

REPUBLIC OF NAURU
SHIPPING REGISTRATION (AMENDMENT) BILL 2017

EXPLANATORY MEMORANDUM

The Shipping Registration (*Amendment*) Bill is a Bill for the *Shipping Registration (Amendment) Act 2017*.

This memorandum provides an explanation of the Bill and is only intended to indicate the general effect.

EXPLANATION OF CLAUSES

Clause 1 provides that once enacted, the short title of the Bill will be the *Shipping Registration (Amendment) Act 2017*.

Clause 2 sets out when the Bill's provisions will commence.

Clause 3 is the enabling provision for the amendment to the *Shipping Registration Act 1968*.

Clause 4 is the interpretation clause that provides for the definitions of specific words used in the Act.

Clause 5 amends the Act by omitting the word '*ship*' wherever it appears and substituting with the word '*vessel*'. This ensures consistency throughout the legislation and aligns it with the terminology used in the Fisheries Act.

Clause 6 inserts a new section 2A to ensure the application of the Act in its entirety to foreign vessels. In this section, any references or application of the Shipping Registration Act to Nauruan vessels will also apply simultaneously to foreign vessels, as the case may be necessary.

The clause in general ensures that the Act applies to foreign vessels with a bit of modification, wherever necessary. The powers and functions of the Registrar of Nauruan vessels will be exercised or performed by the Registrar of Foreign Vessels in relation to foreign vessels.

The manner, particulars or entries as may be required for the registration of Nauruan vessels must also be applied to foreign vessels and be entered in the Register of Foreign Vessels, to be kept by the Registrar of Foreign Vessels.

The functions of a surveyor under the current Act will also apply to foreign vessels.

Clause 7 inserts a new section 4A, where the Minister appoints by notice in the Gazette a reputable and suitable person to be the Registrar of Foreign Vessels. The Registrar of Foreign Vessels cannot register a foreign vessel, if the vessel is involved in illegal activities.

Clause 8 inserts a new section 6A which provides that the Port of entry for every vessel either Nauruan or a foreign vessel registered under this Act shall be Nauru.

Clause 9 inserts a new section 8A which provides for restrictions on the registration of vessels. A vessel that is not registered will not be recognised to fly the Nauruan flag and will not be entitled to the rights and privileges accorded to a Nauruan vessel.

Clause 10 inserts a new section 39A to provide for the registration of bareboat charters. These types of vessels are chartered for a certain period of time.

The principle of a bareboat charter is akin to hiring a rental car in that ownership vests with the actual owner, but possession and control vests with the charterer.

The registration of a bareboat charter will remain in force until the end of the charter or upon termination of the registration. This would cover certain foreign vessels that are leased or sub leased under a bareboat charter.

Clause 11 inserts a new section 46A which provides for the application of International Maritime Conventions to which Nauru is a signatory. The International Maritime Convention to which Nauru is a signatory will have force of law at the time, when the Convention is prescribed in the Regulations and entered into force in Nauru.

Clause 12 inserts a new section 65A to deal with jurisdictional offences that may occur inside or outside Nauruan waters. The clause clarifies that an offence is deemed to be committed at the place in which the offence was committed or place in which the offender may be.

Clause 13 inserts a new section 65B that makes for provision when the courts might have jurisdiction. The courts will have jurisdiction on the coast of Nauru over a vessel lying in any part of the coast, including persons on board the vessel.

Clause 14 inserts a new section 65C to deal with jurisdictional issues for offences committed on board a vessel. If a person commits an offence on board a vessel registered under this Act, he or she is liable for prosecution. It is not a defence if the offence was committed beyond the territorial limits of Nauru.

Clause 15 amends section 66 by widening the scope of the type of regulations the Cabinet may make under the Act.

These regulations are to deal with details for the proper administration of crew agreements, certificate of competency, provisions of accommodation on a vessel, quality

of water supply or medicines, dealing with disciplinary offences committed on board a vessel, wages of seaman, forms and procedures for the Registrar of seamen.

The clause also gives power to Cabinet to make further regulations in relation to foreign vessels to ensure the proper and administration of the registration of foreign vessels. This includes the management of vessels owned by any foreigner that wish to be registered in Nauru, the appointment of a person or corporation not registered in Nauru to administer the registration of foreign vessels, and the implementation and maintenance of the register for foreign vessels, including other related relevant matter that needs to be regulated.

Clause 16 inserts a new section 67 to ensure that there is accountability in complying with International Maritime Conventions. The onus is on the owner and the master of the vessel to ensure that the vessel is in compliance with the requirements of the International Maritime Conventions, and other applicable Instruments.

Failure to comply with such Conventions or Agreements entered before or after the commencement of the Act, may result in the Registrar suspending or canceling the vessel's Certificate of Registry. The Registrar may also impose a fixed penalty in an amount not exceeding \$100,000.

Clause 17 inserts a new section 68 to provide for a transitional provision. There are certain International Maritime Conventions that have yet to be ratified or acceded to by Nauru. Once that International Maritime Conventions relevant to Nauru are brought into effect by regulations, then they are deemed to be given the force of law from the date the regulations are given effect.