



## ANALYSIS

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| Title  |  |
| 1. Short Title   | 12. Obsolete or incorrect entries in Register                  |
| 2. Interpretation  | 13. Interpretation Part VI                                     |
| 3. Qualified person  | 14. Registered Agent   |
| 4. Registration of ships   | 15. Alteration to ships  |
| 5. New Certificates and provisional certificates                                     | 16. Ship lost, etc. or ceasing to be entitled to be registered |
| 6. Provisional certificates for ships becoming entitled to be registered when abroad | 17. Power to inquire into ownership of registered ship         |
| 7. Marking of ship   | 18. Detention of ships   |
| 8. National colours  | 19. Taking officers to sea                                     |
| 9. Concealing Cook Islands nationality   | 20. Consequential amendments to Regulations to Schedule        |
| 10. Transfer of ship, etc  |  |
| 11. Transmission of ship, etc. by operation of law                                   |  |

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1989, No. 32

An Act to amend the Shipping Registry Act 1985

(22 December 1989)

BE IT ENACTED by the Parliament of the Cook Islands in Session assembled and by authority of the same as follows:

1. Short Title - This Act may be cited as the Shipping Registry Amendment Act 1989 and shall be read together with and deemed part of the Shipping Registry Act 1985 (hereinafter referred to as "the Principal Act").

2. Interpretation - Section 2 of the principal Act is amended by deleting the definition of "qualified person", and substituting the following new definition -

"qualifying interest" means an interest in a ship including -

- (a) owning one or more of the sixty-fourth shares in the ship.
- (b) having a leasehold interest, bareboat charter or management or charter contract in respect of the ship."

3. Qualified person - Section 8 of the principal Act is repealed and the following new section substituted -

"8. Qualified person - For the purposes of this Act, a qualified person is defined as -

- (a) a person who is a Cook Islander or a permanent resident of the Cook Islands, as these terms are found in the Entry Residence and Departure Act, 1971-72, or
- (b) a company incorporated pursuant to the Companies Act 1970-71 or an overseas company as defined in that Act, or
- (c) a company incorporated or registered as a foreign company under the International Companies 1981-82, or a partnership as defined and registered under the international Partnership Act 1984."

4. Registration of ships - Section 9 of the principal Act is repealed and the following new section substituted:

" 9. Registration of ships - Application for registration of a ship may only be made by a qualified person in respect of a ship which is not registered in another country, and in which he holds a qualifying interest".

5. New Certificates and provisional certificates - Section 16 of the principal Act is amended by repealing subsections (5), (6), (7) and (8) and substituting the following new subsections -

"(5) If, while a provisional registration certificate granted in respect of a ship under sub-section (2) is in effect, application is made in the manner prescribed, the Registrar may -

- (a) by notice in writing served on the applicant extend the period referred to in paragraph 3(b), and in that event, the reference in that paragraph to a period of six months shall be read as a reference to that extended period;

- (b) register the ship under Section 13, and grant and issue a registration certificate under Section 14 in substitution for the provisional registration certificate, which substitute registration certificate shall be deemed to have been granted upon the date of the issue of the provisional registration certificate."

6. Provisional certificates for ships becoming entitled to be registered when abroad - Subsection (4) of Section 17 of the principal Act is repealed and the following new subsection substituted:

"(4) If, while a provisional registration certificate granted in respect of a ship under sub-section (1) is in effect, application is made in the manner prescribed, the Registrar may -

- (a) by notice in writing served on the applicant extend the period referred to in paragraph (b) of subsection 2, and in that event, the reference in that paragraph to a period of six months shall be read as a reference to that extended period.
- (b) register the ship under section 13, and grant and issue a registration certificate under Section 14 in substitution for the provisional registration certificate, which substitute registration certificate, shall be deemed to have been granted upon the date of the issue of the provisional registration certificate.

7. Marking of ship - Subsection (4) of Section 20 of the principal Act is amended by adding after the word "owner", the words "qualified person".

8. National colours - Section 24 of the principal Act is amended by -

- (a) Adding after the word "master" in subsection (3), the words "qualified person"; and
- (b) Adding after the word "owner" in subsection (4), the words, "qualified person".

9. Concealing Cook Islands nationality - Section 26 of the principal Act is amended by adding after the word "master", the words "qualified person".

10. Transfer of ship, etc. - (1) Section 28 of the principal Act is amended by inserting after section 28(2), a new subsection (2A) as follows:

"(2A) Where the qualifying interest in a ship is transferred, the qualified person shall lodge with the Registrar a certified copy of the instrument effecting such transfer together with a declaration of transfer made by the transferee under subsection (3).

(2) Section 28(3) is amended as follows;

- (a) by deleting the words "subsection (2)" and substituting the words "subsection (2) and 2A"
- (b) by deleting the words "a Cook Islands owned ship" and substituting the words "a ship entitled to be registered".

11. Transmission of ship, etc., by operation of law - (1)- Section 29 of the principal Act is amended by inserting after Section 29 (1) a new subsection (1A) as follows:

"(1A) Where the qualifying interest in a ship is transmitted to a person by any lawful means other than a transfer under section 28, the qualified person shall lodge with the Registrar a declaration of transmission made by that person under subsection (2), together with such evidence of the transmission as the Registrar may require".

(2) Subsection (2) of section 29 is amended -

- (a) by deleting the words "subsection (1)" and substituting the words "subsections (1) and (1A)";
- (b) by deleting the words "a Cook Islands owned ship" and substituting the words "a ship entitled to be registered".

12. Obsolete or incorrect entries in Register - Section 48(1) of the principal Act is amended by inserting after the words "registered agent" the words, "qualified person".

13. Interpretation Part VI - Section 52 of the principal Act is amended by deleting the term "owner" and its definition.

14. Registered Agent - Section 54 of the principal Act is amended by -

- (a) inserting after subsection (1), the following new subsection -

"(1A) The person referred to in subsection (1) shall for the purposes of this Act be the registered agent";

(b) repealing subsection (2), and substituting the following new subsection -

"(2) Where a change occurs in the registered agent or in the address of the registered agent, the qualified person shall lodge with the Registrar within 30 days after the change a notice of the change in the prescribed form".

15. Alteration to ships - Section 55 of the principal Act is amended by -

(a) Repealing subsection (4), and substituting the following new subsection -

"(4) If, while a provisional registration certificate granted in respect of a ship under subsection (1) is in effect, application is made in the manner prescribed, the Registrar may -  
(a) by notice in writing served on the applicant extend the period referred to in paragraph 2(b) and, in that event, the reference in that paragraph to a period of six months shall be read as a reference to that extended period.

(b) register the ship under Section 13 and grant and issue under section 14 a registration certificate in substitution for the provisional registration certificate, which substitute registration certificate shall be deemed to have been granted upon the date of issue of the provisional registration certificate".

(b) Amending subsection (8) by deleting the words "owner of the ship" and substituting the words "qualified person".

16. Ship lost, etc. or ceasing to be entitled to be registered - Section 56(1) of the principal Act is amended by adding after the words "owner of the ship", the words "or the qualified person".

17. Power to inquire into ownership of registered ship - the intituling of section 57 of the principal Act is amended, by deleting the words "ownership of", and substituting the words "qualifying interest in".

18. Detention of ships - Section 60 of the principal Act is amended by inserting after the words "the owner", the words "the qualified person".

19. Taking officers to sea - Section 61 of the principal Act is amended by inserting after the words "the master", the words "the qualified person".

20. Consequential amendments to Regulations - (1) The Shipping Registry Regulations 1986 (hereinafter referred to as "the principal Regulations") are consequentially amended in the manner set out in the Schedule to this Act.

(2) Notwithstanding the amendment to the Shipping Registry Regulations 1986 by this Act, the Queen's Representative in Executive Council may from time to time further amend those Regulations.

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This Act is administered by the Department of Trade Labour and Transport

SCHEDULESection 21 Amendments to Shipping Registry Regulations 1986

Regulation	Amendment
Regulation 6	<p>By inserting after subclause (1) (b) (iv) the (iv) the following: subparagraph -</p> <p style="padding-left: 40px;">"(v) A declaration as to qualifying interest in accordance with regulation 8A".</p> <p>By omitting from subclause (3) the words "owner of the ship" and substituting the words "qualified person";</p> <p>By inserting in subclause (4) after the words "owner of the ship", the words "or qualified person";</p> <p>By omitting from subclause (5) (a) (ii) the word "owner" and substituting therefore the words "qualified person".</p>
Regulation 8A	<p>By inserting after regulation 8, the following new regulation -</p> <p><u>"8A Declaration as to qualifying interest -</u> For the purposes of regulation 6(1) (b) (v), a declaration as to qualifying interest shall -</p> <p>(a) Specify the ship to which it relates;</p> <p>(b) Specify the particular qualifying interest and annex a copy of the document evidencing that qualifying interest.</p> <p>(c) Be signed by the qualified person holding the qualifying interest".</p>
Regulation 9	<p>By inserting after subclause (1) (k) the following paragraph -</p> <p>(1) In relation to the qualifying person -</p> <p style="padding-left: 40px;">(i) the name, address and nationality; and</p> <p style="padding-left: 40px;">(ii) the nature of the qualifying interest.</p>
Regulation 12	<p>By inserting in subclause (3) (a) (i) after the words "The particulars of" the words "the qualified person";</p>

By inserting in subclauses 6(a) after the words "if that person is" the words "the qualified person".

Regulation 13 By inserting in subclause (2) (a) after the words "application in writing duly signed by" the words "the qualified person or";

By inserting after subclause (2) (a) (XV) the following subparagraph -

"(XVI) In relation to the qualified person -

- (a) His name and address; and
- (b) The nature of the qualifying interest".

By inserting after subclause (2) (b) (iv) the following subparagraph.

"(v) The instrument by which the qualified person hold the qualifying interest in the ship".

Regulation 14 By revoking regulation 14 and substituting therefore the following regulations -

"14. Extensions and Substitutions of provisional certificate - Applications under Sections 16(5), 17(4) or 55(4) shall -

- (a) Be in writing
- (b) Specify and provide -
  - (i) The name and official number of the ship;
  - (ii) The date and place of issue of the provisional registration certificate;
  - (iii) The reason for making the application;
  - (iv) In respect of applications for an extension, the date on or near which it is expected the ship will next arrive at a Cook Islands port.
  - (v) In respect of applications for a substitute registration certificate under Section 13, all details and documentation as are required for an application under Regulation 6.

(c) Be duly signed by the owner or the qualified person or the master of the ship.

Regulation 16 By inserting in subclause (1) (a), after the words "the owner" the words "the qualified person".

Regulation 20 By omitting from subclause (2) the words "bill of sale" wherever they occur and substituting the words "instrument of transfer".

Regulation 21 By inserting in subclause (2) (b) (ii) after the words "the owner" the words "the qualified person";

By inserting in subclause (2) (b) (ii) after the words "ship or share" the words "or the qualifying interest".

Regulation 29 By omitting from the subclause (1) the words "as the owner, or one of the owners of the ship" and substituting therefore the words "as the qualified person".

Regulation 30 By inserting after subclause (1) (a) (ii) the words "or";

By inserting after subclause (1) (a) (ii) the following new subparagraph -

"(iii) the qualified person in respect of the ship.

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