



# Merchant Shipping Act 1894

## 1894 CHAPTER 60

### PART I

#### REGISTRY.

##### *National Character and Flag.*

**68 National character of ship to be declared before clearance.**

- (1) An officer of customs shall not grant a clearance or transire for any ship until the master of such ship has declared to that officer the name of the nation to which he claims that she belongs, and that officer shall thereupon inscribe that name on the clearance or transire.
- (2) If a ship attempts to proceed to sea without such clearance or transire, she may be detained until the declaration is made.

**69 Penalty for unduly assuming British character.**

- (1) If a person uses the British flag and assumes the British national character on board a ship owned in whole or in part by any persons not qualified to own a British ship, for the purpose of making the ship appear to be a British ship, the ship shall be subject to forfeiture under this Act, unless the assumption has been made for the purpose of escaping capture by an enemy or by a foreign ship of war in the exercise of some belligerent right.
- (2) In any proceeding for enforcing any such forfeiture the burden of proving a title to use the British flag and assume the British national character shall lie upon the person using and assuming the same.

**70 Penalty for concealment of British or assumption of foreign character.**

If the master or owner of a British ship does anything or permits anything to be done, or carries or permits to be carried any papers or documents, with intent to conceal the

British character of the ship from any person entitled by British law to inquire into the same, or with intent to assume a foreign character, or with intent to deceive any person so entitled as aforesaid, the ship shall be subject to forfeiture under this Act; and the master, if he commits or is privy to the commission of the offence, shall in respect of each offence be guilty of a misdemeanor.

**71 Penalty for acquiring ownership if unqualified.**

If an unqualified person acquires as owner, otherwise than by such transmission as herein-before provided for, any interest, either legal or beneficial, in a ship using a British flag and assuming the British character, that interest shall be subject to forfeiture under this Act.

**72 Liabilities of ships not recognised as British.**

Where it is declared by this Act that a British ship shall not be recognised as a British ship, that ship shall not be entitled to any benefits, privileges, advantages, or protection usually enjoyed by British ships nor to use the British flag or assume the British national character, but so far as regards the payment of dues, the liability to fines and forfeiture, and the punishment of offences committed on board such ship, or by any persons belonging to her, such ship shall be dealt with in the same manner in all respects as if she were a recognised British ship.

**73 National colours for ships, and penalty on carrying improper colours.**

- (1) The red ensign usually worn by merchant ships, without any defacement or modification whatsoever, is hereby declared to be the proper national colours for all ships and boats belonging to any British subject, except in the case of Her Majesty's ships or boats, or in the case of any other ship or boat for the time being allowed to wear any other national colours in pursuance of a warrant from Her Majesty or from the Admiralty.
- (2) If any distinctive national colours, except such red ensign or except the Union Jack with a white border, or if any colours usually worn by Her Majesty's ships or resembling those of Her Majesty, or if the pendant usually carried by Her Majesty's ships or any pendant resembling that pendant, are or is hoisted on board any ship or boat belonging to any British subject without warrant from Her Majesty or from the Admiralty, the master of the ship or boat, or the owner thereof, if on board the same, and every other person hoisting the colours or pendant, shall for each offence incur a fine not exceeding five hundred pounds.
- (3) Any commissioned officer on full pay in the military or naval service of Her Majesty, or any officer of customs in Her Majesty's dominions, or any British consular officer, may board any ship or boat on which any colours or pendant are hoisted contrary to this Act, and seize and take away the colours or pendant, and the colours or pendant shall be forfeited to Her Majesty.
- (4) A fine under this section may be recovered with costs in the High Court in England or Ireland, or in the Court of Session in Scotland, or in any Colonial Court of Admiralty or Vice-Admiralty Court within Her Majesty's dominions.
- (5) Any offence mentioned in this section may also be prosecuted, and the fine for it recovered, summarily, provided that—

- (a) where any such offence is prosecuted summarily, the court imposing the fine shall not impose a higher fine than one hundred pounds ; and
- (b) nothing in this section shall authorise the imposition of more than one fine in respect of the same offence.

**74 Penalty on ship not showing colours.**

- (1) A ship belonging to a British subject shall hoist the proper national colours—
  - (a) on a signal being made to her by one of Her Majesty's ships (including any vessel under the command of an officer of Her Majesty's navy on full pay), and
  - (b) on entering or leaving any foreign port, and
  - (c) if of fifty tons gross tonnage or upwards, on entering or leaving any British port.
- (2) If default is made on board any such ship in complying with this section, the master of the ship shall for each offence be liable to a fine not exceeding one hundred pounds.
- (3) This section shall not apply to a fishing boat duly entered in the fishing boat register and lettered and numbered as required by the Fourth Part of this Act.

**75 Saving for Admiralty.**

The provisions of this Act with respect to colours worn by merchant ships shall not affect any other power of the Admiralty in relation thereto.