

السلطة البحرية الأردنية
وليقة مضبوطة

**THE MARITIME COMMERCIAL LAW
OF THE
HASHEMITE KINGDOM OF JORDAN**

**PUBLISHED IN OFFICIAL GAZETTE NO. 2357
ON 6TH. MAY, 1972**

THE MARITIME COMMERCIAL LAW
PROVISIONAL LAW NO. 12 OF 1972

DEFINITIONS

SECTION 1 : This Provisional Law shall be cited as "The Maritime Commercial Law of 1972" and it shall come into force two months after the date of its publication in the Official Gazette.

SECTION 2 : The terms and expressions used in this Law shall have the meanings assigned thereto hereunder unless the context indicates otherwise:

" Minister " : The Minister of Transport
" Port " : Port of Aqaba
" Department " : Aqaba Port Department
" Director " : The Director General of Aqaba Port Department or such person as he may delegate.

P A R T I

SHIPS

C H A P T E R 1

DEFINITION OF A SHIP

SECTION 3 : In this Law, the term ship shall mean any seaworthy vessel regardless of its tonnage and designation and whether or not such vessel is navigated for profit.

All the ship's gear which is required for its utilization shall be considered as part thereof.

Ships are movable properties and as such they shall be subject to the general principles of civil law with due regard to the special principles prescribed in this law.

C H A P T E R 2

NATIONALITY OF A SHIP AND DETERMINATION THEREOF

SECTION 4 : a. A ship shall be considered Jordanian regardless of its tonnage if its home port is Jordanian and if at least half of its ownership vests in Jordanians or in Jordanian companies the majority of the members of whose boards of directors including its chairman are Jordanians.

A Jordanian part owner of a ship may not sell his share or part thereof to a foreigner without the approval of all the Jordanian part-owners if the result of such sale is to render the majority of the owners non-Jordanians. If one of the owners of a ship loses his Jordanian citizenship or if, for any other reason, a share in the ship is transferred to a non-Jordanian person and, as a result, the majority of the owners of the ship become non-Jordanians, then any of the owners of the ship may request within a period not exceeding six months that such share be sold by public auction to a Jordanian citizen, provided that notice of such sale shall be published in the Official Gazette fifteen days prior to the commencement of the sale proceedings. The ship shall retain its Jordanian nationality throughout this period.

- b. Notwithstanding the provisions of subsection (a) of this section, in case of extreme necessity the Minister may, on the recommendation of the Director, recommend to the Council of Ministers that the proportion of Jordanian owners of a ship be reduced, or that the ship be exempted completely from the requirement of having Jordanian part owners.

SECTION 5 : The following shall be considered as Jordanian ships:

- a. Ships which are abandoned and found drifting in the sea and are picked up by ships flying the Jordanian flag.
- b. Ships which are confiscated for violating Jordanian laws.
- c. All ships specified in this section and in section (4) shall fly the Jordanian flag while sailing, subject to the provisions of subsection (2) of section (18).

SECTION 6 : Jordanian ships shall have the right exclusively of coastal fishing and coasting trade in Jordanian coastal waters, and of towing ships entering or leaving these coastal waters.

SECTION 7 : Jordanian ships must bear the following markings in Arabic and Latin characters:

- a. Steamships and motor vessels intended for coastal navigation or navigation on the high seas:-

The name of the ship on both sides of the stem, and the name of the ship and of its port of registry astern.

- b. Coastal sail boats:

On both sides of the stem: the distinguishing letters of the port of registry and the number of the ship's registration

Astern: The name of the ship and of its port of registry.

- c. Fishing boats:

On both sides of the stem: the distinguishing letters of the port of registry and the number of the registration.

- d. Port launches and boats intended for cargo, and all floating craft in the port (including lighters, dredgers and landing craft):
the same markings as are required for fishing boats of equal tonnage.

- e. Launches and boats of official departments and concessionary companies:

on the stem and astern, or on the stem only: the name of the ship in the cabin, and the distinguishing letters of the port of registry and the number of the registration.

- f. Recreational ships:

These ships are permitted not to bear their

registered numbers on the hull, but this number must be marked on the cabin.

SECTION 8 : Ship owners must obtain official confirmation of the load capacity (net registered tonnage) and the total internal capacity together with the capacity of superstructures (gross tonnage) of their ships. The estimation of the tonnage of ships and the capacity and specification of its tackle shall be carried out by the Aqaba Port Department which shall prepare an appropriate certificate in this regard at the expense of the owner or builder or custodian of the ship, who must extend all the facilities which are necessary to implement these measures.

SECTION 9 : The figure of net registered tonnage shall be marked in Arabic and Latin numerals on the main beam of the stern or on the outer side of the forward hatch coamings.

C H A P T E R 3

REGISTRATION OF SHIPS AND RIGHTS

SECTION 10: A register shall be maintained at Aqaba Port. Every folio of the register shall be assigned a number and shall be signed. The number of the folio shall be the registration number of the ship for which that folio is exclusively reserved.

The ship shall be known by the name of the port which is the actual or selected domicile of its owner.

Ships belonging to official departments (customs, police quarantine or the State etc.) shall also be registered at Aqaba Port.

SECTION 11: The characters, numerals or markings required by law may not be erased, obliterated or covered in any way. Any violation of these provisions shall render the ship owner and its master liable to imprisonment for a period ranging from two to ten days and a fine ranging from 500 fils to ten dinars or to either of these two penalties. Placing forged markings shall also render the ship's owner and its master liable to the penalties prescribed under subsection (2) of section

(21) of this law.

SECTION 12: Ships belonging to foreigners residing in Jordan may be registered in Jordan by permission of the Minister of Transport if these ships are intended for recreation or for sailing within Aqaba Port. Such permission may be withdrawn in case these regulations are violated, or if the owner of the ship is changed. The permission shall be withdrawn if the ship is used for navigational purposes other than those specified under its registration. A foreign ship registered at Aqaba Port shall fly the flag of the owner's country or that of the country of one of its owners, if it is owned by several persons.

SECTION 13: The following particulars shall be recorded in the register for each ship in the special folio assigned thereto:

- a. Name of the ship (if there are several ships bearing the same name, a serial number shall be added after each name).
- b. Registration number (followed by the distinguishing letters of Aqaba Port.)
- c. Date and place of construction of the ship.
- d. Type (whether it is a sailing boat, steamship, etc).
- e. Dimensions (length, breadth and depth).
- f. Net and gross tonnage expressed in barrels (tons).
- g. Type and power of engines.
- h. Name, citizenship and domicile of the owners, and the number of shares owned by each of them.
- i. Name, nationality and domicile of the operator of the ship.

- j. Changes relating to the ship such as a change of owner.
- k. Reasons for cancellation of registration whether due to loss, destruction or sale.
- l. Any attachment orders or encumbrances on the ship.

SECTION 14: Registration at Aqaba Port shall be effected on the basis of a written declaration of ownership by the owner to the Director General of the Port Department to be made in the presence of at least two witnesses. The owner shall state his share in the ship and the manner in which he acquired ownership thereof. If the ship is owned by a company, the representative of that company shall, in his capacity as such, make the required declaration on its behalf.

The declarer shall produce all supporting documents to substantiate his ownership (such as the bill of sale and statements of accounts etc. or he shall offer to submit to the Director personal testimony of witnesses such as the ship building contractor, labourers etc). A record of the evidence produced shall be prepared and shall be signed by the declarer, the witnesses and the Director General.

SECTION 15: The aforesaid record shall be posted on the special notice board in the offices of the Port and shall include the particulars specified under Section 13 above.

SECTION 16: The registration may not be contested after the lapse of 3 months from the date of posting of the aforesaid record if no claim or objection is submitted within that period. After that date, any aggrieved party shall have the right to file a claim in court against the declarer for indemnification only.

SECTION 17: The claims and objections which are submitted within the three months period shall be received by the Director, who shall refer them, after the aforesaid period, to the office of the Court of First Instance within whose jurisdiction the Port of Aqaba lies. The court shall in turn, notify the declarer through its process server, of such claims or objections within 15 days from the date of receiving them. The declarer shall be allowed a period of 15 days to submit his reply. The President of the Court shall then summon in the same way, all the parties to the dispute, to a public hearing for settlement of the aforesaid claims and objections. A court judgement which is issued in abstentia shall not be subject to objection. The only recourse shall lie in appeal regardless of the rights in dispute. The appeal must be submitted within fifteen days from the date of legal service of notice of the judgement.

SECTION 18: Ships must be registered within fifteen days from the date of their construction or purchase. If the ship is built or purchased abroad, it must be registered within fifteen days from the date on which it enters Jordanian waters. The presence of a ship in Aqaba Port is not required for purposes of registration. Ships that are purchased or built abroad shall have the right, pending registration, to sail under the Jordanian flag in accordance with a permit from the representative of the Hashemite Kingdom of Jordan at the place of sale or construction, to be issued on the basis of a declaration of purchase of the ship duly supported by documents. If a ship is purchased in Jordan, the transfer of ownership shall be registered in a folio in the register as prescribed under section 25 of this law.

The owner or part owner of a Jordanian ship who fails to carry out the duty of registration of the ship in accordance with the provisions of this section shall be liable to imprisonment for a period ranging from two to ten days and a fine ranging from 3 to 60 Dinars, or to either of these two penalties, unless he proves that the registration could not be effected due to circumstances beyond his control.

SECTION 19: If a ship is sold to a foreigner, or is captured by the enemy, or burnt or otherwise destroyed, the owner in whose name the ship is registered shall return the certificate of ownership to the registration office of the Port for cancellation thereof, and of the folio assigned to the ship in the register. This certificate must be returned within a period of fifteen days if destruction or sale occurs within Jordanian waters, and within a period of three months if it occurs abroad.

SECTION 20: Any unregistered Jordanian ship which leaves the Port shall be stopped and, if arrested on the high seas, it shall be taken to a place where it can be attached by the Director, who shall prepare a record of such attachment. The record shall be submitted to the competent court with a copy to the Minister of Transport.

SECTION 21: If it is proved that the intention of the ship owner in evading registration formalities is for a criminal purpose, the court shall decide to confiscate and sell the ship. The proceeds of the sale shall be part of the revenues of the Port Department, and a copy of the court judgement shall be sent to the Minister of Transport. In addition, the ship owner shall be liable to imprisonment for a period ranging from 3 months to 2 years and a fine ranging from 3 to 60 Dinars. However, if it is proved that the failure to register is due merely to negligence or inadvertence, the ship owner shall be liable to a fine ranging from 3 to 36 Dinars.

SECTION 22: Any agreement or contract, whether with or without consideration, and any final judgement and, in general, any act which is intended to create, transfer, publicise, alter or terminate a material right relating to a registered ship shall not take effect even between the contracting parties unless and until it is duly recorded in the register.

The right to register material rights relating to ships shall be acquired by virtue of the agreement, contract, provisions or acts referred to in the preceding paragraph.

An obligation to deliver a ship shall automatically include an obligation to record the formalities relating to the transfer of ownership in the register. Such transfer may be judicially recognized if one of the contracting parties refuses to implement its obligation, and it shall furthermore give the other party the right to claim any damages which such party may have sustained, particularly if the ownership of the ship has been transferred to a third party.

SECTION 23: The rights acquired by a person in a registered ship on the basis of the records in the register shall be considered as established rights. The records contained in the register, however, may not be relied on by a third party if such party was aware of any defect or invalidating causes before acquiring ownership. In any case, any party which sustains damages may file a personal claim for indemnification against the party who caused such damages.

SECTION 24: Any person who has sustained damages as a result of any registration, amendment or cancellation which has been wrongfully made, may request the cancellation or amendment of such wrongful act. If the two parties concerned cannot reach agreement regarding such cancellation or amendment, the matter must be determined by a court judgement. Minor errors in writing such as a discrepancy between the records appearing on a folio of the register and the details of the daily register or the documents produced in support of the registration may be corrected automatically by the Director. In case of objection by the parties concerned, the Director must request the local magistrate to make the correction after recording the objection and the request for correction on the relevant folio.

SECTION 25: The registration shall be carried out on the basis of a declaration from the ship owner or the person to whom a right therein was transferred, and the acceptance of the person in whose favor the registration is made. The declaration and acceptance shall be made before the Director, who shall prepare a record of such proceedings. However, they may take place before the notary public, who shall execute an official deed thereof which shall be submitted to the Director.

The declaration and acceptance must contain the following:-

- a. A description of the ship to be registered and the number of the folio in the register.
- b. The identity of the owner or transferor of the right and the person for whose benefit the proposed registration is being effected.
- c. A description of the right to be registered.
- d. A description of the method of purchase and the price when necessary.
- e. A statement of any special provisions included in the agreement, when necessary (amount loaned by the creditor, rate of interest, charges, money or currency stipulated, method of repayment before maturity) or any encumbrance on the right of disposal or any entries the registration of which is requested together with the principal right.

No declaration shall be necessary if the applicant relies on the law or on a final court judgement or on an official deed which automatically bestows the right to registration.

SECTION 26: The Director or notary public who receives the document shall be personally responsible for verification of the indentivity and legal capacity of the applicants, and he shall expressly mention such verification in the record of proceedings or the document. As regards documents prepared abroad, the identity of the contracting parties shall be deemed to have been duly verified if the signatures affixed at the end of such documents which are produced are duly certified by such statements and proofs as are required under the laws in force, failing which the documents may be contested and set aside.

SECTION 27: If the contracting parties do not know how, or are unable to sign or read, admission of the contents of the record shall be made by them before the Director or notary public in the presence of two witnesses who possess the legal qualifications and are able to sign. Such admission of the contents of the record of proceedings or of the document shall be confirmed by the Director or notary public and signed by him and by the witnesses. If the Director or notary public does not know the names of the contracting parties or their personal civil status or places of residence, he shall ascertain these particulars through two witnesses who possess the aforesaid qualifications. In any case the Director or notary public shall attest at the end of the declaration that he personally knows the witnesses.

SECTION 28: A daily register shall be maintained by the Director, who shall record therein under serial numbers and in proper sequence the declarations and documents submitted to him, and shall give the applicant an acknowledgement of receipt containing the number of the daily register/ⁱⁿ which his declaration was registered and the number and date of registration in that register. The order of priority shall be determined on the basis of the date of this registration.
Where several applications relating to the same

ship are submitted on the same day the order of priorities of rights relating to that ship shall be determined on the basis of the time of day when the application was deposited. Where several applications relating to the same ship are submitted simultaneously, this fact shall be recorded in the daily register and the rights shall be registered on an equal footing.

SECTION 29: Any person who claims a right in a registered ship may request a provisional record to be made in order to protect his right provisionally. The application for a provisional record must always be supported by a decision of the president of the court of first instance within whose area of jurisdiction the Port of Aqaba falls. The order of priority of the right which is eventually registered shall be determined on the basis of the date of the provisional record. The provisional record shall remain in effect for a period of one month, after which it shall be automatically cancelled unless a case is filed in court and a record thereof is made in the register within that period.

SECTION 30: A registration and a provisional record may be cancelled on the strength of any document or final court judgement which establishes as against any party claiming any right which has been duly publicised, that the right to which the registration or provisional record relates does not exist or has been lost.

SECTION 31: The provisions of sections 23 to 29 relating to registration shall apply to cancellation, but the record of proceedings or the cancellation document must include the following:-

1. The specific folio of the ship to which the cancellation relates.
2. Details of registration or provisional record.

3. The reason for cancellation or details of the instrument on which it is based.

SECTION 32: The cancellation shall be recorded in the folio of the ship and it shall be dated and signed by the Director, failing which it may be contested and set aside. The signature of the Director shall be supported by the official seal of the Port, and the reasons for cancellation shall be stated on the aforesaid folio.

SECTION 33: Applications for the execution of attachment orders on a ship and execution of judgements which determine any disputes with regard thereto shall be conveyed to the Director through the Execution Office for registration in the folio of the ship. Court cases relating to material claims shall also be recorded in the register, upon service of notice thereof, duly endorsed by the office of the court in which the application was filed, to the Director. Such service of notice shall be carried out at the request of the party concerned.

SECTION 34: If an application to register a material right in a ship which was created between living persons is submitted after the death of the person who possessed that right, the application may be approved upon submission of a document which can serve as a basis for such registration, or an application signed by the person possessing the right, provided that his signature in either case is duly certified. If the signature is not certified or if an objection is made by the heirs, the registration shall be determined by the competent judicial authority.

35: Material rights in a ship arising from inheritance may not be registered in the name of persons applying for registration if the inheritance is regular and not governed by a will, unless such applicants produce, in addition to the certificate of death of their predecessor, legal certificates which establish the identity of each of them and his right to inherit from the deceased person. If the inheritance is governed by a will, the applicant must

produce the official will or a decision issued by the judicial authority which is responsible for the execution of the will.

SECTION 36: Every entry in the register shall be confirmed by a signature, otherwise it may be contested and set aside. The signature shall be confirmed by the official seal of the Port Department.

SECTION 37: The ship owner is the only person who shall have the right to obtain a complete copy of the ship's folio. The signature of this copy by the Director and the Seal of the Port Department shall give it the force of an official document. The owners of rights such as mortgagees shall be given certificates of the registration of their rights only.

SECTION 38: Whenever an entry is made on a folio, it must also be recorded on the copy of that folio (the certificate of ownership). Registration shall be rejected by the Director if the copy is not produced and if the application relates to a right the creation of which requires the consent of the registered owner. In all cases registration shall be effected by the Director and he shall notify the owner of the registered right thereof. No other registration may be requested with the consent of the owner of such registered right until after verification that the particulars entered in the folio and in the certificate of ownership are identical. The Director shall certify the correctness of the copy of the folio whenever he is requested to do so.

SECTION 39: If the Director starts a new folio he shall cancel the previous folio by signing the cancellation mark and affixing the Port Department seal on all its pages. He shall likewise cancel the certificate of ownership and retain it with his papers.

SECTION 40: The Director shall give any interested party upon request a general or a particular statement of the entries in the register and a copy or a summary of the documents.