



# Merchant Shipping Act 1995

## 1995 CHAPTER 21

### PART II

#### REGISTRATION

##### *General*

#### **8 Central register of British ships**

- (1) There shall continue to be a register of British ships for all registrations of ships in the United Kingdom.
- (2) The register shall be maintained by the Registrar General of Shipping and Seamen as registrar.
- (3) The Secretary of State may designate any person to discharge, on behalf of the registrar, all his functions or such of them as the Secretary of State may direct.
- (4) The Secretary of State may give to the registrar directions of a general nature as to the discharge of any of his functions.
- (5) The register shall be so constituted as to distinguish, in a separate part, registrations of fishing vessels and may be otherwise divided into parts so as to distinguish between classes or descriptions of ships.
- (6) The register shall be maintained in accordance with registration regulations and the private law provisions for registered ships and any directions given by the Secretary of State under subsection (4) above.
- (7) The register shall be available for public inspection.

#### **9 Registration of ships: basic provisions**

- (1) A ship is entitled to be registered if—

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- (a) it is owned, to the prescribed extent, by persons qualified to own British ships; and
  - (b) such other conditions are satisfied as are prescribed under subsection (2)(b) below;
- (and any application for registration is duly made).
- (2) It shall be for registration regulations—
- (a) to determine the persons who are qualified to be owners of British ships, or British ships of any class or description, and to prescribe the extent of the ownership required for compliance with subsection (1)(a) above;
  - (b) to prescribe other requirements designed to secure that, taken in conjunction with the requisite ownership, only ships having a British connection are registered.
- (3) The registrar may, nevertheless, if registration regulations so provide, refuse to register or terminate the registration of a ship if, having regard to any relevant requirements of this Act, he considers it would be inappropriate for the ship to be or, as the case may be, to remain registered.
- (4) The registrar may, if registration regulations so provide, register a fishing vessel notwithstanding that the requirement of subsection (1)(a) above is not satisfied in relation to a particular owner of a share in the vessel if the vessel otherwise has a British connection.
- (5) Where a ship becomes registered at a time when it is already registered under the law of a country other than the United Kingdom, the owner of the ship shall take all reasonable steps to secure the termination of the ship's registration under the law of that country.
- (6) Subsection (5) above does not apply to a ship which becomes registered on a transfer of registration to the register from a relevant British possession.
- (7) Any person who contravenes subsection (5) above shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (8) In this section “the relevant requirements of this Act” means the requirements of this Act (including requirements falling to be complied with after registration) relating to—
- (a) the condition of ships or their equipment so far as relevant to their safety or any risk of pollution; and
  - (b) the safety, health and welfare of persons employed or engaged in them.
- (9) In this Part references to a ship's having a British connection are references to compliance with the conditions of entitlement imposed by subsection (1)(a) and (b) above and “declaration of British connection” is to be construed accordingly.

## **10 Registration regulations**

- (1) The Secretary of State shall by regulations (to be known as registration regulations) make provision for and in connection with the registration of ships as British ships.
- (2) Without prejudice to the generality of subsection (1) above, registration regulations may, in particular, make provision with respect to any of the following matters—

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- (a) the persons by whom and the manner in which applications in connection with registration are to be made;
- (b) the information and evidence (including declarations of British connection) to be provided in connection with such applications and such supplementary information or evidence as may be required by any specified authority;
- (c) the shares in the property in, and the numbers of owners (including joint owners) of, a ship permitted for the purposes of registration and the persons required or permitted to be registered in respect of a ship or to be so registered in specified circumstances;
- (d) the issue of certificates (including provisional certificates) of registration, their production and surrender;
- (e) restricting and regulating the names of ships registered or to be registered;
- (f) the marking of ships registered or to be registered, including marks for identifying the port to which a ship is to be treated as belonging;
- (g) the period for which registration is to remain effective without renewal;
- (h) the production to the registrar of declarations of British connection or other information relating thereto, as respects registered ships, at specified intervals or at his request;
- (i) the survey and inspection of ships registered or to be registered and the recording of their tonnage as ascertained (or re-ascertained) under the tonnage regulations;
- (j) the refusal, suspension and termination of registration in specified circumstances;
- (k) matters arising out of the expiration, suspension or termination of registration (including the removal of marks and the cancellation of certificates);
- (l) the charging of fees in connection with registration or registered ships;
- (m) the transfer of the registration of ships to and from the register from and to registers or corresponding records in countries other than the United Kingdom;
- (n) inspection of the register;
- (o) any other matter which is authorised or required by this Part to be prescribed in registration regulations;

but no provision determining, or providing for determining, the fees to be charged or prescribing any arrangements for their determination by other persons shall be made without the approval of the Treasury.

(3) Registration regulations may—

- (a) make different provision for different classes or descriptions of ships and for different circumstances;
- (b) without prejudice to paragraph (a) above, make provision for the granting of exemptions or dispensations by the Secretary of State from specified requirements of the regulations, subject to such conditions (if any) as he thinks fit to impose; and
- (c) make such transitional, incidental or supplementary provision as appears to the Secretary of State to be necessary or expedient, including provision authorising investigations and conferring powers of inspection for verifying the British connection of a ship.

(4) Registration regulations—

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- (a) may make provision for the registration of any class or description of ships to be such as to exclude the application of the private law provisions for registered ships and, if they do, may regulate the transfer, transmission or mortgaging of ships of the class or description so excluded;
  - (b) may make provision for any matter which is authorised or required by those provisions to be prescribed by registration regulations; and
  - (c) shall make provision precluding notice of any trust being entered in the register or being receivable by the registrar except as respects specified classes or descriptions of ships or in specified circumstances.
- (5) Registration regulations may create offences subject to the limitation that no offence shall be punishable with imprisonment or punishable on summary conviction with a fine exceeding level 5 on the standard scale.
- (6) Registration regulations may provide for—
- (a) the approval of forms by the Secretary of State; and
  - (b) the discharge of specified functions by specified authorities or persons.
- (7) Registration regulations may provide for any of their provisions to extend to places outside the United Kingdom.
- (8) Any document purporting to be a copy of any information contained in an entry in the register and to be certified as a true copy by the registrar shall be evidence (and, in Scotland, sufficient evidence) of the matters stated in the document.
- (9) Registration regulations may provide that any reference in any other Act or in any instrument made under any other Act to the port of registry or the port to which a ship belongs shall be construed as a reference to the port identified by the marks required for the purpose by registration regulations.

## **11 Tonnage ascertained for registration to be tonnage of ship**

When the tonnage of any ship has been ascertained and registered in accordance with the tonnage regulations that tonnage shall be treated as the tonnage of the ship except so far as registration regulations provide, in specified circumstances, for the ship to be re-measured and the register amended accordingly.

## **12 Tonnage of ships of foreign countries adopting tonnage regulations**

- (1) Her Majesty may by Order in Council make such provision in relation to the ships of a foreign country as is authorised by this section where it appears to Her that the tonnage regulations have been adopted by the foreign country and are in force there.
- (2) An Order under this section may order that the ships of the foreign country shall, without being re-measured in the United Kingdom, be treated as being of the tonnage denoted by their certificates of registration or other national papers, to the same extent, and for the same purposes as the tonnage denoted in the certificate of registration of a United Kingdom ship is treated as being the tonnage of that ship.
- (3) Where an Order under this section is in force in relation to the ships of any country any space shown in the ship's certificate of registration or other national papers as deducted from the tonnage shall, if a similar deduction in the case of a United Kingdom ship depends on compliance with any conditions or on the compliance being evidenced in any manner, be treated as complying with those conditions and as being so evidenced,

unless a surveyor of ships certifies to the Secretary of State that the construction and equipment of the ship as respects that space do not come up to the standard which would be required if the ship were a United Kingdom ship.

- (4) Any such Order may—
  - (a) operate for a limited time; and
  - (b) be subject to such conditions and qualifications (if any) as Her Majesty may consider expedient.
- (5) If it appears to Her Majesty that the tonnage of any foreign ship, as measured by the rules of the country to which the ship belongs, materially differs from what it would be under the tonnage regulations, Her Majesty may by Order in Council order that, notwithstanding any Order in Council in force under this section, any of the ships of that country may, for all or any of the purposes of this Act, be re-measured in accordance with the tonnage regulations.

### **13 Status of certificate of registration**

The certificate of registration of a British ship shall be used only for the lawful navigation of the ship, and shall not be subject to detention to secure any private right or claim.

### **14 Offences relating to a ship's British connection**

- (1) Any person who, in relation to any matter relevant to the British connection of a ship—
  - (a) makes to the registrar a statement which he knows to be false or recklessly makes a statement which is false; or
  - (b) furnishes to the registrar information which is false,shall be guilty of an offence.
- (2) If at any time there occurs, in relation to a registered ship, any change affecting the British connection of the ship the owner of the ship shall, as soon as practicable after the change occurs, notify the registrar of that change; and if he fails to do so he shall be guilty of an offence.
- (3) Any person who intentionally alters, suppresses, conceals or destroys a document which contains information relating to the British connection of a ship and which he has been required to produce to the registrar in pursuance of registration regulations shall be guilty of an offence.
- (4) A person guilty of an offence under this section shall be liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.
- (5) This section applies to things done outside, as well as to things done within, the United Kingdom.

### **15 Supplementary provisions as respects fishing vessels**

- (1) Subject to subsection (2) below, if a fishing vessel which—
  - (a) is either—
    - (i) entitled to be registered, or

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- (ii) wholly owned by persons qualified to be owners of British ships, but
  - (b) is registered neither under this Act in the part of the register relating to fishing vessels nor under the law of any country outside the United Kingdom, fishes for profit the vessel shall be liable to forfeiture and the skipper, the owner and the charterer of the vessel shall each be guilty of an offence.
- (2) Subsection (1) above does not apply to fishing vessels of such classes or descriptions or in such circumstances as may be specified in regulations made by the Secretary of State.
- (3) If the skipper or owner of a fishing vessel which is not registered in the United Kingdom does anything, or permits anything to be done, for the purpose of causing the vessel to appear to be a vessel registered in the United Kingdom, then, subject to subsection (4) below, the vessel shall be liable to forfeiture and the skipper, the owner and any charterer of the vessel shall each be guilty of an offence.
- (4) Where the registration of a fishing vessel has terminated by virtue of any provision of registration regulations, any marks prescribed by registration regulations displayed on the fishing vessel within the period of 14 days beginning with the date of termination of that registration shall be disregarded for the purposes of subsection (3) above.
- (5) Any person guilty of an offence under this section shall be liable—
  - (a) on summary conviction, to a fine not exceeding £50,000;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.
- (6) Proceedings for an offence under this section shall not be instituted—
  - (a) in England and Wales, except by or with the consent of the Attorney General, the Secretary of State or the Minister; or
  - (b) in Northern Ireland, except by or with the consent of the Attorney General for Northern Ireland, the Secretary of State or the Minister.
- (7) In subsection (6) above “the Minister”—
  - (a) in relation to England and Wales, means the Minister of Agriculture, Fisheries and Food; and
  - (b) in relation to Northern Ireland, means the Secretary of State concerned with sea fishing in Northern Ireland.
- (8) This section applies to things done outside, as well as to things done within, the United Kingdom.
- (9) Sections 8 and 9 of the Sea Fisheries Act 1968 (general powers of British sea-fishery officers and powers of sea-fishery officers to enforce conventions) shall apply in relation to any provision of this section or of registration regulations in their application to fishing vessels or fishing vessels of any class or description as they apply in relation to any order mentioned in section 8 of that Act and in relation to any convention mentioned in section 9 of that Act respectively; and sections 10 to 12 and 14 of that Act (offences and supplemental proceedings as to legal proceedings) shall apply accordingly.

## **16 Private law provisions for registered ships and liability as owner**

- (1) Schedule 1 (which makes provision relating to the title to, and the registration of mortgages over, ships) shall have effect.

- (2) Schedule 1 does not apply in relation to ships which are excluded from its application by registration regulations under section 10(4)(a).
- (3) Where any person is beneficially interested, otherwise than as mortgagee, in any ship or share in a ship registered in the name of some other person as owner, the person so interested shall, as well as the registered owner, be liable to any pecuniary penalties imposed by or under this Act or any other Act on the owners of registered ships.
- (4) Where the registration of any ship terminates by virtue of any provision of registration regulations, the termination of that registration shall not affect any entry made in the register so far as relating to any undischarged registered mortgage of that ship or of any share in it.
- (5) In subsection (4) above “registered mortgage” has the same meaning as in that Schedule.
- (6) In this Part “the private law provisions for registered ships” means the provisions of Schedule 1 and registration regulations made for the purposes of that Schedule or the provisions of registration regulations made under section 10(4)(a).

#### *Ships on bareboat charter*

### **17 Ships bareboat chartered-in by British charterers**

- (1) This section applies to any ship which—
  - (a) is registered under the law of a country other than the United Kingdom (“the country of original registration”),
  - (b) is chartered on bareboat charter terms to a charterer who is a person qualified to own British ships, and
  - (c) is so chartered in circumstances where the conditions of entitlement to registration prescribed under section 9(2)(b), read with the requisite modifications, are satisfied as respects the charterer and the ship.
- (2) The “requisite modifications” of those conditions are the substitution for any requirement to be satisfied by or as respects the owner of a ship of a corresponding requirement to be satisfied by or as respects the charterer of the ship.
- (3) A ship to which this section applies is entitled to be registered if an application for registration is duly made, but section 9(3) applies also in relation to registration by virtue of this section.
- (4) The registration of a ship registered by virtue of this section shall remain in force (unless terminated earlier by virtue of registration regulations and subject to any suspension thereunder) until the end of the charter period and shall then terminate by virtue of this subsection.
- (5) Section 9(5) does not apply to a ship registered by virtue of this section but registration regulations shall include provision for securing that the authority responsible for the registration of ships in the country of original registration is notified of the registration of the ship and of the termination of its registration whether by virtue of subsection (4) above or registration regulations.
- (6) Accordingly, throughout the period for which a ship is registered by virtue of this section—

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- (a) the ship shall, as a British ship, be entitled to fly the British flag;
  - (b) this Act shall, subject to subsections (7) and (8) below, apply to the ship as a British ship or as a registered ship as it applies to other British ships and to registered ships; and
  - (c) any other enactment applicable to British ships or ships registered under this Act shall, subject to subsection (8) below, apply to the ship as a British ship or as a registered ship.
- (7) The private law provisions for registered ships shall not apply to a ship registered by virtue of this section and any matters or questions corresponding to those for which the private law provisions for registered ships make provision shall be determined by reference to the law of the country of original registration.
- (8) Her Majesty may, subject to subsection (9) below, by Order in Council, provide that any enactment falling within subsection (6)(b) or (c) above—
- (a) shall not have effect in accordance with that subsection in relation to a ship registered by virtue of this section, or
  - (b) shall so have effect subject to such modifications (if any) as may be specified in the Order.
- (9) No provision shall be made by an Order in Council under subsection (8) above which would have the effect of relaxing the relevant requirements of this Act (as defined in section 9(8)) in their application to a ship to which this section applies.
- (10) An Order in Council under subsection (8) above may make such transitional, incidental or supplementary provision as appears to Her Majesty to be necessary or expedient (including provision divesting or providing for the divestment of ownership in the ship).
- (11) In this section—
- “bareboat charter terms”, in relation to a ship, means the hiring of the ship for a stipulated period on terms which give the charterer possession and control of the ship, including the right to appoint the master and crew; and
  - “the charter period” means the period during which the ship is chartered on bareboat charter terms.

### *Supplemental*

## **18 Regulation of registration in British possessions by reference to categories of registries**

- (1) Her Majesty may by Order in Council make provision for regulating the registration in relevant British possessions of ships other than small ships and fishing vessels by reference to categories of registries established by the Order.
- (2) Any such Order may—
- (a) establish different categories of registries to which different restrictions on the registrations of ships in such possessions apply, being restrictions framed by reference to—
    - (i) ships' tonnages, or
    - (ii) types of ships, or
    - (iii) any other specified matter, or



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- (iv) any combination of matters falling within one or more of the preceding sub-paragraphs,  
as well as a category of registries to which no such restriction applies;
  - (b) assign any relevant British possession to such one of the categories so established as appears to Her Majesty to be appropriate;
  - (c) provide that, where a relevant British possession has been assigned to a category to which any such restriction on registration as is mentioned in paragraph (a) applies, no ship covered by that restriction shall be registered under the law of that possession;
  - (d) specify circumstances in which ships may be exempted from any provision made by virtue of paragraph (c) above.
- (3) Any provision made by virtue of subsection (2)(c) above shall be expressed to be without prejudice to the operation of any provision for the time being in force under the law of any such possession as is mentioned in subsection (2)(c) above by virtue of which the registration of ships in that possession is, or may be, further restricted.
- (4) An Order in Council under this section may make such transitional, incidental or supplementary provision as appears to Her Majesty to be necessary or expedient.
- (5) In this section “small ship” has the meaning given by section 1(2).

## **19 Tonnage regulations**

- (1) The tonnage of any ship to be registered under this Part shall be ascertained in accordance with regulations made by the Secretary of State (“tonnage regulations”).
- (2) Tonnage regulations—
- (a) may make different provisions for different descriptions of ships or for the same description of ships in different circumstances;
  - (b) may make any regulation dependent on compliance with such conditions, to be evidenced in such manner, as may be specified in the regulations;
  - (c) may prohibit or restrict the carriage of goods or stores in spaces not included in the registered tonnage and may provide for making the master and the owner each liable to a fine not exceeding level 3 on the standard scale where such a prohibition or restriction is contravened.
- (3) Tonnage regulations may make provision—
- (a) for assigning to a ship, either instead of or as an alternative to the tonnage ascertained in accordance with the other provisions of the regulations, a lower tonnage applicable where the ship is not loaded to the full depth to which it can safely be loaded;
  - (b) for indicating on the ship, by such mark as may be specified in the regulations, that such a lower tonnage has been assigned to it; and
  - (c) where the lower tonnage has been assigned to it as an alternative, for indicating on the ship the depth to which the ship may be loaded for the lower tonnage to be applicable.
- (4) Tonnage regulations may provide for the measurement and survey of ships to be undertaken, in such circumstances as may be specified in the regulations by persons appointed by such organisations as may be authorised for the purpose by the Secretary of State.

- (5) Tonnage regulations may provide for the issue, by the Secretary of State or by persons appointed by such organisations as may be authorised for the purpose by the Secretary of State, of certificates of the registered tonnage of any ship or of the tonnage which is to be taken for any purpose specified in the regulations as the tonnage of a ship not registered in the United Kingdom, and for the cancellation and delivery up of such certificates in such circumstances as may be prescribed by the regulations.
- (6) Regulations requiring the delivery up of any certificate may make a failure to comply with the requirement an offence punishable on summary conviction with a fine not exceeding level 3 on the standard scale.

## **20 Proceedings on forfeiture of ship**

Section 7 applies in relation to ships or shares in ships which become liable to forfeiture under this Part as it applies in relation to ships or shares in ships which become liable to forfeiture under Part 1.

## **21 Disclosure of information relating to registration by other government departments**

- (1) No obligation as to secrecy or other restriction on the disclosure of information (whether imposed by statute or otherwise) shall preclude any of the persons mentioned in subsection (2) below from disclosing—
- (a) to the Secretary of State, or
  - (b) to the registrar, or
  - (c) to an authorised officer of the Secretary of State,
- information for the purpose of assisting the Secretary of State in the performance of his functions under this Part.
- (2) The persons referred to in subsection (1) above are—
- (a) the Minister of Agriculture, Fisheries and Food,
  - (b) the Secretaries of State respectively concerned with sea fishing in Scotland, Wales and Northern Ireland,
  - (c) the Department of Agriculture for Northern Ireland,
  - (d) the Commissioners of Customs and Excise, and
  - (e) an authorised officer of any of the persons falling within paragraphs (a) to (d) above.
- (3) Information obtained by any person in pursuance of subsection (1) above shall not be disclosed by him to any other person except where the disclosure is made—
- (a) to a person to whom the information could have been disclosed by any of the persons mentioned in subsection (2) above in accordance with subsection (1) above, or
  - (b) for the purposes of any legal proceedings arising out of this Part.

## **22 Forgery of documents: Scotland**

- (1) In Scotland, if any person forges or fraudulently alters—
- (a) any entry or endorsement in the register; or

- (b) subject to subsection (2) below, any other document as respects which provision is made by, under or by virtue of this Part (or any entry or endorsement in or on such other document and as respects which provision is so made),
- he shall be liable—
- (i) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding six months or to both; or
  - (ii) on conviction on indictment, to a fine or to imprisonment or to both.
- (2) Subsection (1)(b) does not apply in respect of actings which constitute an offence under section 288(6) or 300(8).

## **23 Interpretation**

- (1) In this Part—
- “British connection” and “declaration of British connection” have the meaning given in section 9(9);
  - “the private law provisions for registered ships” has the meaning given in section 16;
  - “the register” means the register of British ships maintained for the United Kingdom under section 8 and “registered” (except with reference to the law of another country) is to be construed accordingly; and
  - “the registrar” means the Registrar General of Shipping and Seamen in his capacity as registrar or, as respects functions of his being discharged by another authority or person, that authority or person.
- (2) Where, for the purposes of any enactment the question arises whether a ship is owned by persons qualified to own British ships, the question shall be determined by reference to registration regulations made under section 9(2)(a).