

UAE ship registration and mortgages over dubai-registered yachts

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The importance of the shipping industry in the Middle East is unquestionable, with gulf states continuously seeking to grow their maritime capabilities and allied industries. This article provides a general overview of the laws on registration of ships in the United Arab Emirates, and comments on registering mortgages over Dubai-registered pleasure yachts.

Statutory sources

The legislation governing ship registrations and ship mortgages in the UAE is Federal Law No. 26 of 1981 ('Commercial Maritime Law'). There are two UAE regulators concerning maritime matters, the Federal Transport Authority – Land & Maritime ('FTA') per UAE Cabinet Resolution 52 of 2006, and the Dubai Maritime City Authority ('DMCA') per Dubai Law No. 11 of 2010 ('DMCA Law'). The FTA is the UAE regulator of maritime affairs, while the DMCA's regulatory and administrative competence is limited to the Emirate of Dubai. Besides the Commercial Maritime Law and the DMCA Law, there are other laws concerning vessel registration and navigation in the UAE, including Cabinet Resolution No. 52 of 2006 on the powers of the FTA ('Cabinet Resolution 52/2006'), Resolution No. 30 of 2014 regarding navigation licenses ('Federal Resolution 30/2014'), and the Dubai Executive Council Resolution No. 11 of 2013 on the Promulgation of

the Executive Regulations of the DMCA Law ('Executive Regulations').

Ship registrations - general

The FTA is the UAE national ship registry, and the Commercial Maritime Law is the starting point for laws concerning vessel registration in the UAE. According to the Commercial Maritime Law, a vessel may acquire the UAE flag only if it is owned by a natural or legal person of UAE nationality, and weighs at least 10 tonnes. Registration of vessels involves having a port of registration, which means selecting a particular Emirate in which to register the vessel. The registration process is performed online via the FTA's website.

Dual-flagging is not available in the UAE and there is no bareboat charterparty registry. Registrations of bareboat charterparties however is available in its neighbouring jurisdiction, the Kingdom of Saudi Arabia.

We receive instructions concerning this but this topic is not within the scope of this article. Please get in touch with us should you wish to discuss about registrations of bareboat charterparties in Saudi Arabia.

Ship registrations - Dubai

Should the vessel be intended for navigations in the Emirate of Dubai, it is suggested that such vessels be registered with the DMCA and not the FTA. The Executive Regulations state, *"no vessel may be used in the Emirate (Dubai) unless it is licensed and registered with the authority"*, the latter authority being the DMCA. The DMCA Law utilises similar language as well. The Executive Regulations also provides that it applies to:

"a. All the vessels sailing in the waters of the Emirate

- 1. All the entities and individuals engaged in any maritime activity in the Emirate related to the use, driving, guidance or work on board of the vessels, crew training, chartering, transportation by such vessels or any such other activity."*

It is important to note that ship registration and ship licensing are different concepts under the Executive Regulations; the former concerns having a record of the licensed vessel's details with the DMCA, whilst the latter pertains to the permission for a ship to navigate in Dubai waters.

The Commercial Maritime Law uses the defined term "Vessel" but the DMCA Law uses *"Marine Transport Means"*. Notwithstanding that, the Executive Regulations employ the terms "Vessel" and *"Marine Transport"*. The Executive Regulations also specify that there are three categories of vessels, being *"Commercial Vessels"*, *"Pleasure Vessels"*, and *"Traditional Wooden Vessels"*, which are elaborated in the below table:

| | Commercial Vessels | Pleasure Vessels | Abbra |
|--|--|--|--|
| Definitions per the Executive Regulations | <i>"...vessels prepared for commercial business. They include, amongst others, the following:"</i> | <i>"...vessels prepared for tourist and sport purposes. They include, amongst others the following:"</i> | <i>"...vessels made basically of wood, and include, without limitation" the below examples</i> |

| | | | |
|---|---|---|---|
| Examples per the Executive Regulations | <ul style="list-style-type: none"> • Pleasure vessels for chartering • Vessels operating in the ports of Dubai • Vessels for construction purposes • Vessels for towing and guidance • Vessels for public transport • Vessels for shipping of goods | <ul style="list-style-type: none"> • Water scooter • Vessels less than 12 metres long • Vessels between 12 meters and 24 metres long • Vessels more than 24 metres long • Non-powered pleasure vessels including rowing or sailing boats | <ul style="list-style-type: none"> • Abbra • Wooden floating restaurants • Wooden pleasure boats |
|---|---|---|---|

Registration and licensing applications are submitted online via the DMCA's website where full details and information are provided. The details required by the DMCA for registering a ship are the usual details that well regarded ship registries require.

Licenses are valid for one year, and renewable following technical inspections by the DMCA and submission of proof of valid comprehensive insurance issued by a UAE-licensed insurer, among other requirements. Ship owners should note that licenses will be cancelled if it is not renewed within one year from its date of expiry.

Mortgages over Dubai-registered pleasure yachts

Naturally, a ship mortgage should be registered at the registry where the subject ship is registered. In this regard, any mortgages over a UAE-flagged ship should be registered with the national ship registry, that being the FTA. However, a question arises where a mortgage should be registered if the 'UAE ship' is not registered with the FTA itself. Such a situation may occur where the ship is registered with the DMCA rather than the FTA (as discussed earlier).

Pursuant to the DMCA Law, the DMCA must perform several "*duties and competences*" including "*[r]egulating all legal actions related to Marine Transport Means such as selling and mortgage*". At the time of preparing this article, it is understood that no mortgages over any ships or yachts have been registered at the DMCA. Whilst the DMCA requires mortgages over DMCA-registered pleasure yachts to be registered with the DMCA, there are alternatives that yacht owners or lenders may consider (which are outside the scope of a brief article).

Conclusion

The UAE is a union of seven Emirates co-operating closely with each other to introduce legislation that concern activities across the country. Further, each Emirate may pass laws concerning issues within its own jurisdiction. Any potential ship owner in the UAE is advised to consider UAE-wide and individual Emirate legal obligations and responsibilities early in the ship purchase process: the financing options and procedures; waters in which the subject ship would be navigating; and registrations issues. This will assist the owner (and lender) to achieve their objectives efficiently.

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