days prior to the date specified above as that fixed for the meeting of the Board at which the application is to be considered.

This notice is submitted (name)
on behalf of (name of applicant)

, and is dated the day of 20 .

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SCHEDULE 3

Regulation 6

FORM 1

Ship Agents (Registration) Regulations 1996.

Notice of Appeal.

I, _____ of _____
being aggrieved by a decision of the Ship Agents Registration Board given
on the _____ day of _____ 20____ when the Board -

- (a) refused to register me as a ship agent;
- (b) registered _____ as a ship agent;
- (c) deleted my name from the register of ship agents,

appeal against such decision.

Dated this _____ day of _____ 20____ .

Appellant (signed)

To:

- (i) the Minister for Trade & Industry, Suite 771, 7th Floor,
Europort, Gibraltar
- (ii) the Registrar, Ship Agents Registration Board;
- (iii) (the applicant).

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FORM 2

Ship Agents (Registration) Regulations 1996.

Notice of reasons for decisions of the Ship Agents Registration Board.

The reasons of the Ship Agents Registration Board for its decision on day of 20 to -

- (a) refuse to register the appellant as a ship agent;
- (b) register the appellant as a ship agent;
- (c) delete the appellant from the register of ship agents

were as follows -

Dated this day of 20 .

Chairman
Ship Agents Registration Board

To:

- (i) (person appointed under section 15);
- (ii) (the appellant);
- (iii) (the applicant).

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SCHEDULE 4

Regulation 5

Certificate of Registration.

Ship Agents (Registration) Ordinance 1987.
Ship Agents Board
Certificate of Registration as Ship Agent at the Port of Gibraltar.

.....
of

.....
(registered name and address)

WHEREAS the Ship Agents Board are satisfied that the above named has complied with the requirements for registration as Ship Agent in accordance with the provisions of the Ship Agents (Registration) Ordinance 1987, and have granted the application of the above named to be so registered in respect of the business as such at
Subject to the following conditions -

NOW THEREFORE, IRegistrar of the Ship Agents, do hereby certify in pursuance of section 10(2) of the said Ordinance as directed by the said Board that the above named has been registered as Ship Agent at the Port of Gibraltar.

Dated at Gibraltar Registrar of Ship Agents, Seal

(Note: This certificate must be kept in a conspicuous place in the principal place of business in Gibraltar of the person registered).