

THE GOVERNMENT

DECREE No. 49/2006/ND-CP OF MAY 18, 2006, ON SHIP REGISTRATION, PURCHASE AND SALE

THE GOVERNMENT

*Pursuant to the December 25, 2001 Law on
Organization of the Government;*

*Pursuant to Vietnam's Maritime Code of June 14,
2005;*

At the proposal of the Minister of Transport,

DECREES:

Chapter I

GENERAL PROVISIONS

Article 1.- Scope of regulation

1. This Decree provides for the registration, purchase and sale of ships.

2. The provisions of this Decree shall not apply to ship purchase and sale in the following cases where:

a/ Ships are purchased and sold at home;

b/ Ships are built at home by Vietnamese enterprises under contracts;

c/ Foreign ships are coercively auctioned in Vietnam under decisions of competent state bodies.

3. The provisions of this Decree shall also apply to the registration, purchase and sale of public-duty ships.

Article 2.- Subjects of application

This Decree shall apply to Vietnamese and foreign organizations and individuals involved in ship registration, purchase and sale.

Chapter II

SHIP REGISTRATION

Section 1. VIETNAM SHIP REGISTRARS

Article 3.- Vietnam ship registrars

Vietnam ship registrars include the national ship registrar and regional ship registrars.

1. The national ship registrar is Vietnam Maritime Administration.

2. The director of Vietnam Maritime Administration shall decide the regional ship registrars to be the Maritime Sub-Departments or Port Authorities.

Article 4.- Tasks of the national ship registrar

1. To guide and examine activities of Vietnam ship registration at regional ship registrars.

2. To synthesize, list, maintain and update databases related to ship registration and ship mortgage registration; to supply relevant information to interested organizations or individuals.

3. To perform the unified management of the printing and issuance of ship registration certificates and ship mortgage registration certificates.

4. To enter into international cooperation on ship registration.

5. To perform other tasks according to regulations.

Article 5.- Tasks of regional ship registrars

1. To effect ship registration and ship mortgage registration according to assigned scope and competence.

2. To compile and manage Vietnam National Ships Registration Books in assigned regions; to supply relevant information to interested organizations or individuals.

3. To collect, remit and use fees for ship registration and ship mortgage registration according to regulations.

4. To make statistics and reports, update databases on ship registration and ship mortgage registration.

5. To perform other tasks according to regulations.

Section 2. VIETNAM SHIP REGISTRATION

Article 6.- Forms of Vietnam ship registration

1. The ship registration covers indefinite registration, time registration, re-registration and change registration.

a/ Indefinite registration means the registration of ships which satisfy all conditions for being granted Vietnam ship registration certificates;

b/ Time registration means the registration of ships for a given period of time; the time registration shall apply to foreign ships chartered by Vietnamese organizations or individuals under contracts for ship charter or hire-purchase or to foreign ships registered for a given period of time in Vietnam;

c/ Re-registration means the registration of ships which were previously registered in Vietnam National Ships Registration Books, but later the registration is suspended;

d/ Change registration means the registration of ships which have been already registered in Vietnam National Ships Registration Books, but have seen

changes of ship names or shipowners, structures and technical particular, regional ship registrars, ship registers.

2. Provisional registration of ships means the ship registration in the following cases where:

a/ Charges and/or fees have not yet been paid under regulations;

b/ There have been no ship deregistration certificates yet but the commitment in ship trading contracts that the sellers shall hand over the ship deregistration certificates to the purchasers within 30 days after the minutes on ship handover are signed. In this case, the certificates of provisional registration of Vietnam ships shall be valid only from the date the purchasers and the sellers sign the handover minutes;

c/ The newly built ships are tested or received for delivery to registration places on the basis of ship-building contracts;

d/ It is so provided for by the Minister of Transport in special cases.

A certificate of provisional registration of Vietnam ships provided for in this Clause shall be valid for 180 days as from the date of its issuance; in cases of *force majeure* circumstances, the validity duration shall be decided by the Minister of Transport.

Article 7.- Permits for temporarily flying Vietnamese flag

Where Vietnamese organizations or individuals buy foreign ships as provided for in Clause 2, Article 6 of this Decree but have not yet made provisional registration of ships in Vietnam, the diplomatic representative offices or consulates of Vietnam in foreign countries shall issue permits for temporarily flying Vietnamese flag in order to deliver the ships home.

Article 8.- Limits of the ages of ships registered in

Vietnam for the first time

1. In case of first-time registration in Vietnam, the used ships must be of the following ages counting from the year of their construction:

- a/ Not more than 10 years, for passenger ships;
- b/ Not more than 15 years, for ships of other types.

For special cases, the ship age shall be decided by the Minister of Transport but must not exceed 5 years of age for each type of ship defined at Points a and b of this Clause.

2. For foreign ships coercively auctioned in Vietnam under decisions of competent bodies, the ship ages specified in Clause 1 of this Article shall not apply.

Article 9.- Naming of ships and registration port

1. Ship names shall be given by shipowners, which, however, must not coincide with the names of ships already registered in Vietnam National Ships Registration Books.

2. Where ships are named after Vietnamese historical figures or events, such must be approved by regional ship registrars according to regulations.

3. Shipowners shall select port names for registration of their ships after the names of sea ports in regions managed by regional ship registrars.

Article 10.- Ship registration dossiers

1. Indefinite registration of ships

The dossiers to be submitted by ship owners to regional ship registrars shall each include the following papers:

- a/ The ship registration declaration made according to the form in Appendix I (not printed herein);
- b/ The ship deregistration certificate or ship pre-acceptance test and handover minutes, for newly built

ships;

c/ The contract on transfer of ship ownership rights or contract on ship building or other evidences of equivalent legal validity;

d/ Ship tonnage certificate;

e/ Copies of charge and/or fee payment receipts;

f/ Copy of ship classification certificate;

g/ Copy of business registration certificate or copy of permit for setting up a branch or representative office in Vietnam.

2. Time registration of ships

The dossiers to be submitted by shipowners to regional ship registrars shall each include the following papers:

a/ The papers specified at Points a, d, f, g of Clause 1, this Article;

b/ The certificate of suspension of registration;

c/ The copy of contract on ship hire-purchase or ship charter.

3. Re-registration

The dossiers to be submitted by shipowners to regional ship registrars shall each include the papers specified at Points a, d, f, g of Clause 1 and Point b of Clause 1 or Point b of Clause 2 of this Article.

4. Change registration

a/ Change of ship names

The dossiers to be submitted by shipowners to regional ship registrars shall include the documents clearly stating the reasons for the change of ship names.

b/ Change of shipowners

The dossiers to be submitted by shipowners to regional ship registrars shall each include the papers specified at Points a, c, e, g, Clause 1 of this Article.

c/ Change of structure and technical particulars

The dossiers to be submitted by shipowners to regional ship registrars shall include the documents clearly stating the reasons for change of ship structure and technical particulars, enclosed with certificates of technical safety related to the change of ship structure and technical parameters which were issued by ship registers.

d/ Change of regional ship registrar

The dossiers to be submitted by ship owners to regional ship registrars shall include documents clearly stating the reasons for change of regional ship registrars.

e/ Change of ship register

The dossiers to be submitted by ship owners to regional ship registrars shall include documents clearly stating the reasons for change of ship register and the papers specified at Point e and f, Clause 1 of this Article.

Article 11.- Dossiers for provisional ship registration and dossiers for grant of permits for temporarily flying Vietnamese flag

1. Provisional ship registration

a/ In cases where charges and/or fees are not yet paid:

The dossiers to be submitted by shipowners to regional ship registrars shall each include the papers specified at Points a, b, c, d, f, g, Clause 1, Article 10 of this Decree.

b/ In cases where charges and/or fees are not yet paid and ship deregistration certificates are not yet issued:

The dossiers to be submitted by shipowners to regional ship registrars shall each include the papers specified at Points a, c, d, f, g, Clause 1, Article 10 of this Decree.

c/ In cases where newly built ships are tested or received for delivery to registration places under ship building contracts:

The dossiers to be submitted by shipowners to regional ship registrars shall each include the papers specified at Points a, c, d, f, g, Clause 1, Article 10 of this Decree. In cases where newly built ships are received for delivery to registration places, the papers specified at Point b, Clause 1, Article 10 of this Decree are additionally required.

2. Permits for temporarily flying Vietnamese flag: The shipowners must comply with the provisions of Clause 1 of this Article.

Article 12.- Dossiers of registration of ships under construction

The ship owners must submit to regional ship registrars the following papers:

1. The papers specified at Points a and g, Clause 1, Article 10 of this Decree.

2. The ship-building contract.

3. The written certification of installing ship backbone by shipyards.

Article 13.- Dossiers for registration of small ships

1. Small ships are those with the M.E. power of under 75 kW, non-motorized ships with a total tonnage of under 50 GT or dead weight of under 100 tons or the designed waterline length of under 20 meters.

2 Dossiers for registration of small ships

Shipowners must submit to regional ship registrars the following papers:

a/ The papers specified at Points a, b, c, e, g, Clause 1, Article 10 of this Decree;

b/ Ship technical safety inspection books.

Article 14.- Dossiers for deregistration or suspension of ship registration

The shipowners must submit to regional ship registrars the following papers:

1. The ship deregistration or registration suspension declaration made according the form in Appendix II (not printed herewith).

2. Certificate of Vietnam ship registration; if not, the reasons therefor must be clearly stated.

3. The written approval of ship deregistration by the ship mortgagee under the provisions of Clause 2, Article 20 of Vietnam Maritime Code.

Article 15.- Grant of ship registration certificates

1. Regional ship registrars shall grant the following certificates:

a/ Vietnam ship registration certificates made according to the form in Appendix III (not printed herein);

b/ Registration suspension or deregistration certificates made according to the form in Appendix IV (not printed herein);

c/ Time registration certificates made according to the form in Appendix V (not printed herein);

d/ Provisional registration certificates made according to the form in Appendix VI (not printed herein);

e/ Certificates of registration of ships under construction, made according to the forms in Appendix VII (not printed herein).

2. Regional ship registrars shall base themselves on the archived dossiers to re-grant ship registration certificates with the old registration numbers and clearly note " re-grant", for cases where certificates are lost or torn, or damaged.

3. Regional ship registrars shall have to grant certificates specified in Clauses 1 and 2 of this Article within 5 working days after the receipt of complete valid dossiers.

Section 3. REGISTRATION OF VIETNAM SHIP MORTGAGE

Article 16.- Places of registration of Vietnam ship mortgage

The mortgage of Vietnamese ships can be registered at regional ship registrars where such ships are registered.

Article 17.- Dossiers for registration of Vietnam ship mortgage

The dossiers for registration of Vietnam ship mortgage shall be submitted by ship owners or ship mortgagees to regional ship registrars, each including the following papers:

1. The ship mortgage registration declaration made according to the form in Appendix VIII (not printed herein).

2. The ship mortgage contract.

Article 18.- Dossiers for deregistration of Vietnam ship mortgage

The dossiers for deregistration of Vietnam ship mortgage shall be submitted by ship owners or ship mortgagees to regional ship registrars, each including the following papers:

1. The ship mortgage deregistration declaration made according to the form in Appendix IX (not printed herein).

2. The Vietnam ship mortgage registration certificate made according to the form in Appendix X (not printed herein).

3. The ship mortgagee's written consent on ship demortgage.

Article 19.- Grant of Vietnam ship mortgage registration certificates or Vietnam ship mortgage deregistration certificates

Regional ship registrars must record in the Vietnam National Ships Registration Books the mortgage registration or the mortgage deregistration immediately after the receipt of complete valid dossiers and within 3 working days must grant Vietnam ship mortgage registration certificates or Vietnam ship mortgage deregistration certificates, made according to the form in Appendix XI (not printed herein).

Section 4. REGISTRATION OF VIETNAMESE ORGANIZATIONS' OR INDIVIDUALS' SHIPS FLYING FOREIGN FLAGS

Article 20.- Registration of ships flying foreign flags

Ships owned by Vietnamese organizations or individuals can be registered for flying foreign flags in the following cases where:

1. Ships operating on the basis of ship charter contracts or ship hire-purchase contracts signed between Vietnamese organizations or individuals and foreign organizations or individuals.

2. It is so decided by the Minister of Transport.

Chapter III

SHIP PURCHASE, SALE

Article 21.- Order and procedures for formation of projects and competence to decide on ship purchase or sale

The order and procedures for formation of projects and the competence to decide on ship purchase and

sale shall comply with the provisions of investment law.

Article 22.- Forms of ship purchase and sale

The ship purchase and sale with State capital shall be carried out in form of competitive offers.

Article 23.- Conditions on import of ships

1. Ships imported for use must satisfy the following conditions:

a/ Being fully eligible for Vietnam ship registration under the provisions of Article 16 of Vietnam Maritime Code and the provisions of this Decree;

b/ Being inspected and certified by Vietnam Register as having technical conditions suitable to requirements of maritime safety and environmental pollution prevention under the provisions of Vietnamese law and relevant treaties; where the ships' technical conditions are inspected and certified by foreign independent experts, the certifications of Vietnam Register is also required;

c/ Having decisions of competent authorities on ship purchase or sale.

2. Ships imported for dismantlement must satisfy the following conditions:

a/ Being not allowed for repair, transformation or restoration for use for other purposes;

b/ Having the dismantlement plan, measures for fire and explosion prevention and fighting as well as environmental pollution prevention, which are approved by competent bodies;

c/ Having decisions of competent authorities on ship purchase, sale.

Article 24.- Procedures for ship import and export

Based on ship sale or purchase decisions,

contracts and ship handover minutes, the customs offices shall have to carry out procedures for ship import or export.

Chapter IV

IMPLEMENTATION PROVISIONS

Article 25.- Implementation effect

1. This Decree takes effect 15 days after its publication in "CONG BAO" and annuls the Government's Decree No. 91/CP of August 23, 1997, promulgating the Regulation on ship and crew registration, Decree No. 23/2001/ND-CP of May 30, 2001, amending and supplementing a number of articles of the Regulation on ship and crew registration, promulgated together with the Government's Decree No. 91/CP of August 23, 1997, and Decree No. 99/1998/ND-CP of November 28, 1998, on management of ship purchase and sale.

2. To promulgate together with this Decree 11 appendices (not printed herein).

3. Assorted certificates, permits related to ship purchase and sale registration, which were already granted to ships under the Decrees mentioned in Clause 1 of this Article remain valid for use.

Article 26.- Organization of implementation

Ministers, heads of ministerial-level agencies, heads of Government-attached agencies and presidents of provincial/municipal People's Committees shall have to implement this Decree.

On behalf of the Government

Prime Minister

PHAN VAN KHAI