

MERCHANT SHIPPING AMENDMENT ACT 2009



BERMUDA

2009 : 24

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[Date of Assent: 19 June 2009]

[Operative Date: 19 June 2009]

WHEREAS it is expedient to amend the Merchant Shipping Act 2002:

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

Short title

1 This Act may be cited as the Merchant Shipping Amendment Act 2009.

Amends section 161A

2 Section 161A of the principal Act is amended—

(a) by repealing subsection (8) and substituting the following subsection—

“(8) Section 147(2) of the Companies Act 1981 which deals with service of process on an overseas company shall not apply to this section and any document required or authorised, by virtue of any statutory

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provision, to be served on an overseas company for the purposes of the institution of or in connection with proceedings for an offence under subsection (5) against the company as registered owner of the ship shall be treated as duly served on the company if the document is served on the master of the ship.”; and

(b) by inserting the following subsection next after subsection (9)—

“(9A) In this section “overseas company” has the same meaning as “overseas company” under section 2(1) of the Companies Act 1981.”.

Amends section 162

3 Section 162 of the principal Act is amended in subsection (1A) by deleting “163A(2)” and substituting “161A(2)”.

Amends section 163

4 Section 163 of the principal Act is amended by repealing subsection (3) and substituting the following subsection—

“(3) The insurer may limit his liability in respect of claims in respect of liability under section 151 which are made against him by virtue of this section in like manner and to the same extent as the registered owner may limit his liability under section 155 but the insurer may do so whether or not the discharge or escape, or (as the case may be) the threat of contamination, resulted from anything done or omitted to be done by the registered owner as mentioned in section 155(3).”.

Amends section 164

5 Section 164 of the principal Act is amended by repealing subsections (4) and (5) and substituting the following subsections—

“(4) The Judgments (Reciprocal Enforcement) Act 1958 shall apply in respect of the enforcement of any judgment of a court in the UK or a court in a jurisdiction specified in an Order made by the Governor under the Judgments (Reciprocal Enforcement) Act 1958 as a court to which that Act shall apply in respect of any liability incurred under section 151 or 151A or any provision corresponding to section 151 or 151A.

(5) A judgment given by a court in a Liability Convention country or a Bunkers Convention country other than the UK or a court in a jurisdiction specified in an Order made by the Governor under the Judgments (Reciprocal Enforcement) Act 1958, in respect of any liability incurred by a Liability

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Convention country or a Bunkers Convention country under section 151 or 151A or any provision corresponding to section 151 or 151A which is enforceable in the State of origin and is no longer subject to ordinary forms of review, shall be recognised in Bermuda unless—

(a) the judgment was obtained by fraud; or

(b) the defendant was not given reasonable notice and a fair opportunity to present his or her case.

(6) A judgment recognised by Bermuda under subsection (5), shall be enforceable in Bermuda as soon as the formalities required in that State (which shall not permit the merits of the case to be re-opened) have been complied with.”.

Amends section 168

6 Section 168 of the principal Act is amended in subsection (1) by inserting the following definition in its proper alphabetical position—

“registered owner” means the person registered as the owner of the ship or in the absence of registration, the person owning the ship, except that, in relation to a ship owned by a State, which is operated by a person registered as the ship’s operator, it means the person registered as its operator;.