



Merchant Shipping Act 1988

1988 CHAPTER 12

PART I

REGISTRATION OF BRITISH SHIPS

Preliminary

1 Effect of Part I and interpretation

(1) In this Part—

- (a) sections 2 and 3 have effect in place of section 1 of the Merchant Shipping Act 1894 (qualification for owning British ship); and
- (b) sections 4 to 8 have effect in place of sections 2 and 3 of that Act (obligation to register British ships and exemptions from registry) and for otherwise regulating the registration of ships under Part I of that Act in the United Kingdom.

(2) In this Part, unless the context otherwise requires—

“length”, in relation to a ship, has the same meaning as in the tonnage regulations of the 1894 Act;

“owner”, in relation to a registered ship, means registered owner;

“registered” and “registration” mean respectively registered and registration under Part I of the 1894 Act in the United Kingdom;

“representative person” means a person appointed (or treated as appointed) as such under section 5.

(3) References in this Part to a ship being entitled to be registered shall be construed in accordance with section 4.

2 British ships

(1) A ship shall be a British ship for the purposes of the Merchant Shipping Acts if—

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- (a) the ship is registered in the United Kingdom under any of the following enactments, namely—
 - (i) Part I of the 1894 Act or section 5 of the Merchant Shipping Act 1983 (registration of small ships), or
 - (ii) Part II of this Act (registration of British fishing vessels); or
 - (b) the ship is registered in the United Kingdom in pursuance of an Order in Council under section 80 of the Merchant Shipping Act 1906 (Government ships); or
 - (c) the ship is a fishing vessel within the meaning of Part II of this Act which is eligible to be registered under that Part of this Act by virtue of section 14 below, but—
 - (i) is excluded from registration under that Part of this Act by regulations made under section 13 below, and
 - (ii) is not registered under the law of any country outside the United Kingdom; or
 - (d) the ship is registered under the law of a relevant overseas territory; or
 - (e) the ship is less than 24 metres in length and—
 - (i) is not a fishing vessel within the meaning of Part II of this Act, and
 - (ii) is not registered in the United Kingdom under an enactment falling within paragraph (a)(i) above or under the law of any country outside the United Kingdom, but
 - (iii) is wholly owned by one or more persons qualified to be owners of British ships by virtue of section 3(1) below.
- (2) This section shall have effect in relation to any time before the end of the period referred to in section 13(3)(b) below as if the enactments falling within subsection (1) (a)(i) included Part IV of the 1894 Act (registration of British fishing boats).

3 Persons qualified to be owners of British ships

- (1) For the purposes of Part I of the 1894 Act the following persons are persons qualified to be owners of British ships, namely—
- (a) British citizens;
 - (b) British Dependent Territories citizens;
 - (c) British Overseas citizens;
 - (d) persons who under the British Nationality Act 1981 are British subjects;
 - (e) persons who under the Hong Kong (British Nationality) Order 1986 are British Nationals (Overseas);
 - (f) bodies corporate incorporated in the United Kingdom or in any relevant overseas territory and having their principal place of business in the United Kingdom or in any such territory; and
 - (g) citizens of the Republic of Ireland.
- (2) Subject to subsection (3) below, references (however phrased) in any statutory provision to persons who are, for the purposes of Part I of the 1894 Act, qualified to be owners of British ships shall be construed in accordance with subsection (1) above.
- (3) For the purposes of section 5 of the Merchant Shipping Act 1983 the following persons are persons qualified to be owners of British ships, namely—

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- (a) persons falling within paragraphs (a) to (e) and (g) of subsection (1) above; and
 - (b) Commonwealth citizens not falling within those paragraphs.
- (4) It is hereby declared that a person who is not qualified under subsection (1) above to be an owner of a British ship may nevertheless be one of the owners of such a ship if—
- (a) a majority interest in the ship (within the meaning of section 4 below) is owned by persons who are qualified to be owners of British ships; and
 - (b) the ship is registered, in accordance with the provisions of that section, under Part I of the 1894 Act.

Registration under Part I of 1894 Act

4 Entitlement to registration under Part I of 1894 Act

- (1) Subject to sections 6 and 7 below, this section has effect for the purpose of determining whether a ship is entitled to be registered under Part I of the 1894 Act in the United Kingdom.
- (2) Subject to subsection (3), a ship shall be entitled to be registered if a majority interest in the ship is owned by one or more persons qualified to be owners of British ships by virtue of section 3(1)(a), (b), (e) or (f) above.
- (3) Where—
- (a) a ship falling within subsection (2) is 24 metres or more in length, and
 - (b) the person, or (as the case may be) each of the persons, by whom the majority interest in the ship is owned is not resident in the United Kingdom,
- the ship shall only be entitled to be registered if a representative person is appointed in relation to the ship.
- (4) Where a majority interest in a ship is owned by one or more persons qualified to be owners of British ships by virtue of section 3(1)(c), (d) or (g) above, the ship shall be entitled to be registered—
- (a) if that person, or (as the case may be) any of those persons, is resident in the United Kingdom, or
 - (b) (where that condition is not satisfied) if the Secretary of State furnishes him or them with a declaration that he consents to the ship being registered, and, in addition, a representative person is appointed in relation to the ship.
- (5) Where a majority interest in a ship is owned by the following persons, namely—
- (a) one or more persons qualified to be owners of British ships by virtue of section 3(1)(a), (b), (e) or (f), and
 - (b) one or more persons so qualified by virtue of section 3(1)(c), (d) or (g),
- the ship shall be entitled to be registered—
- (i) if any of those persons is resident in the United Kingdom, or
 - (ii) (where that condition is not satisfied) if a representative person is appointed in relation to the ship.
- (6) A ship shall, in accordance with section 13(2)(a) below, not be entitled to be registered if it is a fishing vessel within the meaning of Part II.
- (7) For the purposes of this section—

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- (a) one or more persons shall be treated as owning a majority interest in a ship if there is vested in that person or in those persons, taken together, the legal title to 33 or more of the 64 shares into which the property in the ship is divided, for the purposes of registration, in accordance with section 5 of the 1894 Act (there being left out of account for this purpose any share in which any beneficial interest is owned by a person who is not qualified to be an owner of a British ship); and
 - (b) a body corporate shall be treated as resident in the United Kingdom if it is incorporated in the United Kingdom and has its principal place of business there.
- (8) Nothing in this section applies to a ship to which section 80 of the Merchant Shipping Act 1906 applies (Government ships).

5 Representative persons

- (1) Where the entitlement of any ship to be registered is, by virtue of any provision of section 4, conditional on the appointment of a representative person in relation to the ship, the owner of the ship shall—
- (a) before applying for the ship to be registered, appoint an individual or body corporate satisfying the prescribed requirements to be the representative person in relation to the ship, and
 - (b) secure that, so long as the ship remains registered, an individual or body corporate satisfying those requirements is so appointed.
- (2) For the purposes of subsection (1) the prescribed requirements are—
- (a) that the representative person is either—
 - (i) an individual resident in the United Kingdom, or
 - (ii) a body corporate incorporated in the United Kingdom and having its principal place of business there; and
 - (b) such other requirements as the Secretary of State may by regulations prescribe.
- (3) Where subsection (1) applies to a ship, any person who is registered under section 59(2) of the 1894 Act (registration of ship's manager) in relation to the ship shall, if that person is such an individual or body corporate as is mentioned in subsection (2)(a)(i) or (ii) above, be treated for the purposes of this Part of this Act as the representative person for the time being appointed in relation to the ship.
- (4) The owner of any ship in relation to which any representative person is for the time being appointed shall—
- (a) on applying for the ship to be registered, notify the registrar to whom the application is made of the name and address of the representative person; and
 - (b) in the event of any change in the identity, or in the address, of the representative person so appointed, notify the registrar of the ship's port of registry of the name and address of the new representative person, or (as the case may be) of the new address, as soon as practicable after the change occurs;
- and the registrar in question shall record any particulars notified to him in pursuance of this section in the register kept by him under Part I of the 1894 Act.
- (5) Any document required or authorised, by virtue of any statutory provision, to be served for the purpose of the institution of, or otherwise in connection with, proceedings for

an offence under the Merchant Shipping Acts, or under any instrument in force under those Acts, shall, where the person to be served is the owner of a registered ship, be treated as duly served on him if—

- (a) delivered to any representative person for the time being appointed in relation to the ship, or
 - (b) sent to any such person by post at the address notified (or, as the case may be, last notified) to the registrar under subsection (4) in relation to that person, or
 - (c) left for any such person at that address.
- (6) Any person who contravenes subsection (1)(b) or (4)(b) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding the third level on the standard scale.

6 Refusal of registration

- (1) If for any reason it appears to the Secretary of State that a ship in respect of which an application for registration has been made may not be entitled to be registered, he may by notice served on—
 - (a) the applicant, or
 - (b) any representative person for the time being appointed in relation to the ship,require that person to furnish him with such information as he thinks necessary for the purpose of determining whether the ship is entitled to be registered.
- (2) Where the Secretary of State has served a notice under subsection (1) with respect to any ship, then, unless he has become satisfied that the ship is entitled to be registered, he shall, as soon as practicable after the end of the period of 30 days beginning with the date of service of that notice, give to registrars of British ships generally a direction requiring them not to register the ship.
- (3) Notwithstanding that any ship in respect of which an application for registration has been made is entitled to be registered, the Secretary of State may give to registrars of British ships generally a direction requiring them not to register the ship if he is satisfied that, having regard—
 - (a) to the condition of the ship so far as relevant to its safety or to any risk of pollution, or
 - (b) to the safety, health and welfare of persons employed or engaged in any capacity on board the ship,it would be inappropriate for the ship to be registered.

7 Power of Secretary of State to direct removal from the register

- (1) If for any reason it appears to the Secretary of State that a registered ship may no longer be entitled to be registered, he may by notice served on—
 - (a) the owner of the ship, or
 - (b) any representative person for the time being appointed in relation to the ship,require that person to furnish him with such information as he thinks necessary for the purpose of determining whether the ship is entitled to be registered.
- (2) Where the Secretary of State has served a notice under subsection (1) with respect to any ship, then, unless he has become satisfied that the ship is entitled to be registered, he shall, as soon as practicable after the end of the period of 30 days beginning with

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the date of service of that notice, serve a notice under subsection (4) on the owner or on any representative person for the time being appointed in relation to the ship.

- (3) Where the Secretary of State is satisfied—
- (a) that, having regard to the matters mentioned in paragraph (a) or (b) of section 6(3), it would be inappropriate for a registered ship to continue to be registered, or
 - (b) that any penalty imposed on the owner of a registered ship in respect of a contravention of the Merchant Shipping Acts, or of any instrument in force under those Acts, has remained unpaid for a period of more than three months (and no appeal against the penalty is pending), or
 - (c) that any summons for any such contravention has been duly served on the owner of a registered ship but the owner failed to appear at the time and place appointed for the trial of the information or complaint in question and a period of not less than three months has elapsed since that time,

the Secretary of State shall serve a notice under subsection (4) either on the owner or on any representative person for the time being appointed in relation to the ship.

- (4) A notice under this subsection is a notice stating—
- (a) that the Secretary of State is not satisfied that the ship in question is entitled to be registered or (as the case may be) that he is satisfied as mentioned in paragraph (a), (b) or (c) of subsection (3); and
 - (b) that he intends, after the end of the period of 30 days beginning with the date of service of the notice, to direct that the ship in question should cease to be registered unless he is satisfied that it would be inappropriate to do so by any representations made to him by or on behalf of the owner within that period.
- (5) As soon as practicable after the end of that period the Secretary of State shall accordingly direct the registrar of the ship's port of registry to terminate the ship's registration unless he is satisfied that it would be inappropriate to do so by any such representations.
- (6) Where the registration of any ship has terminated by virtue of this section, the Secretary of State may subsequently, if he is satisfied that it would be appropriate to do so, direct the registrar of the ship's former port of registry to restore the ship's registration.

8 Offences relating to furnishing of information, and duty to comply with directions

- (1) Any person who—
- (a) in purported compliance with the requirements of a notice under section 6(1) or 7(1), or
 - (b) in connection with the making of any representations in pursuance of section 7(4)(b),
- knowingly or recklessly furnishes information which is false in a material particular shall be guilty of an offence and liable—
- (i) on summary conviction, to a fine not exceeding the statutory maximum;
 - (ii) on conviction on indictment, to a fine.
- (2) It shall be the duty of any person to whom the Secretary of State gives a direction under this Part to give effect to that direction.

9 Duty of owner of registered ship to secure termination of any overseas registration

- (1) Where a ship becomes registered at a time when it is already registered under the law of any country outside 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.
- (2) Any person who contravenes subsection (1) shall be guilty of an offence and liable on summary conviction to a fine not exceeding the third level on the standard scale.
- (3) Subsection (1) does not apply to a ship which becomes registered in pursuance of section 53B of the 1894 Act (transfer of registration under that Act from overseas territory).

10 Amendments of Part I of 1894 Act

- (1) Part I of the 1894 Act shall have effect subject to the amendments specified in Schedule 1 to this Act, which include amendments—
 - (a) restricting the scope of operation of that Part of that Act to registration in the United Kingdom;
 - (b) restricting the grant of provisional certificates of registration under section 22 of that Act (ships becoming British-owned abroad); and
 - (c) enabling ships to be registered otherwise than in register books;as well as amendments consequential on the preceding provisions of this Part of this Act.
- (2) In Part I of the 1894 Act—
 - (a) references to registration or to registered ships or registered owners shall accordingly (unless the context otherwise requires) be construed as references to registration, or to ships or owners registered, under that Part of that Act in the United Kingdom;
 - (b) references to registrars of British ships shall accordingly be construed as references to registrars of British ships in the United Kingdom;
 - (c) references to a ship being entitled to be registered shall be construed in accordance with section 4 of this Act; and
 - (d) references to the ownership of a majority interest in a ship shall be construed in accordance with subsection (7)(a) of that section.

Registration in overseas territories

11 Regulation of registration in overseas territories by reference to categories of registries

- (1) Her Majesty may by Order in Council make provision for regulating the registration of ships under Part I of the 1894 Act in relevant overseas territories 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 registration of ships under Part I of the 1894 Act apply, being restrictions framed by reference to—

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- (i) ships' tonnages, or
 - (ii) types of ships, or
 - (iii) any other specified matter, or
 - (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 overseas territory to such one of the categories so established as appears to Her Majesty to be appropriate;
 - (c) provide that, where a relevant overseas territory 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 Part I of the 1894 Act in that territory;
 - (d) specify circumstances in which ships may be exempted from any provision made by virtue of paragraph (c).
- (3) Any provision made by virtue of subsection (2)(c) 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 territory as is mentioned in subsection (2)(c) by virtue of which the registration of ships under Part I of the 1894 Act in that territory is, or may be, further restricted.
- (4) An Order in Council under this section—
- (a) may make such transitional, incidental or supplementary provision as appears to Her Majesty to be necessary or expedient; and
 - (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.