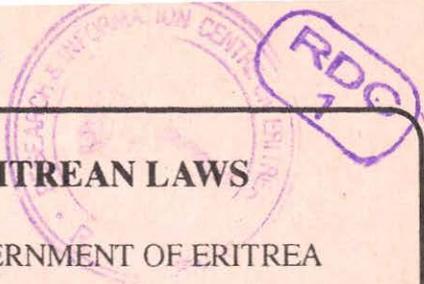


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Proclamation No.76/1995

A Proclamation to Provide for the Admission of Eritrea to Membership in the International Finance Corporation and the Multilateral Investment Guarantee Agency.

Proclamation No. 77/1995

A Proclamation to Regulate the Registration of Eritrean Ships.

Proclamation No. 78/1995

A Proclamation to Approve the Loan Agreement between the Government of Eritrea and the Abu Dhabi Fund for Development.

Proclamation No. 79/1995

A Proclamation to Approve the Loan Agreement between the Government of Eritrea and the Saudi Fund for Development.

Proclamation No. 80/1995

A Proclamation to Approve the Loan Agreement between the Government of Eritrea and the Arab Bank for Economic Development in Africa.

Proclamation No. 81/1995

A Proclamation to Approve the Loan Agreement between the Government of Eritrea and the Kuwait Fund for Arab Economic Development.

PROCLAMATION NO 77/1995

A PROCLAMATION TO REGULATE THE REGISTRATION OF ERITREAN SHIPS

WHEREAS, Eritrea is now a sovereign State and in full control of its Maritime Transport sector and it has become imperative that a modern maritime proclamation, governing and regulating all matters relating to the registration of ships be adopted:

WHEREAS, Eritrea has entered a new era of peace, stability and economic prosperity:

WHEREAS, Eritrea has adopted an open, free market-led economic policy:

WHEREAS, Maritime transport plays an important role in the development of the State, and it is essential to improve and develop this mode of transport so as to provide a greater and more efficient transport service:

WHEREAS, it is essential to control and regulate vessels and maritime transport:

NOW, THEREFORE, the following proclamation for the registration of ships is hereby promulgated:

1. Short Title

This Proclamation may be cited as the "Registration of Ships Proclamation No 77/1995."

2. Repeal

All rules, whether written or customary, previously in force concerning matters provided for in this Proclamation are hereby repealed and replaced by the provisions of this Proclamation.

3. Definitions

In this Proclamation, unless the context otherwise requires:-

1. "Authority" means the Ports Authority established under Legal Notice No.16/1994;
2. "Bareboat Charter" means a contract for the lease of a ship for a stipulated period of time, by virtue of which the lessee has complete possession and control of the ship, including the right to appoint the Master and crew for the duration of the lease;
3. "Eritrean Ship" means a vessel registered under this Proclamation;
4. "Operator" means the owner or bareboat charterer, or any other natural or juridical person to whom the responsibilities of the owner or bareboat charter have been formally assigned;
5. "Owner" or "Shipowner" means, unless clearly indicated otherwise, any natural or juridical person recorded in the register of ships as the owner of a ship;
6. "Registrar" means the officer of the Authority entrusted with the duty of keeping the register of ships;
7. "Register of ships " means a register in which all the information required for registration of a ship and any rights in rem are entered; and
8. "Ship" or "Vessel" means every floating structure destined to navigate in water and shall include any sea going vessel, boat (i.e. fishing , sporting , tourist , pleasure etc.), watercraft or dhow which is subject to registration under this Proclamation.

4. Qualifications for Owning Eritrean Ships

1. A ship shall not be deemed to be an Eritrean ship unless owned wholly by persons of the following descriptions, namely:
 - (a) Eritrean subjects;
 - (b) Companies incorporated under, and subject to, the Laws of Eritrea and having their principal seat of business in Eritrea; and/or
 - (c) Foreigners domiciled in Eritrea and having their principal seat of business in Eritrea.

5. Right to Fly the Eritrean Flag

1. Any ship duly registered under this Proclamation shall have the right to sail under the Eritrean flag as a symbol of its nationality.
2. A ship shall acquire the right to sail under the Eritrean flag from the date she is registered in the ships' register or from the day she is issued with a temporary certificate of registration.
3. Eritrean ships shall not fly the flag of any other State unless the right to fly the Eritrean flag is suspended or cancelled.

6. Duty to Display Flag

1. The Master of a ship who fails to display its national flag shall be guilty of an offence and punished in accordance with the Transitional Penal Code of Eritrea.
2. A Master or other Officer displaying the Eritrean flag on a ship which is not entitled to do so shall be guilty of an offence and be punished in accordance with the Transitional Penal Code of Eritrea.
3. The Authority may, by regulations or directives, exempt small boats from displaying the Eritrean flag or carrying on board the certificate of nationality.

7. Eritrean Ships in the High Seas

Ships flying the Eritrean flag shall be under Eritrean sovereignty when they are in the high seas.

8. Right to Engage in Service

1. A ship shall not engage in service unless registered in the register of ships.
2. Any Ship registered under the provisions of this Proclamation shall obtain a certificate of registry from the Authority.

9. Obligation of Eritrean Ships to Register

1. Every Eritrean ship shall, unless exempted from registry, be registered under this Proclamation.
2. A ship required to be, but not registered under this Proclamation shall not be recognized as an Eritrean ship and be entitled to the rights extended to Eritrean ships.
3. A ship required by this Proclamation to be registered may be detained by the Harbour office until the Master of the ship, if so required, produces the certificate of the registry of the ship.

10. Ships Exempted from Registration

All ships of the Eritrean Navy are exempted from registration under this Proclamation.

11. Registrar of Eritrean Ships

1. The Authority shall appoint a Registrar whose duty shall be to maintain the national register of ships in accordance with this Proclamation.

2. The Registrar shall not be liable for damages or for any loss sustained by any person by reason of any act done or omission committed by him in his capacity as Registrar, unless the same has been caused by his negligent or intentional act.

12. Voluntary Registration of Ships under Construction

1. When the keel has been laid, any ship under construction in Eritrea may, whether for the account of Eritrean or foreign principals, be registered. A separate register book shall be kept for ships under construction. In the register shall be stated the name of the builder, the site where the construction is taking place, the date when the keel was laid, the type of building materials, the means of propulsion and the anticipated gross and net registered tonnage and overall length and the extreme outside breadth of the ship under construction.
2. The builder shall be deemed to be the owner, unless the parties have agreed that the principal shall be the owner of the ship while under construction.
3. The parties may agree that the principal shall also be owner of the building materials on the construction site which can be identified as intended for the construction of the ship.
4. Such agreements may be registered on the register for ships under construction.
5. When a registered ship under construction is completed, the builder shall report this to the Registrar, who shall register such a fact on the register of the ship under construction.

13. Application for Registration

1. The ship owner shall apply to the Registrar for registration after having acquired a ship not previously registered under this

Proclamation.

2. An application for registration of a ship shall be made:-

- (a) in the case of an individual, by the person requiring to be registered as owner;
- (b) in the case of two or more persons, by one or more of such persons or by their agent; and
- (c) in the case of a company, by the manger or any other duly appointed officer of the company.

3. An application for registration shall not be accepted unless made in writing.

14. Contents of Application for Registration

An application for registration shall contain:-

- (1) a statement of qualification to own an Eritrean ship;
- (2) a statement of the time when and the place where the ship was built or, if the time and place of building are unknown, a statement that the applicant does not know the time and place of her building; and in addition thereto, in the case of a foreign ship, a statement of her foreign name, or in the case a ship acquired from another owner, a statement giving the name of the ex-owner, his address, the name of the ship, her number, marks, port of registry and the manner in which ownership was transferred;
- (3) a statement of the name of the owner, his domicile, occupation, nationality and other facts describing the owner or in the case of joint ownership, a statement of the names of the joint owners, or in the case of a company, a copy of the memorandum and articles of association of the company under which it operates;
- (4) a declaration that the ship is not registered any where else or that its registration is deleted from the old register, as the case may be.

- (5) a statement that the ship is seaworthy; and
- (6) a statement of the number of shares in the ship to which a person or a company, as the case may be, is entitled to be registered as owner.

15. Documents to be Presented before Registration

1. The following valid documents shall be presented to the Registrar together with the application for registration:-

- (a) an International Load Line Certificate;
- (b) a Tonnage Certificate;
- (c) a Certificate of Radio Telegraph ;
- (d) an International Oil Pollution Prevention Certificate;
- (e) a Hull and Machinery Certificate;
- (f) a Certificate of Mortgage;
- (g) a Cargo Ship Safety Equipment certificate;
- (h) a Bill of Sale;
- (i) a Certificate of Build;
- (j) the Permanent address of the owner;
- (k) evidence of the fact that a previous registration, if any, has been legally deleted ;
- (l) a Cargo ship safety construction certificates;
- (m) a Passenger ship safety certificate ; and
- (n) all other documents required by international treaties, irrespective of whether Eritrea is a party thereto or not, as required by the Registrar.

2. The Registrar may exempt any class of ships from all or any of the requirements enumerated in sub-article (1) hereof.

16. Pre-Registration Requirements

Every ship shall be surveyed and her tonnage ascertained before registration.

17. Marking of Ship

1. Every Eritrean ship shall, before registry, be marked permanently and conspicuously to the satisfaction of the Registrar, as follows:-

(a) her name shall be marked on each of her bows and her name and port of registry shall be marked on her stern, all in Tigrigna, Arabic and Latin characters;

(b) her official number and the number denoting her registered tonnage shall be cut in on her main beam; and

(c) a scale of feet denoting her draught of water shall be marked on each side of her sternpost in figures, not less than six inches in length, the lower line of such figures to coincide with the draught line denoted thereby.

2. The Registrar may exempt any class of ships from any or all of the requirements enumerated in sub-article (1) hereof.

18. Name of Ship

1. A ship shall not be described by any name other than that by which she is registered.

2. The name of a ship shall be that proposed by the owner, provided the Registrar shall reject any name that coincides with the name of another ship or is likely to be confused with that of a registered Eritrean ship, in which case he shall request the owner to submit another name.

3. The name of a registered ship may not be changed except with the written approval of the Registrar. Upon approval being given to

change the name, the ship's name shall forthwith be altered in the register book, in the ships' certificate of registration, and on her bows and stern, upon payment of the fee prescribed for such services.

4. The Registrar may not approve a change of name of an Eritrean ship unless he is satisfied that all registered mortgages thereof have been notified of the proposed change of name and the provisions of sub article (2) hereof have been complied with.

19. Entry of Particulars in the Register

1. When the requirements for registration are met, the Registrar shall enter in the register:-

- (a) the name of the ship and her previous name and registry, if any;
- (b) the official number or identification mark of the ship;
- (c) the international call-sign of the ship, if assigned;
- (d) the name of the builders and the place and year of build of the ship;
- (e) the description of the main technical characteristics of the ship;
- (f) the name and residence or domicile of each owner and the amount of his share in the ship;
- (g) the date of deletion or suspension of the previous registration of the ship;
- (h) the name and residence of the operator ;
- (i) the name and residence of the bareboat charterer ; and
- (j) all registrations, recordings and other entries in respect of the ship and rights on the ship, with the dates and all other particulars as contained in the documents submitted to the Registrar.

2. In the case of a ship bareboat chartered-in, the Registrar shall ensure that the right to fly the flag of the former flag state is suspended. The registration shall be effected on production of evidence indicating suspension of previous registration as regards the nationality of the ship

under the former flag state and particulars of any registered encumbrances.

20. Documents to be Retained by Registrar

The Registrar shall, upon the registration of a ship, retain in his possession the surveyor's certificate, the builders certificate, any bill of sale of the ship previously made, a copy of the condemnation certificate (if any) and all declarations of ownership.

21. Access to the Registers

The register shall be open to inspection by the public upon payment of the prescribed fee.

22. Certificate of Registration

Upon completion of the registration, the Registrar shall issue a certificate of registration comprising the particulars relating to a ship in the register book.

23. Effect of Registration

In addition to the effects of registration mentioned in the Transitional Maritime Code of Eritrea:-

- (1) a registration certificate shall entitle a ship to sail under the Eritrean flag and such ship shall also enjoy all the rights and privileges extended to Eritrean ships; and
- (2) Upon a ship being registered in the register, all prior entries concerning that ship in the register of foreign states shall cease to be recognized by Eritrea.

24. Use of Certificate

1. The certificate of registry shall be used only for the lawful navigation of the ship, and shall not be subject to retention by reason of any title, lien, charge or interest whatsoever, had or claimed by any owner, mortgagee or other person to, on or in the ship.

2. No person, whether having legitimate interest on the ship or not, who has in his possession or under his control the certificate of registry of a ship, may refuse or omit without reasonable cause to deliver such certificate on demand to the person entitled to the custody thereof for the purpose of the lawful navigation of the ship, or to a registrar or other person entitled by the law to require such delivery.

3. No owner or master of a ship may use or attempt to use for her navigation a certificate of registry not legally issued in respect of the ship.

25. Provisional Certificate of Registration

1. A provisional certificate of registration may be granted by the Registrar or by a Consular Officer of Eritrea in lieu of the original certificate when a ship is acquired abroad or the certificate of registration is mislaid, lost, destroyed or otherwise unobtainable. Such certificate shall cease to have effect six months after the issuance thereof, unless renewed by the Registrar.

2. A provisional certificate of registration issued by a Consular Officer shall, within six months, be surrendered in exchange for a permanent certificate of registry.

3. When an Eritrean Consular Officer issues a provisional certificate in respect of any ship under this Article, he shall send forthwith a copy of that certificate to the Registrar.

4. The Registrar may prescribe the conditions under which a provisional

certificate may be issued and renewed and the manner in which it may be surrendered in exchange for permanent certificate of registry.

26. Duty to Carry a Certificate of Nationality

1. A ship registered according to the provisions of this Proclamation may not proceed to sea without having on board a certificate of nationality, in which the name of the ship owner shall be indicated and the ship identified and authorized to sail under the Eritrean flag,

2. The Registrar shall, on his own motion, issue a certificate of nationality when a ship is registered under this Proclamation.

3. Any alteration in the facts stated in a certificate of nationality shall be reported to the Registrar, who shall amend the certificate accordingly or issue, in exchange, a new certificate.

4. In any event stated in Article 27 the certificate of nationality shall, if not lost or destroyed, be returned to the Registrar.

27. Return of the Ship's Certificate to the Registrar

1. Where a registered ship is either actually or constructively lost, taken by an enemy, burnt or broken up, or sold to a person not qualified to own an Eritrean ship, the owner of the ship or of a share therein in whose name the ship is registered shall, immediately upon being informed of the event, give notice thereof to the Registrar at the port of registration of the ship or to the Consular Officer, as the case may be, and if available return the certificate to the Registrar or consular officer. The Consular Officer shall immediately pass the information to the Registrar who shall make an entry thereof in the register and the registration of the ship in the register shall be considered cancelled, except for unsatisfied mortgage, liens and other rights in rem.

to comply with the requirements of sub-article (1) hereof, he shall be guilty of an offence, and upon conviction, pay a fine not exceeding 10,000 Birr.

28. Bare Boat Charter

1. Subject to the provisions of Article 19 hereof, the State of Eritrea may register and grant the right to fly its flag to a ship bareboat chartered-in by a charterer in Eritrea for the period of the charter.
2. Any ship bareboat chartered-in and flying the Eritrean flag shall be subject to Eritrean jurisdiction and control.
3. Where a bareboat chartered-in ship is registered the Registrar shall ensure that the former flag State is notified of the deletion of the registration of the bareboat chartered ship.

29. Port of Registry

The port at which an Eritrean ship is registered shall be deemed to be her port of registry and the port to which she belongs.

30. Registration of Alterations and Registration Anew

1. Any alteration relating to the tonnage or description of a registered ship shall immediately be notified to the Registrar at the port where the ship is registered or any port within Eritrea where the ship calls after the alteration.
2. In no event may the notification exceed thirty days after the completion of the alteration or after the arrival of the ship at a national port.
3. For the purpose of registry of an alteration in a ship, the ship's certificate of registry shall be produced to the Registrar and the Registrar may, in his discretion, either endorse and sign on the

existing certificate a memorandum of the alteration or retain the certificate of registry and issue a new certificate of registry containing a description of the ship as altered.

4. Where any Registrar, not being the Registrar at the ship's port of registry, endorses an existing certificate or issues a new certificate under this Article, he shall forthwith send a report of the particulars of the case to the Registrar at the ship's port of registry, containing a statement of that contained in the endorsement certificate and accompanied where a new certificate has been issued, by the former certificate of registry.

5. The particulars of the alterations so made, and the fact of the issuance of a new certificate, shall be entered in the register of ships by the Registrar at the ship's port of registry.

6. Where any Registrar, not being the Registrar at the ship's port of registry, on an application as to an alteration in a ship directs the ship to be registered anew, he shall either issue a provisional certificate, describing the ship as altered, or provisionally endorse the particulars of the ship on the existing certificate.

7. The registry issuing a provisional certificate or provisionally endorsing a certificate under this Article shall include in the certificate or endorsement a statement that the same is made provisionally.

8. Where the ownership of an Eritrean ship is changed, the Registrar of the port at which the ship is registered may, on the application of the owner of a ship, register the ship anew.

9. In the case above mentioned in sub-article(8) hereof, the Registrar shall proceed as in the case of first registry, and on delivery to him of the existing certificate of registry and on the other requisites to registry being duly complied with, he shall make such change of ownership be accomplished by means of endorsement of the existing

ship's document.

10. When a ship is registered anew the former registration of the ship shall be cancelled, except insofar as that registration relates to any unsatisfied mortgage entered thereon, provided that the names of all persons appearing by the former registration to be interested as owners or mortgagees in the ship registered anew shall be entered on the new registration and the registration anew does not in any way adversely affect the rights of any of those persons.

11. Where the registration of an Eritrean ship is cancelled because such a ship has been wrecked or abandoned, or for any reason other than capture by the enemy, the ship shall not be registered anew unless and until she has been surveyed and certified to be seaworthy at the expense of the applicant for registry.

31. Transfer of a Ship or Shares

1. Ownership of a registered ship or a share therein (when disposed of to a person qualified to own an Eritrean ship) shall be transferred by a bill of sale or any other lawful means.

2. The document evidencing the transfer of ownership of a registered ship or a share therein shall be produced to the Registrar at the port of registry of the ship.

32. Inspection of Documents

A duly authorized officer of the Authority may inspect the register or documents on board a ship to ascertain the veracity of the same.

33. Suspension of Certificate

The Registrar may suspend a certificate where:-

1. the owner contravenes the provision this Proclamation, or any action

- taken thereunder, or conditions laid down in the certificate; or
2. the owner contravenes ships' safety and environmental protection conventions and laws.

34. Fees

Payment of registration fees for the issuing of certificate of registry, fees for securing change of name, annual payment and other charges shall be made by the shipowner in accordance with the tariff book of the Authority or as may be prescribed by the Registrar.

35. Penalty

1. The owner and master of an Eritrean ship shall be responsible for maintaining the prescribed distinguishing markings in proper condition and shall be guilty of an offence if they are obliterated, concealed or covered, or if false marks are carried or unauthorized alterations made.
2. Avoiding registration is an offence punishable under the Transitional Penal Code of Eritrea.

36. Power to Issue Regulations

The Authority may issue regulations or directives for the proper implementation of the provisions of this Proclamation.

37. Non Compliance with International Conventions

The Authority may cancel a ship's certificate of registry where the applicable requirements of International conventions are not observed.

38. Transitory Provision

All ships registered in the old register shall be registered in accordance with the provisions of this Proclamation within six months from the

entry into force of this Proclamation .

39. **Effective Date**

This Proclamation shall enter into force on the date of its publication in the Gazette of Eritrean Laws.

Done at Asmara, this 11th day of October, 1995.

Government of Eritrea

4. **Effective Date**

1. Short Title

2. Definition