

**ORDER NR. 715/89
of August 23**

With the publication of Decree-Law Nr. 96/89, March 28, the International Shipping Registry (MAR) was created within the Madeira's Free Trade Zone, being immediately established the need to regulate all matters inherent and necessary to the Registry.

In this context and considering that the ships to be registered in MAR shall fly the Portuguese flag, there is the need to provide that such ships respect all safety, marine pollution prevention and accommodation facilities and technical requirements established by the regulations in force in the Portuguese legal system and that they do not operate with deficiencies, namely in relation to the International Conventions on Safety at Sea, Marine Pollution and Seafarers Welfare On Board, to which Portugal is a party.

For such purpose, and without waiving any responsibilities, it is necessary to resort to the services of certain ship classification companies duly recognised by the Portuguese Government also due to the fact that ships registered with MAR may develop their activity in any international ports or waters.

Bearing in mind that it is convenient to harmonise all acts of registration and certification of ships with MAR with those of other national entities performing similar acts;

Taking into account that it is convenient that all national ships navigate with similar documentation, so as to facilitate their control by the relevant State of the port;

Since it is necessary to provide MAR with a legal framework essential for the good performance of its duties;

In accordance with the articles 2, 7, 15, nrs 1 and 2, 21, nr 1 and 23 of Decree Law 96/89, May 28, and in accordance with article 202, paragraph c) of the Constitution:

The Government through the Minister for Public Works, Transports and Communication, decrees the following:

1º - The regulation attached hereto is approved as an integrant part hereof.

2º - The present order shall come into force immediately.

Ministry for Public Works, Transports and Communications.

Signed on July 28, 1989.

The Minister for Public Works, Transports and Communications, João Maria Leitão de Oliveira Martins.

Annexe regulation

SECTION I Registration

Article 1

The documentation and information regarding the ship shall be delivered with the initial application for registration in MAR, namely:

- a) Owner(s) and/or freighter(s), contracts, mortgages or other encumbrances pending on the ship;
- b) Envisaged name;
- c) Application for a dial code, together with the description of the communication equipment;
- d) Tonnage measurement data;
- e) Indication of the classification company;
- f) Characteristics of the ship and of her propulsion system;
- g) Construction shipyard of the ship and year of construction;
- h) Copy of the ship's certificates, including those of the classification company.

Article 2

The technical commission may refuse the registration of a ship with MAR, taking into consideration the type, commercial activity or age of the ship, in view of securing the quality and dignity of the registry.

Article 3

MAR, in accordance with the General Inspection of Ships (IGN), shall publish, through a public announcement or by way of circular letters, the forms to be completed and the necessary documentation for the registration of the ship, either for the registration of ownership or for provisional registration.

Article 4

- 1- Registration in MAR requires the presentation of the report of the initial registration inspection prepared by an expert of IGN or recognised by IGN, or by an expert of a classification company recognised in Portugal, when the ship is classified with such company.
- 2- The purpose of this inspection is to confirm that the ship complies with the safety, marine pollution prevention and accommodation facilities and welfare on board technical requirements pursuant to Portuguese legislation.

Article 5

A ship may be registered with MAR if she is anchored in any national or foreign port where the first inspection for registration can be carried out.

Article 6

- 1- The gauging of ships registered with MAR and the issue of the relevant certificates by:
 - a) National regulations (equivalent to those of the UK);
 - b) Panama Channel regulations;
 - c) Suez Channel regulations;
 - d) International Convention on Tonnage Measurement of Ships, London, 1969;

are performed by IGN or by a classification company recognised in Portugal whenever the ship is classified with the latter.

- 2- The classification companies shall consult IGN, whenever the interpretation of a tonnage measurement rule is deemed necessary.
- 3- IGN shall inform all classification companies of the result of such interpretation, in order to harmonise the tonnage measurement procedures in relation to national ships.
- 4- The classification companies shall send IGN a copy of the detailed tonnage measurement calculations, whenever requested to do so.

Article 7

In case one intends to change the name of a ship registered with MAR that is mortgaged in favour of preferential creditors such change may only be authorised if prior express consent of the preferential creditors is obtained.

Article 8

- 1- The attribution of a dial code for the ship's radio-communication station and of other types of identification, the establishment of the code of the entity responsible for the payment of radio-communication bills, the consignment of frequencies and the issuing of the relevant radio license for the ship are of the responsibility of IGN.
- 2- MAR, within the scope of its powers, and in co-operation with IGN, shall determine the procedures to be followed in accordance with the provisions of the preceding number.

Article 9

(Revoked by paragraph c) of article 2 of Decree-law nr 23/2007, February 1)

Article 10

Ships registered in MAR shall have the regulatory inscriptions required for the identification of national ships. The letter designating the registration port of the International Shipping Registry - MAR - Madeira Free Trade Zone shall be the letter "M" and the MAR registration port - "MADEIRA" - shall be inscribed on the stern under the name of the ship.

Article 11

The classification of the ships registered with MAR, regarding the navigation area, will take into account the port or waters in which such ships operate and the traffic that they perform. The navigational area limits defined for the remaining national ships shall not apply to ships registered with MAR

Article 12

- 1- The registration number shall be the number granted by MAR in the registration records.
- 2- For commercial ships, except for ships of local traffic, the series of consecutive full numbers from 1000 to 1300 shall be used.

Article 13

Inspections to be carried out in national ships whether in national or in foreign ports, in view of their registration and certification by MAR, including inspections of construction or modification, registration and maintenance average and supplementary inspections, shall be performed by experts assigned by IGN or, if the ship is classified by classification companies recognised in Portugal, by experts of such companies.

SECTION II **Classification companies**

Article 14

(Revoked by paragraph c) of article 17 of Decree-law nr 321/2003, December, 23)

Article 15

(Revoked by paragraph c) of article 17 of Decree-law nr 321/2003, December, 23)

Article 16

In the event that the ship registered with MAR is classified by a classification company recognised by the Portuguese Government, the designative letters of such company shall be written on the hull, on the disc relating to the load lines of the relevant international convention.

Article 17

(Revoked by paragraph c) of article 17 of Decree-law nr 321/2003, December, 23)

Article 18

(Revoked by paragraph c) of article 17 of Decree-law nr 321/2003, December, 23)

Article 19

The ships registered with MAR that are not comprised by the provisions of the international conventions to which Portugal is a party, shall navigate with national certificates issued by MAR or by IGN or with equivalent certificates issued by the classification companies recognised in Portugal.

Article 20

(Revoked by paragraph c) of article 17 of Decree-law nr 321/2003, December, 23)

SECTION III

Events

Article 21

The shipowner or the master of a ship registered with MAR suffering an accident or damages with his ship must immediately report such fact to MAR, stating in the relevant report the corresponding probable cause, namely:

- a) Damages and averages caused to the ship or to her cargo affecting her seaworthiness conditions;
- b) Collision, stranding or grounding;
- c) Loss of human lives;
- d) Acts of pollution.

Article 22

The shipowner, his legal representative or the master of a ship registered with MAR intending to perform any alteration or modification in the ship affecting her classification, main dimensions, measurement tonnage or free board, shall obtain previous authorization from MAR.

Article 23

- 1- In case a ship registered with MAR calls at a national port with damage either in the ship or in the cargo being necessary to proceed with an inspection thereto, such inspection shall be performed by an IGN expert or by an expert recognised by IGN or by an expert of a recognised classification company whenever the ship is classified with such company.
- 2- The sea report to be prepared by the master of the ship pursuant to the law shall be sent to the Registry within 48 hours, after having been duly approved by the representative of IGN in MAR or by the classification company.

Article 24

In order to clear a ship registered with MAR that has called at a national port with damages in the ship or in its cargo and so long as the inspection mentioned in the preceding article has been carried out pursuant thereto, in addition to the necessary on board papers, it will be sufficient to present the expert's report relating to the safety conditions for the ship to be able to proceed its journey.

Article 25

In the event of a ship registered with MAR having been subject to the control performed by the State port authority, namely under the terms of the Memorandum of Paris, and there being found deficiencies in relation to the International Conventions on Safety at Sea, Marine Pollution, Seafarers Welfare on Board, the master must immediately inform MAR of such deficiencies.

Article 26

The technical aspects of any enquiry to be performed in respect of an accident suffered by ships registered with MAR shall be coordinated by IGN, bearing in mind the application of rule 21, chapter 1, part C of the International Convention for the Safety of Life at Sea, 1974 and the 1978 Protocol.

Article 27

- 1- The ships registered with MAR must maintain on board, all books required by the national and international legislation, duly authenticated by MAR, IGN or by the classification company recognised in Portugal in case the ship is classified by such company.
- 2- The *Log Book* shall register the draft, fore and aft and the relative position of the free board marks relating to the floating line on the departure and arrival at ports.
- 3- The services log book, as well as the mandatory registration books, required by the applicable international conventions, must remain on board for a minimum period of two years, in order to allow the collection of data in the event of an enquiry being necessary to be carried out on board.

SECTION IV

Inspections, control, cancellation and transfer of registration

Article 28

- 1- In order to assure the safety of the ships, people and cargo on board, the ships registered with MAR are subject to an inspection, if possible every year, to be carried out by members of the technical commission of MAR or by experts appointed by IGN.
- 2- The entry on board of inspectors may not be restricted and the shipowner, master of the ship and their agents are bound to provide all collaboration during such inspection.

Article 29

The technical commission of MAR is empowered to sign, certify, initial, ratify or authenticate, whenever necessary and depending on each circumstances, the books, acts, terms, certificates, copies and certifications or other documents.

Article 30

MAR may proceed with the cancellation of a registration and, for such purpose, may carry out all necessary acts whenever the circumstances so justify, namely in case of:

- a) Changes in the ownership of the ship;
- b) Failure to comply with the requirements to operate within the Madeira's Free Trade Zone by the owner or operator;
- c) The ship suffering serious deficiencies in accordance with International Conventions on Safety at Sea, Marine Pollution Prevention and Seafarers Welfare on Board Ships.

Article 31

The owner, or his legal representative, may apply for the cancellation of the ownership registration in MAR due to the following reasons:

- a) Sale of the ship for registration in a country of another flag;
- b) Sale of the ship for scrap;
- c) Loss of the ship as a result of shipwreck;
- d) Presumption of loss and lack of news from the ship after 180 days of the latter having left the last port of call.

Article 32

The certificates and other documents to be issued by MAR in relation to and necessary for the cancellation of registrations may only be released after all payments and other obligations relating to the ship, the owner or the operator, owed to the Free Trade Zone of Madeira, are duly settled.

Article 33

1- The definitive cancellation of the ownership registration of a ship with MAR as a result of her sale to a foreign country may only be completed after the ship is registered under the flag of such country, being necessary to indicate to MAR, the new name of the ship and the relevant port of registration.

2- Ships sold for scrap are not subject to this article.

Article 34

1- Any national ship with either a definitive or a provisional registration that is transferred from a national port to MAR, or vice-versa, shall not be subject to any inspections for such purpose, including those foreseen in articles 7 and 12 of the regulation.

- 2- The transfer of the registration shall be communicated by the entity that performed such transfer to the entity with which the previous registration was recorded and to IGN.

SECTION V

Seafarers certification

Article 35

The certification of the seamen on board of ships registered with MAR shall be ruled by the provisions of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers of 1978 (STCW 1978).

Article 36

- 1- MAR may issue dispensation certificates under the terms of the STCW Convention, 1978, in a model similar to the one in force in the Portuguese legal system, as well as certificates in respect of chemical tankers, liquefied gas ships and tankers. MAR shall inform the General Direction of Seamen and Nautical Studies (DGPMEN) of these facts.
- 2- For the purposes of the preceding number, the applicants must provide evidence of the legally required professional skills or expertise.

Article 37

MAR technical commission must inform the relevant national and foreign competent in view of harmonising the procedures to be followed in respect of the crew's list, manning and the recognition of professional certificates of foreign seafarers.

SECTION VI

Capacity

Article 38

- 1- The ships registered with MAR may not navigate with a crew having less qualifications or in a lower number than what is required in terms of safety capacity.
- 2- The preceding number shall not apply in case of death or inability of a crew member occurred in the ship during a trip or in force majeure events, in which cases the crew member at stake shall be replaced at the first port of call.

Article 39

Safety capacity, hereinafter referred to as capacity, means the number of crew members, distributed by jobs, with which the ship is authorized to navigate, in order to assure safe navigation for people and goods, as well as the protection of the maritime environment.

Article 40

- 1- The shipowner or its legal representative may apply for the determination of the capacity of a ship already registered or to be registered with MAR.
- 2- The application must be filed with the following documents:
 - a) Identification summary of the ship, including its technical characteristics, its equipment and the routes in which it shall operate;
 - b) General plan of the ship;
 - c) Indication of the safety means existing on board;
 - d) Any other elements that the applicant may consider of interest for the application;
 - e) Duly grounded capacity proposal.
- 3- The capacity shall be established within a period of three business days counted as from the date of filing of the corresponding application and shall take into account the provisions of the relevant international conventions in force in the Portuguese legal system.

Article 41

- 1- After the capacity is determined, MAR shall issue the corresponding certificate.
- 2- The determination of the capacity by MAR is susceptible of appeal to the minister responsible for commercial shipping.

SECTION VII

The crew

Article 42

The "Crew list" shall include the list of names of all crew members of a ship registered with MAR.

Article 43

- 1- In case the labour contracts to be signed by the members of the crew foresee a fixed term such contracts must be made writing and contain the following elements:
 - a) Identification of the parties;
 - b) Name of the ship;
 - c) Category or job to perform;
 - d) Nature of the contract;
 - e) Admission date;
 - f) Salaries;
 - g) Date of termination of the contract.
- 2- Individual labour contracts may not contain any provision contrary to international conventions ratified by Portugal within the scope of the ILO.

SECTION VIII

Final provisions

Article 44

MAR technical commission, within its supervisory powers may undertake an enquiry or develop any necessary action with the competent entities whenever it becomes aware of any maritime transgression occurring during the operation of a ship registered with MAR.

The Minister of Public Works, Transports and Communications, *João Maria Leitão de Oliveira Martins*.