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GANADO
ADVOCATES

SHIPPING AND MARITIME LAW NEWSLETTER

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EDITORIAL

Welcome to our latest edition of the **GANADO Shipping & Maritime Law Newsletter**.

In this issue we report on the recent Mare Forum Malta 2015 Conference, wherein all contemporary and urgent issues in the shipping offshore and maritime industries in the international region were discussed. Moreover, we report on the ratification of the Nairobi International Convention on the Removal of Wrecks 2007 and the adoption the International Code for Ships operating in Polar Waters and related amendments to the International Convention for the Safety of Life at Sea. In conjunction with the legal updates we also report on all the recently issued MSD Shipping and Technical notices.

Feel free to get in touch with us should you require any further information on any of the reports in this edition. We also welcome feedback and suggestions. You may also wish to join in the conversation on the **Shipping Malta channel** on LinkedIn.

Dr JOTHAM SCERRI DIACONO

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Resting on our Laurels?

Whilst addressing those present at the recent Mare Forum Malta 2015 Conference, Transport Minister Joe Mizzi remarked that the Maltese maritime industry, albeit an indispensable asset of economic development, left much to be desired in terms of the upkeep of a public profile commensurate with the industry's ever-growing importance. Is this a hard piece of truth we are refusing to acknowledge or a minor detail whose effects are being mitigated, or rather, completely nullified, by the industry's booming economic performance?

Similar fears were recently brought to the fore in the UK, wherein it has since been suggested that Government and the industry itself cooperate in promoting the maritime industry by supporting business and maintaining high standards. Yet, on a far more basic level, one could argue that a ready-made solution lay within the confines of education, and exposing our young to the relevance of the industry from a tender age. This will not only ensure the continuity of stellar results, but ground them in a more meaningful form of public consciousness.

International Code for Ships Operating in Polar Waters (Polar Code)

The International Maritime Organization during the 94th session of IMO's Maritime Safety Committee held in November 2014, has adopted the International Code for Ships Operating in Polar Waters (Polar Code), and related amendments to the International Convention for the Safety of Life at Sea. The aim of the Polar Code is that of protecting ships and both seafarers and passengers on board of vessels operating in remote polar regions. The Polar Code defines goals and functional requirements in relation to ship design, construction, equipment, operations, training, and search and rescue, relevant to ships operating in Arctic and Antarctic waters.

The Polar Code covers the full range of design, construction, equipment, operational, training, search rescue and environmental protection matters relevant to ships operating in waters surrounding the two poles.

The Polar Code introduced changes to the SOLAS convention which will come into force on 1st January 2017, under the tacit acceptance procedure and it will apply to new ships constructed after that date. Ships constructed before 1st January 2017 will be required to meet the relevant requirements of the Polar Code by the first intermediate or renewal survey, whichever occurs first, after 1st January 2018.

The Polar Code will be mandatory also under the MARPOL convention. The IMO's Marine Environment Protection Committee is expected to adopt the Code and associated MARPOL amendments at its next session in May 2015, with an entry-into-force date to be aligned with the SOLAS amendments.

Nairobi International Convention on the Removal of Wrecks 2007

On the 18th January 2015, Malta ratified the Nairobi International Convention on the Removal of Wrecks 2007, (hereinafter referred to as 'the Nairobi Convention' or 'the Convention'). The Nairobi Convention is aimed at establishing a set of uniform international rules to ensure the

effective removal of wrecks. The Convention imposes an obligation on registered owners of ships flagged with States that are parties to the Convention or whose vessels enter the Convention area of any of the said States to insure against their vessels becoming wrecks.

In respect of Malta, Legal Notice 83 of 2015 entitled, 'Merchant Shipping (Wreck Removal Convention) Regulations, 2015' (hereinafter referred to as 'the L.N.' or 'these Regulations'), transposing the Nairobi Convention into Maltese law, was published on the 17th March 2015 in the Government Gazette. These Regulations came into force on the 14th April 2015 and are applicable to all Maltese ships wherever they may be and to all other ships while they are in Maltese waters regardless of flag. The L.N. establishes that the applicability of the Convention extends to 25 nautical miles from the baselines from which the Maltese territorial waters are measured.

Registered ship owners of sea going vessels of a gross tonnage of 300 or more are required to maintain an insurance cover or other financial security for wreck removal evidenced by a 'Wreck Removal Certificate', to cover liability under the Convention. To ensure the continuous uninterrupted operation of ships to which the Convention applies, registered owners concerned must take the necessary steps to fulfill their obligations under the L.N. Registered owners fulfill their obligations, inter alia, by submitting proof that a contract of insurance or other financial security insuring against the risks contemplated in the Convention, has been obtained (i.e. the relative 'blue card' issued in terms of the Convention to the Maltese Flag Administration).

Moreover registered owners of ships flagged with States not Parties to the Convention must also ensure that they have on board their ships a Wreck Removal Certificate should their ships enter a Convention area of a State Party.

Additionally, in the event that an accident results in a wreck in a Convention area, the Regulations impose an obligation on the operator of any ship involved in the accident, to report the wreck without delay to TM. The Regulation is applicable where the ship involved in an accident becomes a wreck and TM determines such wreck to pose a hazard. In such case TM would issue a 'Wreck Removal Notice' to the registered owner requiring him to remove the wreck constituting a hazard and provide TM with evidence of insurance or other financial security. TM may also lay down further conditions in the Notice so as to ensure that such removal proceeds

in a manner that is consistent with considerations of safety and protection of the marine environment.

The Regulations also establish that if a ship has been involved in an accident as aforesaid, any person who incurred costs can bring an action to recover such costs from the ship's registered owner. However an action to recover costs under these Regulations may not be brought after the end of three (3) years beginning with the date on which a wreck removal notice is issued or after the end of six (6) years beginning with the date of the accident which resulted in the wreck, whichever period ends earlier.

The overall aim of the Convention is to allow the Competent Authorities of State Parties, to have unrestricted rights to remove dangerous wrecks in a Convention area without engagement of the registered ship-owner, and this, to ensure that hazardous wrecks do not endanger other vessels and their crew and the surrounding marine and coastal environments.

For any queries kindly contact us on info@ganadoservices.com

This is a roundup of all Shipping and Technical Notices recently issued by the Malta Shipping Directorate ("MSD") addressed to ship-owners, ship operators, managers, masters, owners' representatives and recognized organizations.

TECHNICAL NOTICES

MSD Technical Notice BWM.1 on Ballast Water Exchange in the North Sea

31ST JULY 2015

Technical Notice BWM.1 draws the attention of all relevant persons to the designation of areas for ballast water exchange in the North Sea, and in particular to Regulation B-4.2 of the Ballast Water Management Convention (BWM Convention) allowing port States to designate areas, in consultation with adjacent or

other States, as appropriate, where ships may conduct ballast water exchange. To ensure that ships are in line with the BWM Convention when conducting ballast water exchange in the designated ballast water exchange area in the North Sea, contact us on shipreg@ganadoadvocates.com

SHIPPING NOTICES

MSD Shipping Notice 118 on Guidelines on the Issue of a Maltese Seaman's Record Book

20TH JANUARY 2015

Shipping Notice 118 brings to the attention of all seafarers who are engaged or shall be engaged on ships registered under the Merchant Shipping Act, to Maltese Nationals and to holders of Maltese Certificates of Competency, the issue of a new Maltese Seaman's Record Book. Applications for a

Maltese Seaman's Record Book should be submitted to the MSD and shall be accompanied with all necessary documents as may be prescribed on the application form. For further information contact us on shipreg@ganadoadvocates.com

MSD Shipping Notice 119 on the Wreck Removal Convention

17TH MARCH 2015

With **Shipping Notice 119** the MSD reminds all those concerned that Malta acceded to the Nairobi International Convention on the Removal of Wrecks, 2007. For further information on the effects of such accession contact us on shipreg@ganadoadvocates.com

MSD Shipping Notice 120 on the Revision of the Commercial Yacht Code

13TH MAY 2015

Shipping Notice 120 informs all concerned that the Commercial Yacht Code 2010 was revised to better serve the needs of the larger yacht industry and to optimise the regulatory regime to the particular needs, demands and technologies of this market, in conformity with recent safety and international regulations and standards. The new revised Commercial Yacht Code 2015 will take effect as from 1 October 2015. For further information on the amendments to the Malta Commercial Yacht Code contact us on shipreg@ganadoadvocates.com

MSD Shipping Notice 121 on the Surveys on Seafarers Serving on Malta Flag Ships

15TH MAY 2015

With **Shipping Notice 121** the MSD informs all those concerned that it will be conducting surveys as at the end of June and December of each year, so as to determine the number of seafarers on board Maltese registered ships. For further information contact us on shipreg@ganadoadvocates.com

MSD Shipping Notice 122 on Radio Installation on-board non-solas vessels

6TH JULY 2015

Shipping Notice 122 informs all those concerned that, non-SOLAS ships of less than 300GT, being registered under the MSA shall either comply with S.L.399.40 entitled the General Authorisations (Radiocommunications Apparatus) Regulations or else hold a valid Individual Ship Radio Station License depending on the type of equipment installed. Ship-owners are advised to contact us on shipreg@ganadoadvocates.com to ensure that they are fully in compliance with the abovementioned.

We trust that this issue of our **Shipping & Maritime Law Newsletter** was of interest to our readers, however, should you have any queries or suggestions to make, please feel free to contact:

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We will be pleased to hear from you.

Further, should you wish to unsubscribe from the **Shipping & Maritime Law Newsletter** please click **unsubscribe** on the email sending this newsletter, or by contacting Dr Jotham Scerri Diacono at jsdiacono@ganoadvocates.com

Disclaimer

This update is not intended to impart advice; readers are advised to seek confirmation of statements made herein before acting upon them. Specialist advice should always be sought on specific issues.