

SAINT LUCIA**No. 14 of 2016****ARRANGEMENT OF SECTIONS**

Sections

1. Short title
2. Interpretation
3. Amendment of section 2
4. Amendment of section 11
5. Amendment of section 12
6. Insertion of new section 12A
7. Amendment of section 13
8. Amendment of section 14
9. Amendment of section 15
10. Amendment of section 16
11. Amendment of section 17
12. Amendment of section 18
13. Insertion of new sections 19A-19C
14. Amendment of section 21
15. Amendment of section 22
16. Insertion of new section 22A
17. Amendment of section 37
18. Amendment of section 104
19. Amendment of section 416

I ASSENT

[L.S.]

PEARLETTE LOUISY,
Governor-General.

May 11, 2016.

SAINT LUCIA

No. 14 of 2016

AN ACT to amend the Shipping Act, Cap. 13.27.

[17th May, 2016]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the House of Assembly and the Senate of Saint Lucia, and by the Authority of the same, as follows:

Short title

1. This Act may be cited as the Shipping (Amendment) Act, 2016.

Interpretation

2. In this Act “principal Act” means the Shipping Act, Cap. 13.27.

Amendment of section 2

3. Section 2 of the principal Act is amended by inserting in the proper alphabetical order the following definition—

“international trade” means the transport of passengers or goods or the carrying out of any other operation or activity outside Saint Lucian waters for profit or reward;”.

Amendment of section 11

4. Section 11(1) of the principal Act is amended by inserting after the words “Subject to” the following words “section 22A(b) and”.

Amendment of section 12

5. Section 12 of the principal Act is amended by inserting after the word “sections” the following word “12A”.

Insertion of new section 12A

6. The principal Act is amended by inserting immediately after section 12 the following new section 12A —

“Qualification for registration of foreign ship as Saint Lucian ship

12A.—(1) A foreign ship of at least twenty-four metres in length shall not be registered under this Act unless the ship is —

- (a) customarily engaged in international trade; or
- (b) on demise charter which complies with the requirements set out in subsection (2).

(2) The requirements referred to in subsection (1)(b) are that—

- (a) the charterer is a person qualified to be an owner of a Saint Lucian ship under section 12;
- (b) the demise charter is in writing;
- (c) the demise charter is made —
 - (i) by the owner of the ship or by a charterer with the written consent of the owner of the ship,
 - (ii) to a charterer who has a single legal personality, and
 - (iii) for a fixed period of two years or more or such lesser period as may be allowed by the Director; and
- (d) under the terms of the demise charter the operation, management and control of the ship, including responsibility for the engagement or employment of the master and crew of the ship, is vested in the charterer.

(3) For the avoidance of doubt, any provision under this Act relating to a foreign ship does not apply to a foreign ship registered as a Saint Lucian ship under this section.”.

Amendment of section 13

7. Section 13 of the principal Act is amended by inserting immediately after subsection (1) the following subsection (1A)—

“(1A) Subject to subsection (1B), whenever a foreign ship is customarily engaged in international trade or is on demise charter, that ship shall be registered in the manner provided in this Part.

(1B) A ship shall not be registered in the manner provided in this Part where —

- (a) the ship does not engage in international trade;
- (b) the registration does not facilitate Saint Lucia’s participation in international trade;
- (c) the registration does not facilitate the long term growth of the Saint Lucian shipping industry;

- (d) the registration does not promote the enhancement and viability of the Saint Lucian maritime skills base and industry;
- (e) a collective agreement relating to the crew of the ship has not been made between the owner of the ship and the ship's seafarers' bargaining unit;
- (f) the owner of the ship has not consented to the registration of the ship in Saint Lucia;
- (g) a mortgagee of the ship has not consented to the registration of the ship in Saint Lucia;
- (h) the tonnage of the ship cannot be ascertained in accordance with any Regulations made under this Act relating to tonnage;
- (i) the ship cannot be marked in accordance with section 36;
- (j) the ship is precluded by some other law to which it is subject from flying Saint Lucia's national colours in accordance with section 103;
- (k) the demise charter has an unexpired period of less than two years at the date when the application to register the ship is made; or
- (l) it is not in the interest of Saint Lucia that the ship should be registered in Saint Lucia.”.

Amendment of section 14

8. Section 14 of the principal Act is amended by —

- (a) inserting immediately after the word “ship” appearing in subsection (1) the words “under section 12”;
- (b) inserting immediately after subsection (1) the following subsection (1A):

“(1A) An application for registration of a ship under section 12A shall be made —

- (a) in the case of a foreign ship engaged in international trade, by the owner or by his or her agent;

- (b) in the case of a demise charter, by the charterer.”;
- (c) inserting immediately after the word “ship” appearing in subsection (2) the words “under section 12 or 12A(1)(a)”.

Amendment of section 15

9. Section 15 of the principal Act is amended by inserting immediately after subsection (1) the following subsection (1A) —

“(1A) A foreign ship shall not be registered as a Saint Lucian ship under section 12A until the person authorised by section 93(2) to make declarations on its behalf has made and signed a declaration in the prescribed form referring to the ship as described in the certificate of a Surveyor of Ships and containing the following particulars —

- (a) in the case of section 12A(1)(a) and (b), the particulars specified in subsection (1)(a), (b), (d), (e) and (f);
- (b) in the case of section 12A(1)(b), a statement that the ship is subject to a demise charter and that the person on whose behalf the declaration is made is the charterer of the ship under that charter.”.

Amendment of section 16

10. Section 16 of the principal Act is amended by inserting immediately after subsection (3) the following subsection (4) —

“(4) This section does not apply to the registration of a ship under section 12A.”.

Amendment of section 17

11. Section 17 of the principal Act is amended by—

- (a) inserting the designation (1) and the words “Subject to subsection (2)” at the beginning of the section;
- (b) deleting the words “this Act” appearing in the new subsection (1) and substituting the words “section 12”;
- (c) inserting immediately after subsection (1) the following new subsections (2), (3), (4) and (5):

“(2) A ship which is or has been registered in any country is not eligible for registration under section 12A unless —

- (a) the ship is registered in a registry other than that of Saint Lucia with respect to the rights and obligations referred to in subsection (3); and
- (b) a provision substantially to the same effect as that of a dispensation under section 19A is granted in respect of the ship by the registry referred to in paragraph (a), where such provision is required under the law of the country of that registry.

(3) For the purposes of subsection (2)(a) in the case of a demise charter, the charterer transfers his or her rights and obligations of the demise charter if —

- (a) the transferee is qualified to own a Saint Lucian ship;
- (b) prior to the execution of the transfer, the transferee, or in the case of a body corporate, the person authorized by this Act to make declarations on behalf of the body corporate, makes and signs a declaration referring to the ship and containing a statement of the qualification of the transferee to own a Saint Lucian ship, or if the transferee is a body corporate, of such circumstances of the constitution and business that proves it to be qualified to own a Saint Lucian ship; and
- (c) a certified copy of the transfer executed by the charterer in favour of the transferee is produced to the Registrar of Ships.

(4) In subsection (3), “transferee” means the person to whom the charterer has transferred his or her rights and obligations under the demise charter.

(5) Where a ship is registered under section 12A(a) the rights and proprietary interests of the owner in respect of the ship, or the rights and obligations of the parties to a contract, bill of sale, mortgage,

charge or other instrument creating or disposing of a legal or equitable interest in the ship whether existing at the date of registration of the ship or created subsequently affects such registration.”.

Amendment of section 18

12. Section 18 of the principal Act is amended by —

- (a) inserting the designation (1) at the beginning of the section;
- (b) inserting immediately after the words “registration of a ship” appearing in the new subsection (1) the words “under section 12”;
- (c) inserting immediately after the new subsection (1) the following subsection (1A):

“(1A) The registration of a ship under section 12A shall be cancelled if at any time —

- (a) in the case of section 12A(a) and (b) —
 - (i) the ship is or has been involved in a contravention of this Act,
 - (ii) the ship is not seaworthy or is substandard,
 - (iii) the registry of the ship closes or the ship’s registration is annulled,
 - (iv) the dispensation under section 19A is revoked or withdrawn,
 - (v) the ship is lost, taken by an enemy, burnt or broken up; or
- (b) in the case of section 12A(a) —
 - (i) the ship has not been, or will not be, used to engage in international trade, or
 - (ii) a collective agreement relating to the crew of the ship, made between the

owner of the ship and the ship's seafarers' bargaining unit is not in force when the ship is used to engage in international trade; or

- (c) in the case of section 12A(b) –
 - (i) the charterer transfers his or her rights and obligations under obligations of the demise charter to another person so that the charterer is no longer under a contractual obligation to the owner of the ship in respect of the operation, management and control of the ship,
 - (ii) the demise charter is terminated,
 - (iii) the rights and obligations of the charterer are transferred; or
- (d) any other prescribed ground.”.

Insertion of new sections 19A-19C

13. The principal Act is amended by inserting immediately after section 19 the following new sections 19A-19C —

“Dispensations

19A. (1) The Minister may grant to the owner of a ship of twenty-four metres or more in length registered under section 12 a dispensation under subsection (2) where he or she is satisfied –

- (a) that the ship is subject to a demise charter pursuant to which the registered owner of the ship is not responsible for the management, operation or control of the ship for the period of the charter;
- (b) that a registered mortgagee of the ship has consented to the dispensation being granted;
- (c) that, in addition to the registration of the ship in Saint Lucia, the ship is intended to be registered under the law of a country outside Saint Lucia; and

- (d) that, upon registration under the law of a country outside Saint Lucia, the ship will become subject to laws which implement and apply to the ship such provisions of the Collisions Convention, the relevant International Labour Conventions, the Load Line Convention, the Marine Pollution Convention, the Safety Convention and the Convention on the Standards of Training, Certification and Watch keeping for seafarers to the same extent as they apply in respect of the ship under its registration in Saint Lucia.

(2) Where the Minister has granted to the owner of a ship a dispensation under subsection (1), with effect from the date upon which the conditions set out in subsection (3) have been complied with, sections 102 and 103 do not apply to the ship.

(3) The conditions referred to in subsection (2) are that —

- (a) the owner has delivered to the Registrar of Ships—
 - (i) a certified copy of the demise charter referred to in subsection (1)(a),
 - (ii) in exchange for a receipt, the certificate of registry granted under section 37,
 - (iii) any certificate issued in respect of the ship under this Act;
- (b) the owner, or in the case of a body corporate the person authorized by this Act to make declarations on behalf of the body corporate, has delivered to the Registrar of Ships a declaration referring to the ship and containing a statement that the ship is lawfully registered in a named country in respect of the enforcement of such provisions of the conventions referred to in subsection (1)(d) as apply in respect of the ship under its registration in Saint Lucia; and
- (c) the Registrar of Ships has received confirmation from the administration of the country outside Saint

Lucia in which the ship is registered that the ship is so registered and is subject to the jurisdiction of that country.

(4) The port of registry in Saint Lucia shall no longer be the port of registry for a ship in respect of which a dispensation has been granted under this section, and the marking of the name of such port on its stern as provided for in section 20 shall be removed.

Termination and revocation of dispensation granted under section 19A

19B.—(1) A dispensation granted by the Minister under section 19A terminates automatically if –

- (a) the ship ceases to be registered in the country named in the declaration made under section 19A(3)(b); or
- (b) the demise charter terminates, whether upon expiry or otherwise.

(2) The Minister may revoke a dispensation granted by him or her under section 19A –

- (a) upon the application of a registered owner or registered mortgagee of the ship;
- (b) if he or she is satisfied that a declaration made for the purpose of section 19A(3)(b) is false or misleading;
- (c) at the request of the country named in the declaration made under section 19A(3)(b); or
- (d) if it is not in the interest of Saint Lucia that the dispensation should continue.

Flag to be used where a dispensation has been granted under section 19C

19C.—(1) Where a dispensation granted under section 19A has taken effect, the ship shall fly only the colours lawfully borne

by ships registered in the country named in the declaration made under section 19A(3)(b).

(2) Without prejudice to section 19A(2), where a ship flies colours in contravention of subsection (1) the registered owner commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars.”.

Amendment of section 21

14. Section 21 of the principal Act is amended —

(a) in subsection (1) by —

(i) substituting the full stop that appears in paragraph (c) with a semi-colon, and

(ii) inserting the following new paragraph (d) —

“(d) a register book for ships registered under section 12A.”;

(b) inserting immediately after subsection (3) the following new subsection (3A) —

“(3A) Without prejudice to subsection (3), the Registrar of Ships shall enter in the register book for ships registered under section 12A the following particulars in relation to the ship —

(a) the name of the owner with such annotation as may be necessary to show that the ship is entitled to be registered under section 12A(1) and the address of the owner;

(b) the name and address of the owner’s agent in Saint Lucia;

(c) the name and address of any person who has been granted a mortgage of the ship or a share in the ship by any owner whose name is or is to be noted on the register;

- (d) such details of the terms of any mortgage referred to in paragraph (c) as the Registrar of Ships requires to be noted;
- (e) the age of the ship;
- (f) any information contained in the ship's port state control inspection records.”.

Amendment of section 22

15. Section 22 of the principal Act is amended by —

- (a) deleting the word “and” appearing in paragraph (f);
- (b) substituting the full stop in paragraph (g) with a semi-colon;
- (c) inserting a new paragraph (h) as follows —
 - “(h) in the case of a ship registered under section 12A(1)(b) —
 - (i) a certified copy of the demise charter; and
 - (ii) certified copy of the transfer, if any.”.

Insertion of section 22A

16. The principal Act is amended by inserting immediately after section 22 the following —

“Obligation of owner or operator of ship registered under section 12A

22A. On the registration of a ship under section 12A, the owner or operator shall —

- (a) undertake to employ Saint Lucian nationals or Saint Lucian residents on the ship;
- (b) not engage in local trade in Saint Lucian waters;
- (c) ensure that a collective agreement relating to the crew of the ship has been made.”.

Amendment of section 37

17. Section 37 of the principal Act is amended by inserting immediately after subsection (2) the following new subsection (3) —

“(3) A certificate of registry granted by the Registrar of Ships under subsection (1) in the case of a ship registered under section 12A(1)(b) must be granted for a fixed period of time expiring on the date upon which the demise charter comes to an end by effluxion of time or otherwise.”.

Amendment of section 104

18. Section 104 of the principal Act is amended by inserting immediately after subsection (2) the following new subsection (3) —

“(3) A ship registered under section 12A must not fly any flag other than the national flag of Saint Lucia.”.

Amendment of section 416

19. Section 416(1) of the principal Act is amended by deleting the words “removal” and “wrecked” where it appears in paragraph (d).

Passed in the House of Assembly this 3rd day of May, 2016.

PETER I. FOSTER,
Speaker of the House of Assembly

Passed in the Senate this 10th day of May, 2016.

CLAUDIUS J. FRANCIS,
President of the Senate.