



FISHERIES (AMENDMENT) LAW,
No. 7 OF 1976
OF
THE NATIONAL STATE ASSEMBLY

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Fisheries (Amendment) Law, No. 7 of 1976

L. D.—O. 56/73.

A LAW TO AMEND THE FISHERIES ORDINANCE.

BE it enacted by the National State Assembly of the Republic of Sri Lanka as follows:—

1. This Law may be cited as the Fisheries (Amendment) Law, No. 7 of 1976. Short title.

2. The Fisheries Ordinance (hereinafter referred to as the "principal enactment") is hereby amended by the substitution, for the heading appearing immediately after section 20 thereof, of the following new heading:— Replacement of heading in Chapter 212.

" POWERS OF OFFICERS, OFFENCES, REGISTRATION OF MORTGAGES, REGULATIONS, &C."

3. The following new sections are hereby inserted immediately after section 32 of the principal enactment and shall have effect as sections 32A, 32B, 32C, 32D, 32E, 32F, 32G, 32H, 32J and 32K of that enactment:— Insertion of new sections 32A to 32K in the principal enactment.

Registration of instruments of mortgage.

32A. (1) Every instrument creating a mortgage of a fishing boat (hereinafter referred to as an "instrument of mortgage") whether executed before, on or after the relevant date, shall be presented to the Director for registration.

(2) Each instrument of mortgage shall, in the order in which it is presented, be registered by the Director in the prescribed manner—

(a) in the case of a mortgage of a fishing boat registered prior to the relevant date, in the prescribed register of mortgages; and

(b) in the case of a mortgage of a fishing boat registered on or after the relevant date, in the prescribed register of fishing boats.

Priority of instruments of mortgage.

32B. Where there are more instruments of mortgage than one registered in respect of the same fishing boat, such instruments shall be entitled to priority

one over the other, according to the date on which each instrument is registered and not according to the date of the execution of each instrument:

Provided that fraud or collusion in securing the prior registration of any instrument of mortgage shall defeat the priority of the person claiming thereunder.

Registered mortgage of fishing boat to subsist notwithstanding sales, &c., to third parties.

32c. Notwithstanding anything in any other law, where an instrument of mortgage of a fishing boat is registered under section 32A any sale or other disposition of the fishing boat by or against the mortgagor shall not, so long as the mortgage continues in force, extinguish or be deemed to extinguish the mortgage of the fishing boat which shall remain subject to the mortgage in the hands of the transferee or other person in whose favour such disposition is effected.

Entry of discharge of mortgage.

32d. Where a registered mortgage of a fishing boat is discharged the Director shall, on production of the instrument of mortgage with a receipt for the payment of the mortgage money endorsed thereon, duly signed and attested, make an entry in the register in which the mortgage is registered to the effect that the mortgage has been discharged.

Mortgage not affected by bankruptcy.

32e. A registered mortgage of a fishing boat shall not be affected by any act of bankruptcy committed by the mortgagor after the date of registration of the mortgage, notwithstanding that the mortgagor at the commencement of his bankruptcy had the fishing boat in his possession, order or disposition or was reputed owner thereof; and the mortgage shall be preferred to the right, claim or interest therein of the other creditors of the bankrupt, or any trustee or assignee on their behalf.

Transfer of mortgages and Registration.

32f. (1) A registered mortgage of a fishing boat may be transferred to any person and the instrument effecting the transfer (hereinafter referred to as an

“ instrument of transfer ”) shall be in the prescribed form. Every instrument of transfer whether executed before, on or after the relevant date shall be presented to the Director for registration.

(2) Every instrument of transfer shall be registered by the Director in the prescribed manner in the register in which the mortgage is registered.

(3) The person to whom any such mortgage has been transferred shall enjoy the same priority as was enjoyed by the transferor.

Transmission
of interest
in
mortgage on
bankruptcy,
&c.

32G. (1) Where the interest of a mortgagee in a fishing boat is transmitted by bankruptcy, death or by any lawful means, other than by a transfer under section 32F, the person to whom the interest is transmitted shall—

(a) make a declaration to the Director stating his name and the manner in which the property has been transmitted; and

(b) produce to the satisfaction of the Director evidence of the transmission of the interest of the mortgagee in the fishing boat.

(2) The Director shall, on receipt of the declaration and on production of the evidence referred to in subsection (1) enter in the register in which the mortgage is registered the name of the person entitled under the transmission as mortgagee of the fishing boat.

(3) The person to whom the interest of a mortgagee is transmitted by bankruptcy, death or by any lawful means, other than by a transfer under section 32F, shall enjoy the same priority as was enjoyed by such mortgagee.

Searches
and copies.

32H. All registers, books and documents kept under this Ordinance may be searched and examined by any person claiming to be interested therein or by

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his attorney-at-law or agent duly authorized thereto in writing, and certified copies or extracts from any such register, book or document may be obtained from the Director if required.

Evidence.

32J. A copy or extract purporting to be certified under the hand of the Director to be a true copy of or extract from any register, book or document kept pursuant to this Ordinance shall be admissible in evidence without proof of the signature or appointment of the Director, and shall be prima facie evidence of the contents of such register, book or document for all purposes and in all proceedings, civil or criminal.

Other written law not to apply.

32K. The provisions of any written law, other than this Ordinance, requiring the registration under that law of any instrument creating the mortgage of movable property shall not apply to an instrument of mortgage.

Amendment of section 33 of the principal enactment.

4. Section 33 of the principal enactment is hereby amended in subsection (2) of that section by the insertion immediately after paragraph (d) of that subsection, of the following new paragraph:—

“(dd) all matters relating to mortgages of fishing boats and the registration of mortgages, discharge of mortgages, transfer of mortgages and the transmission of the interest of mortgages, including the fees to be paid for registration, the form of registers to be used for registration and the manner in which registration is to be made;”.

Amendment of section 35 of the principal enactment.

5. Section 35 of the principal enactment is hereby amended, by the insertion, immediately after the definition of “regulation”, of the following new definition:—

““relevant date” means such date as may be fixed for the purposes of this Ordinance by the Minister by order published in the *Gazette*;”.