

Registering the ship – Malta

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1. Ownership

1.1 What, if any, are the restrictions on ownership of vessels registered under the flag of Malta?

Vessels registered under the Malta flag may be owned by either:

- 1.1.1 European Union (EU), European Economic Area (EEA) and/or Swiss nationals residing in Malta and corporate bodies established in Malta; or
- 1.1.2 EU, EEA and/or Swiss nationals not residing in Malta and foreign (EU/non-EU) corporate bodies provided a local resident agent is appointed.

1.2 If registration by companies is limited to companies incorporated in Malta, is a local brass-plate company sufficient, or must there be a closer, genuine connection?

Registration by companies is not limited to companies incorporated in Malta.

1.3 If registration by companies incorporated other than in Malta is permitted, must a local representative be appointed? If so, are there any restrictions on the identity of that representative?

Yes, a local representative referred to as a resident agent must be appointed to represent foreign companies.

1.4 Please summarise any restrictions (eg, as to number, nationality etc) on who may own shares in shipowning companies incorporated in Malta.

There are no restrictions.

1.5 Please explain any exchange control or other governmental or regulatory consents required in connection with the ownership of ships registered in Malta.

No exchange control or other governmental or regulatory consents are required in order to own Maltese ships.

1.6 Please explain any special rules for any particular type of vessel.

Special rules apply with regard to fishing vessels.

1.7 Is there any mandatory registration requirement for certain owners (eg, citizens of Malta)?

Other than the limitations referred to in Clause 1.1, there are no mandatory registration requirements.

2. Eligibility

2.1 Are any particular types/sizes of ship ineligible for, or exempt from, registration?

All types of vessel of at least six metres in length, from pleasure yachts to oil rigs, including vessels under construction, may be registered under the Maltese flag.

2.2 What, if any, is the maximum age for registration of ships under the flag of Malta?

Trading ships older than 25 years may not be registered, although the Registry may allow this in certain circumstances.

Ships older than 15 years are required to pass an authorised flag state inspection prior to provisional registration.

Ships aged between 10 and 15 years must also be inspected by an authorised flag state inspector before or within one month of registration.

3. Names

3.1 What, if any, are the restrictions on the name under which a ship may be registered in Malta?

The name proposed for a ship to be registered may be refused if it is already the name of a registered Maltese ship or a name so similar as to create confusion with another ship registered under the Malta flag.

3.2 Is there a procedure for approval of names in advance?

Yes, as explained below.

3.3 If so, how does it operate? Does approval confer any priority rights on the use of the name?

The owner of a ship intending to register that ship in Malta may apply to the Registrar to reserve the proposed name of the ship for a period of three months. This application may be renewed for extended periods of three months. Once a name is reserved it cannot be used by any person except the applicant of such name reservation.

4. New registration procedure

4.1. Where may ships intending to fly the flag of Malta be registered?

4.1.1 In Malta?

4.1.2 Abroad?

Ships intending to fly the Maltese flag must be registered in the Registry of Ships based in Malta.

4.2 What documents and information must be submitted to effect registration?

Registration takes place in two stages. The vessel is first provisionally registered for a period of six months (which may be extended for a further period not exceeding another six months), following which all the documents required for permanent registration under the Merchant Shipping Act must be submitted for permanent registration.

For a vessel to be provisionally registered, the following requirements must be fulfilled and documents submitted:

- 4.2.1 Application for registration, which includes, if necessary, a request to change the name of the vessel;
- 4.2.2 Proof of eligibility to own a Maltese ship;
- 4.2.3 Declaration of ownership by the owner or the owner's representative that the owner is qualified to own the vessel and that the vessel is free from encumbrances;
- 4.2.4 Current class confirmation/class certificate to be sent directly by class to the Registry. Confirmation by applicant of recognised organisation and classification society if these have changed;
- 4.2.5 Request for the Registry to authorise the appropriate recognised organisation to issue the ship's and the company statutory certificates;
- 4.2.6 A copy of the ship's existing international tonnage certificate, existing certificate of survey, existing antifouling certificate and existing international oil pollution prevention certificate and supplement;
- 4.2.7 Application for call sign and MMSI number;
- 4.2.8 Application for minimum safe manning certificate;
- 4.2.9 Designated person ashore (DPA) and company security officer (CSO) notification forms;
- 4.2.10 Document of compliance of technical managers;
- 4.2.11 International safety management (ISM) declaration and safety management certificate (SMC);
- 4.2.12 Application for declaration of maritime labour compliance (DMLC) Part I;

- 4.2.13 Maritime Labour Convention (MLC) certificate;
 - 4.2.14 AAIC number/provisional radio licence application form;
 - 4.2.15 Continuous synopsis record (CSR) forms numbers 2 and 3;
 - 4.2.16 Blue Card(s) in accordance with and required by the 'Bunkers Convention', 'Wreck Removal Convention' and 'Maritime Labour Convention' and if applicable the Civil Liability Convention;
 - 4.2.17 All statutory certificates ('load line', 'MARPOL', 'antifouling', 'SOLAS' 'international tonnage', and 'ballast water management' certificates);
 - 4.2.18 International ship security certificate (ISSC);
 - 4.2.19 Long range identification test (LRIT) conformance test report;
 - 4.2.20 Declaration of no halon.
- 4.3 Does the legal system in Malta lay down any specific requirements as to the contents of any of these documents eg, bills of sale – and, if so, what are they?**
Yes, and applications to the Registry are made on officially approved forms.
- 4.4 Please identify how many originals or copies of each document are required. Are faxed copies of any of them acceptable?**
The originals of the following documents must be provided to the Ship Registry:
- 4.4.1 Application for registration;
 - 4.4.2 Declaration of ownership;
 - 4.4.3 Bill of sale, which is subsequently returned;
 - 4.4.4 Deletion certificate evidencing deletion from the previous registry;
 - 4.4.5 Builder's certificate if a newbuild;
 - 4.4.6 Certificate of survey – alternatively appointed class may send a scanned copy directly to the Malta Flag Administration.
The Registry will accept scanned copies for all the other documents required.
- 4.5 Are there any requirements as to the language in which documents must be submitted?**
The documents should be submitted in English or Maltese.

4.6 If they may be submitted in a foreign language, are there any translation requirements? If so, what are they and when must they be complied with?
Not applicable.

4.7 Please identify any particular requirements of the legal system in Malta with regard to the method of execution of any of the registration documents, or with regard to notarisation or legalisation.

The declaration of ownership must be signed by the owner or the owner's representative in Malta either at the Registry of Ships in the presence of a Registry official or before a commissioner of oaths.

A bill of sale needs to be signed in the presence of a witness.

4.8 If the initial registration takes place abroad, is that registration final or provisional?

Not applicable.

4.9 If provisional, what needs to be done to effect final registration? When must this be done?

A vessel can only be provisionally registered for a maximum period of one year. The vessel is first provisionally registered for a period of six months (which may be extended for a further period not exceeding another six months).

Permanent registration is obtained through the submission of the following:

4.9.1 Where the ship was previously owned, an original of the bill of sale or other document evidencing the transfer of ownership to the applicant for registration, or in the case of a newbuilding, a builder's certificate with the applicant's name;

4.9.2 If applicable, an original deletion certificate from the registry where the vessel was last documented;

4.9.3 The certificate of survey issued under the authority of Malta;

4.9.4 Copy carving and marking note, duly endorsed by class surveyor; and

4.9.5 Letter of undertaking to surrender the original provisional certificate.

4.10 If provisional, what, if any, are the restrictions which apply to the vessel pending final registration?

As long as the vessel is in possession of an operational provisional certificate of Malta registry, no restrictions apply.

4.11 Can a provisionally registered ship be mortgaged?

Yes.

5. Technical matters

5.1 Please identify the requirements of Malta with regard to inspection, survey, measurement and the like in respect of newly registered ships.

An international tonnage certificate, a copy of the current class confirmation/class certificate and the original certificate of survey are all needed.

5.2 By when must these requirements be complied with?

The international tonnage certificate and the copy of the current class confirmation/class certificate must be provided for provisional registration. The original certificate of survey must be provided in order to obtain permanent registration.

6. Transfer of ownership

6.1 Please answer, either separately or by reference to your earlier answers, the questions listed under Clauses 4 and 5 above in respect of a transfer of ownership of a vessel already registered in Malta.

The existing international tonnage certificate and the certificate of survey may be retained and remain applicable in the context of a transfer of ownership of a vessel already registered in Malta. In the event that the buyer changes the name of the vessel, the existing international tonnage certificate and the certificate of survey will be endorsed in order to reflect the change of name.

A transfer of ownership of a vessel already registered in Malta, referred to as a transfer on the registry, will have to satisfy the same requirements and go through the same process of provisional and permanent registration, as stipulated in Clause 4. Insofar as the bill of sale is concerned, the bill of sale in the format approved by the Malta Registry must mandatorily be used.

6.2 Please explain any exchange control or other governmental or regulatory consents required in connection with the sale to a foreign flag of a vessel registered under the flag of Malta.

No exchange control or other governmental or regulatory consents are required for or in connection with the sale to a foreign flag of a vessel registered in Malta.

7. Deletion

7.1 Please outline the procedure for deletion of vessels from the flag of Malta.

When applying with the Malta Flag for the closure of the registry and the issuance of a deletion certificate, it must be specified whether the closure of the registry is being requested by the owners on account of a sale of the vessel to persons who are not qualified to own a Maltese ship or simply at the owner's request (eg, in the case of a reflagging of the vessel). The reason for deletion from the Malta Ship Registry will be indicated on the deletion certificate. In the case of a deletion following a sale, the application for closure of the vessel's register must state the nationality of the buyer and the buyer's choice of port and flag following the purchase of the vessel.

The Registry may refuse an application for closure of registry if there are any outstanding Registry fees or any fees due to the Registry. Such an application can also be refused by the Registry if there are court injunctions over the vessel.

If any mortgages are registered over the vessel the consent in writing of all mortgagees must be produced to the Registrar. In the event that the registry of the ship is closed without any registered mortgages having been discharged, the registry is considered as closed except insofar as relates to any unsatisfied mortgages or privileges entered. In such instances the deletion certificate issued will include a full description of the unsatisfied mortgage or privilege together with a statement that the registry of the ship was closed saving such mortgage or privilege.

The certificate of Malta registry and the most recent renewal certificate of the Malta Registry need to be returned to the Registry. Additionally the CSR Form 2 and Form 3 must be completed by the vessel owners or managers and also submitted to the Registry.

Once the flag registry receives clear written instructions from the owner of the vessel or the owner's local representative, it will proceed to close the registry of the vessel, issue a deletion certificate and a closed CSR.

The above concerns the voluntary closure of the registry, however the Registrar has the right to forcibly close the registry on a number of grounds, generally based on national interest or non-compliance by the vessel owner.

7.2 Please answer, either separately or by reference to your earlier answers, the questions listed under Clause 4 in respect of the deletion, as opposed to new registration, of a vessel.

Other than the certificate/s of Malta registry, all other documents required to effect the deletion of a vessel from the Malta flag may be submitted as physical or scanned copies.

The documents must necessarily be in either English or Maltese.

There are no particular requirements with regard to the method of execution other than the placing of the signature of the authorised person sending or issuing the relevant document. However, the consent of any mortgagee will need to be notarised and apostilled.

8. Certificates/transcripts

8.1 Please identify the certificates and other documents issued to an owner on registration of his ship under the flag of Malta.

Upon registration of a vessel in Malta, a certificate of Malta registry (provisional or 'permanent') together with the ship's papers, such as the official log books, are issued.

8.2 Please outline the procedure (including fees payable) for obtaining information on the registered ownership of and encumbrances on vessels registered in Malta.

A transcript of registry may be ordered from and is subsequently issued by the Ship Registry against the payment of a €50 fee.

9. Fees/taxes

9.1 What fees are currently payable:

9.1.1 On new registration?

- one-time fee on registration which varies with the type, length overall and net tonnage of the subject vessel and which is subject to a reduction or an increase according to the age of such vessel; and
- annual fee comprising a fixed basic fee which varies with the type, length overall and gross tonnage of the subject vessel together with a tonnage tax amount which varies according to the net tonnage of the subject vessel and which is subject to a reduction or an increase according to the age of such vessel.

9.1.2 On transfer of ownership?

No fees are charged by the Registry.

9.1.3 On deletion?

No fees are charged by the Registry.

9.2 Are there any annual or other ongoing fees or taxes payable in respect of ships registered in Malta?

Yes.

9.3 If so, what are they? On what basis and when are they payable?

The annual fee(s) referred to in the second bullet point in Clause 9.1.1 above – that is, the annual fee comprising a fixed basic fee which varies with the type, length overall and gross tonnage of the subject vessel together with a tonnage tax amount which varies according to the net tonnage of the subject vessel and which is subject to a reduction or an increase according to the age of such vessel.

Annual fees are payable upon renewal of registration.

10. Parallel registration

10.1 Is parallel registration permitted:

10.1.1 Onto Malta's register?

Yes.

10.1.2 From Malta's register?

Yes.

10.2 If so, what, if any, specific governmental or other consents are required?

First, the foreign registry must be a compatible registry – this rule applies both for parallel registration onto Malta's register and from Malta's register. The Registry has

published a publicly available list of such compatible registries which is amended from time to time.

For parallel registration onto Malta's register, the consent(s) of (i) the Maltese Registry (ii) the underlying registry (iii) the registered mortgagees, if any and (iv) the owners of the ship are all required.

For parallel registration from Malta's register, the consent(s) of (i) the Maltese Registry (ii) the foreign/bareboat registry, essentially through accepting to register the subject ship (iii) the registered mortgagees, if any and (iv) the owners of the ship are all required.

10.3 Is the period of parallel registration limited? If so, is it renewable?

Parallel registration, both onto and from Malta's register, is (i) for a period not exceeding the duration of the bareboat charter OR (ii) the date of expiry of the underlying registration (whichever is the shorter) but may not exceed a period of more than two years.

Period of parallel registration may be renewed, upon application, for a further period which may also not exceed two years.

10.4 If parallel registration is dependent on the existence of a demise charter, does Malta have a specific definition of 'demise' or 'bareboat' charter for these purposes? If so, what is it?

Yes – in Article 84A(1) of the Merchant Shipping Act (Chapter 234 of the Laws of Malta) which states the following:

"bareboat charter" means the contract for the lease or sub-lease of a ship, hereinafter referred to as charter, for a stipulated period of time, by virtue of which the charterer shall acquire full control and complete possession of the ship, including the right to appoint her master and crew for the duration of the charter but excluding the right to sell or mortgage the ship.

10.5 Please answer the questions listed under Clauses 1 to 5 above with reference to an application for parallel registration onto Malta's register.

The answer(s) to the questions in Clauses 1 to 5 are perfectly valid in the context of an application for parallel registration onto Malta's register with the following reservations:

10.5.1 The answers to the questions in Clause 1 (Ownership) do not apply to the owner but to the bareboat charterer seeking to register a vessel in the Maltese ship registry. Ownership rights as well as the transfer and/or transmission of such rights are not subject to the Merchant Shipping Act (Chapter 234 Laws of Malta).

10.5.2 Any change of name of a vessel parallel registered onto Malta's register requires the prior consent of the underlying registry, the owners and the registered mortgagee, if any.

It is essential to note that in so far as technical, compliance and regulatory matters are concerned, a vessel parallel registered onto Malta's register is considered to be under

the jurisdiction and control of Malta and shall comply with all laws applicable to Maltese ships. Moreover, certificates issued in terms of international conventions to which Malta is a party will be issued under the authority of the Maltese government.

10.6 Can/must mortgages on ships parallel registered into Malta’s registry also be registered in Malta?

No – mortgages and/or other encumbrances subject to registration may not be registered in Malta on ships parallel registered into Malta. Maltese law (specifically, Article 84M of the herein referred to Merchant Shipping Act) reserves such power with the underlying registry.

10.7 Under what circumstances will/may the parallel registration of a ship onto Malta’s register be terminated or revoked?

There are a number of reasons which will cause the parallel registration of a ship onto Malta’s register to be terminated or revoked, including:

10.7.1 Voluntary closure of registry by the bareboat charterer;

10.7.2 Forcible closure by the Maltese authorities for reasons based on Malta’s national interest, for outstanding registry fees and/or for non-compliance with Maltese law;

10.7.3 The withdrawal of consent of the underlying registry or the owners of the ship or of the registered mortgagee(s), if any; and

10.7.4 Expiry or termination of the bareboat charter or of the registration in the underlying registry or of the period of the Maltese Registry’s consent to the bareboat charter.

11. General

11.1 Please identify the principal statutes and regulations in Malta governing the registration of ships.

The Merchant Shipping Act (Chapter 234 of the Laws of Malta), enacted through Act XI of 1973 as subsequently amended and subsidiary legislation enacted thereunder.

11.2 Are there any other matters in the context of registration under the legal system in Malta which you feel should be emphasised?

No, there are no particular matters which warrant specific mention. However, compliance and regulatory obligations in shipping are growing, with no sign of abatement. Therefore, as has already occurred over the past few years, we are likely to experience an increase in the amount of documents required initially to register a vessel under the Malta flag, as well as to maintain its registration in good standing.

Further, new law is expected to be passed in the second quarter of 2018 that may have a bearing on and affect the accuracy of the replies for this jurisdiction (Malta) since the replies were drafted prior to the passing of the new law.

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