

Legal Regulation of Ship Charter Contracts in Saudi Law

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ABSTRACT

The Kingdom of Saudi Arabia, based on its regional and maritime location, has paid attention to the legal regulation of maritime navigation and its vessels. As the Saudi legislator issued legislation regulating the legal transactions related to the ship, including sale, rent, and mortgage. The study aimed to identify the legal rules regulating the rental of ships in the Kingdom of Saudi Arabia. By analyzing and interpreting it, following the comparative descriptive analytical approach. Where the results of the study indicated the existence of a maritime commercial law in addition to legal regulations for the registration of ships and floating units, and one of the most important recommendations is the need to codify model contracts for chartering ships internationally.

Keywords: Regulation - ship chartering - Saudi law

INTRODUCTION

Maritime commercial law: It is a set of legal rules regulating the relationships arising from ship chartering, marine insurance, marine loans, contracts related to maritime trade, maritime employment contracts, mariners' wages, marine insurance, and marine accidents (Al-Maqdawi 2011).

The lease contract is considered one of the commercial contracts subject to the provisions of the commercial law, as stipulated in Article (5) of the Saudi Commercial Law 2021, as it is considered a commercial business related to commercial maritime navigation.

The lease contract is regulated within the maritime trade law at the internal level of each country, as the lease contract is considered one of the named contracts regulated by the Saudi legislator in the Civil Transactions System 2023 and has regulated special rules for it in Chapter One of the Saudi Maritime Commercial Law 2018 AD in Article (142 to 177).

RESULTS AND DISCUSSION

Definition of Ship

Article 1 of the Saudi Maritime Commercial Law of 2018 defines it as: "Every floating facility prepared for work in maritime navigation on a regular basis, even if it does not aim for profit, and the ship's accessories necessary for its exploitation are considered part of it."

As defined in Article 1, paragraph 2, of the Saudi Ships and Floating Units Registration Fees System for the year 1419, "It is every marine floating vessel used in maritime transport operations in accordance with internationally applicable regulations."

It is defined by Article 25 (of the United Nations Convention on the Transport of Goods, Wholly or Partially in 2008, "Ship: means any vessel used to transport goods by sea."

Legal Nature of Ships

Ships are movable property and therefore the provisions of movable property apply to them, except for the rule (possession of movable property). This title deed is in accordance with Article 3 (of the Maritime Commercial Law 2018 AD, which states: "Taking into account the provisions stipulated in the system, the provisions of movable property apply to the ship, except for the provision of ownership." "By possession, and whatever is stated in this regard," which means that the lease contract and its provisions may be returned to it as a movable property, It is a consensual contract binding on both sides and a compensation contract - subject to the rules of private law when resolving disputes arising from it in the courts (Al-Tas, 2017).

Definition of Rental Contract

The lease contract is defined as a contract under which the lessor undertakes to enable the lessee

to benefit from a specific thing for a specific period in exchange for a known fee (Al-Rahili, 2020)

The Saudi legislator defined it in Article 407 of the Saudi Transactions System 2023 as the seventh article after four hundred

Lease is a contract under which the lessor enables the lessee to benefit for a specific period from a non-consumable item in exchange for a rent.

Definition of Ship Charter Contract

It is a contract in which the lessor undertakes to place at the lessee's disposal the benefit of a ship fit for sea navigation in a specific place and for a specific fee for them.

The charter contract is considered one of the maritime exploitation contracts, which is defined as: a set of rules regulating the special relationships that arise from the exploitation of ships in maritime trade, such as exploiting them by leasing them to transport people or goods, and the rules associated with this exploitation of special rules regarding maritime accidents, maritime insurance, and this maritime commercial law (CRASH, 2022)

The difference between the Saudi legislator between the lease contract for an equipped and an unequipped ship in the Saudi Maritime Commercial Law 2018

Article) 155 (of the Saudi Maritime Law 2018 defines the lease contract for an equipped ship as "the lease contract for an equipped ship is the contract under which the lessor commits to placing a specific ship that is seaworthy and fully equipped with supplies, sailors, or fuel, at the lessee's disposal for a specific period, or to carry out... On a specific voyage or voyages, which is known as a charter party, where the ship lessor places at the lessee's disposal a ship for the purpose of exploiting it, and the management of the ship is transferred to the lessee, so that it is equipped with all marine equipment and a marine crew .

(Article)1(of the Regulations for Registration of Ships and Registration of Floating Units defines the lease of an unequipped ship as a contract under which the lessor undertakes to place a specific ship at the lessee's disposal for a specific period without equipping it with supplies, sailors, or fuel.

Elements of the ship lease contract according to the general rules for the lease contract in the Civil Transactions System 2023 AD:

-The two contracting parties, the lessor and the ship's lessor

Availability of competence and satisfaction among the contracting parties

-Meeting and matching of offer and acceptance

-The ship charter contract must be concluded for a specific period

- The lessee owns the benefit of the ship (Khalil, 2013)

Conditions for Renting a Ship

The suitability of ships for maritime navigation in accordance with Article (2) of the International Convention for the Safety of the Seas 1974 AD does not include cranes, barges, and river vessels. Ships operating in maritime navigation must meet specific conditions.

Where Articles (3) and (4) of the Safety of the Seas Convention 1974 AD stipulated: The ship must be equipped with a computer for stability on board the ship or for support on land, for the purposes of providing the captain with information about operation for the safe return to port after a submersion accident. And the operational readiness of the ship and ensuring maintenance and rescue operations, which is done by operational testing of lifeboat and rescue boat dismantling devices.

The lease includes the ship's accessories necessary for its exploitation, such as machinery, machinery, masts, lifeboats, chains, cranes, rudder, compass, computer, and everything necessary for its operation.

Ship Registration

The chartered ship must be registered in the Kingdom of Saudi Arabia, even if it is foreign, in accordance with Article 20 of the Saudi Maritime Law 2018 AD.

The 1998 Saudi Ship Registration and Floating Units Regulations regulated the registration rules, as Article 1 of it defined the ship registration certificate as a document issued by the Saudi Ministry of Transport, proving ownership of the ship, its nationality, and its own name that distinguishes it from others.

It is an official document. The purpose of registration is to monitor the ship as fulfilling the conditions and to declare the rights and legal

actions that it receives from selling, leasing, etc. (Salima, 2017).

Proof of the Ship Lease Contract and its Contents:

The ship lease contract is proven in writing, and this is what the Maritime Commercial Law 2018 stipulates in Article (142), The lease contract must include information such as:

- The name of the ship, the amount of its cargo, taking into account length or volume, and the country to which it belongs
- The name and fame of its captain.
- The name and nickname of the landlord and lessee.
- The agreed upon place and time for loading and unloading.
- The amount of wages.
- A statement if the lease contract is for the whole ship, part of it, or a specific part of its amount.
- Guarantees are legitimate to be given due to a delay in unloading. Such as the amount of compensation in the event of delay in shipping or discharging.
- The rental period or the duration of the trip or trips.

Types of Ship Rental Contracts

The first type: unequipped ship charter contract

According to what is stipulated in Article (149) of the Saudi Maritime Law, the lessor is obligated to place the ship at the disposal of the lessee at the agreed upon time and place and in a condition fit for navigation and for the agreed upon use specified in the lease contract.

According to what was stipulated in Article (149), the lessor's obligations in the contract in which the ship is not equipped:

-The lessor's obligation to deliver to the lessee a ship fit for sea navigation

The lessor is obligated to repair and maintain all damage to the ship or to replace parts, while notifying the lessor of the damage or loss within twenty-four days of its occurrence.

Several obligations arise from the lessor of the ship according to Articles (150), (151) and (152) of the Saudi Maritime Law:

- He must commit to maintaining the ship and using it for the agreed upon purpose in accordance with its technical characteristics stated in the navigation license.

-The lessee's obligation to conclude employment contracts with the sailors, as the lessee is obligated to appoint the sailors and conclude employment contracts with them and is committed to paying their wages and other obligations that fall on the employer.

- The charterer's obligation to bear the expenses of operating the ship and the expenses of insuring it.

- The charterer's obligations to return the ship upon expiration of the charter contract

- The lessee's obligation for damages to others throughout the lease period. The lessor has the right to recover the compensation he paid to others as a result of his being exposed to marine accidents due to the lessee's exploitation of the ship.

The Second Type of Ship Rental Contracts: Renting an Equipped Ship

It is called a time charter contract, and it is a case of renting a ship equipped with all the necessary tools, supplies, and marine supplies. And equipped with a crew. The lease contract in this case is for the crew and the ship. It is a contract under which the lessor commits to providing a specific, fully equipped ship at the tenant's disposal for a specific period or for a specific trip or trips (Zerouali, 2012)

The lessor's obligations in this contract are as follows:

-The lessor's obligation to place a seaworthy and equipped ship at the lessee's disposal at the agreed upon time and place, and he is also obligated to keep the ship in this condition throughout the duration of the contract.

-The lessor's obligation to maintain navigational management of the ship, as he is responsible for maintaining the ship, appointing the sailors, feeding them, paying their wages, and dismissing them, and the lessor is responsible for the actions of the captain and his subordinates (Fares 2010)

- It must be suitable for maritime navigation in terms of maritime safety systems and maritime documents

According to Article (158) of the Saudi Maritime Law 2018, the contract for an equipped ship is divided into two types: renting an equipped ship for a specific period and renting an equipped ship for a single voyage. This distinction results in the different rules required in each of them:

The ship rental contract for a period must contain specific information, including the following:

- A. The name of the landlord, the name of the lessee, and the address of each.
- B. The name of the ship, its nationality, its cargo and other descriptions necessary for its designation.
- C. The amount of the fee or the method of calculating it.
- D. Rental term.

With the charterer's obligation to pay the full rent to the lessor for the period during which the ship is placed at his disposal, even if it stops due to navigation accidents, and the charterer is committed to supplying the ship with fuel and paying port and pilotage fees and other expenses, and the captain is committed to implementing his instructions related to this management.

Second photo: Rental contract for the trip

Unlike the previous type, the charter contract is for a single voyage and is known as a contract under which the lessor commits to placing a specific ship equipped at the lessee's disposal to undertake a specific voyage or voyages (Al-Jubouri 2021). According to the text of Article 158 of the Saudi Maritime Law, the voyage charter contract includes certain data represented in the following:

- A. The name of the landlord, the name of the lessee, and the address of each.
- B. The name of the ship, its nationality, its cargo and other descriptions necessary for its designation.
- C. Type, amount and description of the load.
- D. The place of loading, the place of unloading, and the agreed-upon period for carrying it out.
- H. The amount of the rent or the method of calculating it.

And the. A statement of the trips agreed to be undertaken.

The lease and sub-lease may be assigned in accordance with Article (145) of the Maritime Commercial Law: "The lessee may sublet the ship, unless otherwise stated in the lease contract. In the case of a sub-lease, the original lessee remains liable to the lessor for the obligations arising from the lease contract. No." Subletting creates a direct relationship between the original lessor and the subtenant. However, the original lessor may have recourse against this tenant in an amount not exceeding what he owes to the original tenant, without prejudice to the rules of tort liability.

CONCLUSION

The research article concluded that the Saudi legislator allocated a special regulation for the ship charter contract in the Saudi Maritime Law of 2018, where there was a distinction between the charter of equipped ships and unequipped ships. In terms of the obligations of the parties to the lease contract, with its requirement that the ship be registered with the Saudi Ministry of Transport. The lease contract ends at the end of the term, in addition to being a formal commercial consensual contract in which writing is required.

RECOMMENDATIONS

- The necessity of having model contracts for ship charters
- The necessity of international agreements codifying ship chartering and registration
- Holding regional and national conferences within the Kingdom and workshops explaining legal procedures - with teaching contracts contained on ships in law colleges in the Kingdom.

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