



Merchant Shipping Act 1894

1894 CHAPTER 60

PART I

REGISTRY.

Transfers and Transmissions.

24 Transfer of ships or shares.

- (1) A registered ship or a share therein (when disposed of to a person qualified to own a British ship) shall be transferred by bill of sale.
- (2) The bill of sale shall contain such description of the ship as is contained in the surveyor's certificate, or some other description sufficient to identify the ship to the satisfaction of the registrar, and shall be in the form marked A in the first part of the First Schedule to this Act, or as near thereto as circumstances permit, and shall be executed by the transferor in the presence of, and be attested by, a witness or witnesses.

25 Declaration of transfer.

Where a registered ship or a share therein is transferred, the transferee shall not be entitled to be registered as owner thereof until he, or, in the case of a corporation, the person authorised by this Act to make declarations on behalf of the corporation, has made and signed a declaration (in this Act called a declaration of transfer) referring to the ship, and containing—

- (a) a statement of the qualification of the transferee to own a British ship, or if the transferee is a corporation, of such circumstances of the constitution and business thereof as prove it to be qualified to own a British ship; and
- (b) a declaration that, to the best of his knowledge and belief, no unqualified person or body of persons is entitled as owner to any legal or beneficial interest in the ship or any share therein.

26 Registry of transfer.

- (1) Every bill of sale for the transfer of a registered ship or of a share therein, when duly executed, shall be produced to the registrar of her port of registry, with the declaration of transfer, and the registrar shall thereupon enter in the register book the name of the transferee as owner of the ship or share, and shall endorse on the bill of sale the fact of that entry having been made, with the day and hour thereof.
- (2) Bills of sale of a ship or of a share therein shall be entered in the register book in the order of their production to the registrar.

27 Transmission of property in ship on death, bankruptcy, marriage, &c.

- (1) Where the property in a registered ship or share therein is transmitted to a person qualified to own a British ship on the marriage, death, or bankruptcy of any registered owner, or by any lawful means other than by a transfer under this Act—
 - (a) That person shall authenticate the transmission by making, and signing a declaration (in this Act called a declaration of transmission) identifying the ship and containing the several statements herein-before required to be contained in a declaration of transfer, or as near thereto as circumstances admit, and also a statement of the manner in which and the person to whom the property has been transmitted.
 - (b) If the transmission takes place by virtue of marriage, the declaration shall be accompanied by a copy of the register of the marriage or other legal evidence of the celebration thereof, and shall declare the identity of the female owner.
 - (c) If the transmission is consequent on bankruptcy, the declaration of transmission shall be accompanied by such evidence as is for the time being receivable in courts of justice as proof of the title of persons claiming under a bankruptcy.
 - (d) If the transmission is consequent on death, the declaration of transmission shall be accompanied by the instrument of representation, or an official extract therefrom.
- (2) The registrar, on receipt of the declaration of transmission so accompanied, shall enter in the register book the name of the person entitled under the transmission as owner of the ship or share the property in which has been transmitted, and, where there is more than one such person, shall enter the names of all those persons, but those persons, however numerous, shall, for the purpose of the provision of this Act with respect to the number of persons entitled to be registered as owners, be considered as one person.

28 Order for sale on transmission to unqualified person.

- (1) Where the property in a registered ship or share therein is transmitted on marriage, death, bankruptcy, or otherwise to a person not qualified to own a British ship, then—
 - if the ship is registered in England or Ireland, the High Court; or
 - if the ship is registered in Scotland, the Court of Session; or
 - if the ship is registered in any British possession, the court having the principal civil jurisdiction in that possession ; or
 - if the ship is registered in a port of registry established by Order in Council under this Act, the British court having the principal civil jurisdiction there ;may on application by or on behalf of the unqualified person, order a sale of the property so transmitted, and direct that the proceeds of the sale, after deducting the

expenses thereof, be paid to the person entitled under such transmission or otherwise as the court direct.

- (2) The court may require any evidence in support of the application they think requisite, and may make the order on any terms and conditions they think just, or may refuse to make the order, and generally may act in the case as the justice of the case requires.
- (3) Every such application for sale must be made within four weeks after the occurrence of the event on which the transmission has taken place, or within such further time (not exceeding in the whole one year from the date of the occurrence) as the court allow.
- (4) If such an application is not made within the time aforesaid, or if the court refuse an order for sale, the ship or share transmitted shall thereupon be subject to forfeiture under this Act.

29 Transfer of ship or sale by order of court.

Where any court, whether under the preceding sections of this Act or otherwise, order the sale of any ship or share therein, the order of the court shall contain a declaration vesting in some person named by the court the right to transfer that ship or share, and that person shall thereupon be entitled to transfer the ship or share in the same manner and to the same extent as if he were the registered owner thereof; and every registrar shall obey the requisition of the person so named in respect of any such transfer to the same extent as if such person were the registered owner.

30 Power of court to prohibit transfer.

Each of the following courts, namely :—

- (a) in England or Ireland the High Court,
- (b) in Scotland the Court of Session,
- (c) in any British possession the court having the principal civil jurisdiction in that possession ; and
- (d) in the case of a port of registry established by Order in Council under this Act, the British court having the principal civil jurisdiction there,

may, if the court think fit (without prejudice to the exercise of any other power of the court), on the application of any interested person make an order prohibiting for a time specified any dealing with a ship or any share therein, and the court may make the order on any terms or conditions they think just, or may refuse to make the order, or may discharge the order when made, with or without costs, and generally may act in the case as the justice of the case requires; and every registrar, without being made a party to the proceeding, shall on being served with the order or an official copy thereof obey the same.