PART I

BRITISH SHIPS

1 British ships and United Kingdom ships.

(1) A ship is a British ship if—
   (a) the ship is registered in the United Kingdom under Part II; or
   (b) the ship is, as a Government ship, registered in the United Kingdom in pursuance of an Order in Council under section 308; or
   (c) the ship is registered under the law of a relevant British possession; or
   (d) the ship is a small ship other than a fishing vessel and—
      (i) is not registered under Part II, but
      (ii) is wholly owned by qualified owners, and
      (iii) is not registered under the law of a country outside the United Kingdom.

(2) For the purposes of subsection (1)(d) above—
   “qualified owners” means persons of such description qualified to own British ships as is prescribed by regulations made by the Secretary of State for the purposes of that paragraph; and
   “small ship” means a ship less than 24 metres in length (“length” having the same meaning as in the tonnage regulations).

(3) A ship is a “United Kingdom ship” for the purposes of this Act (except section 85 and 144(3)) if the ship is registered in the United Kingdom under Part II (and in Part V “United Kingdom fishing vessel” has a corresponding meaning).
2 British flag.

(1) The flag which every British ship is entitled to fly is the red ensign (without any defacement or modification) and, subject to subsections (2) and (3) below, no other colours.

(2) Subsection (1) above does not apply to Government ships.

(3) The following are also proper national colours, that is to say—
   (a) any colours allowed to be worn in pursuance of a warrant from Her Majesty or from the Secretary of State;
   (b) in the case of British ships registered in a relevant British possession, any colours consisting of the red ensign defaced or modified whose adoption for ships registered in that possession is authorised or confirmed by Her Majesty by Order in Council.

(4) Any Order under subsection (3)(b) above shall be laid before Parliament after being made.

3 Offences relating to British character of ship.

(1) If the master or owner of a ship which is not a British ship does anything, or permits anything to be done, for the purpose of causing the ship to appear to be a British ship then, except as provided by subsections (2) and (3) below, the ship shall be liable to forfeiture and the master, the owner and any charterer shall each be guilty of an offence.

(2) No liability arises under subsection (1) above where the assumption of British nationality 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.

(3) Where the registration of any ship has terminated by virtue of any provision of registration regulations, any marks prescribed by registration regulations displayed on the ship within the period of 14 days beginning with the date of termination of that registration shall be disregarded for the purposes of subsection (1) above.

(4) If the master or owner of a British ship does anything, or permits anything to be done, for the purpose of concealing the nationality of the ship, the ship shall be liable to forfeiture and the master, the owner and any charterer of the ship shall each be guilty of an offence.

(5) Without prejudice to the generality of subsections (1) and (4) above, those subsections apply in particular to acts or deliberate omissions as respects—
   (a) the flying of a national flag;
   (b) the carrying or production of certificates of registration or other documents relating to the nationality of the ship; and
   (c) the display of marks required by the law of any country.

(6) 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.

(7) This section applies to things done outside, as well as to things done within, the United Kingdom.
4  **Penalty for carrying improper colours.**

(1) If any of the following colours, namely—

(a) any distinctive national colours except—

(i) the red ensign,

(ii) the Union flag (commonly known as the Union Jack) with a white border, or

(iii) any colours authorised or confirmed under section 2(3)(b); or

(b) any colours usually worn by Her Majesty’s ships or resembling those of Her Majesty, or

(c) the pendant usually carried by Her Majesty’s ships or any pendant resembling that pendant,

are hoisted on board any British ship without warrant from Her Majesty or from the Secretary of State, the master of the ship, or the owner of the ship (if on board), and every other person hoisting them shall be guilty of an offence.

(2) A person guilty of an offence under subsection (1) above shall be liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum; and

(b) on conviction on indictment, to a fine.

(3) If any colours are hoisted on board a ship in contravention of subsection (1) above, any of the following, namely—

(a) any commissioned naval or military officer,

(b) any officer of customs and excise, and

(c) any British consular officer,

may board the ship and seize and take away the colours.

(4) Any colours seized under subsection (3) above shall be forfeited to Her Majesty.

(5) In this section “colours” includes any pendant.

5  **Duty to show British flag.**

(1) Subject to subsection (2) below, a British ship, other than a fishing vessel, shall hoist the red ensign or other proper national colours—

(a) on a signal being made to the ship by one of Her Majesty’s ships (including any ship under the command of a commissioned naval officer); and

(b) on entering or leaving any foreign port; and

(c) in the case of ships of 50 or more tons gross tonnage, on entering or leaving any British port.

(2) Subsection (1)(c) above does not apply to a small ship (as defined in section 1(2)) registered under Part II.

6  **Duty to declare national character of ship.**

(1) An officer of customs and excise 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 the ship belongs, and that officer shall thereupon enter that name on the clearance or transire.
(2) If a ship attempts to proceed to sea without such clearance or transire, the ship may be detained until the declaration is made.

7 Proceedings on forfeiture of a ship.

(1) Where any ship has either wholly or as to any share in it become liable to forfeiture under this Part—
   (a) any commissioned naval or military officer, or
   (b) any person appointed by the Secretary of State for the purposes of this section;
may seize and detain the ship and bring the ship for adjudication before the court.

(2) Where a ship is subject to adjudication under this section the court may—
   (a) adjudge the ship and her equipment to be forfeited to Her Majesty; and
   (b) make such order in the case as seems just.

(3) No officer or person bringing proceedings under this section shall be liable in damages in respect of the seizure or detention of the ship, notwithstanding that the ship has not been proceeded against or, if proceeded against, adjudicated not liable to forfeiture, if the court is satisfied that there were reasonable grounds for the seizure or detention.

(4) If the court is not so satisfied the court may award costs (or in Scotland expenses) and damages to the party aggrieved and make such other order as the court thinks just.

(5) In this section “the court” means the High Court or, in Scotland, the Court of Session.
Changes to legislation:
There are outstanding changes not yet made by the legislation.gov.uk editorial team to Merchant Shipping Act 1995. Any changes that have already been made by the team appear in the content and are referenced with annotations.

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act power to modify or apply conferred by 2006 c. 8 s. 1(5)(b)
- Act words substituted by 2005 c. 4 Sch. 11 para. 6
- Blanket Amendment words substituted by 2005 c. 4 Sch. 11 para. 1(2)
- Blanket Amendment words substituted by 2005 c. 4 Sch. 11 para. 5
- Blanket amendment words substituted by S.I. 2011/1043 art. 36

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Pt. 9A inserted by 2011 c. 8 s. 1(2)
- s. 24(2A) inserted by S.I. 2014/1614 reg. 2(2)
- s. 24(2A)(a) omitted by S.I. 2018/1109 reg. 2(2)
- s. 47(4A)(4B) inserted by 2013 c. 23 s. 10
- s. 70(5) inserted by S.I. 2014/1614 reg. 2(5)
- s. 85(8) added by 2006 c. 28 s. 5(4)
- s. 108A inserted by 2003 c. 16 s. 1(1)
- s. 128(1)(da) inserted by 2006 c. 8 s. 2(2)
- s. 130(a) words substituted by S.I. 2015/664 Sch. 4 para. 88(a)
- s. 130(b) words substituted by S.I. 2015/664 Sch. 4 para. 88(b)
- s. 131(A1) inserted by S.I. 2009/1210 reg. 3(2)
- s. 131(A3) inserted by S.I. 2009/1210 reg. 3(5)
- s. 145(2)(a)(ia) inserted by 2003 c. 44 Sch. 36 para. 13(2)
- s. 145(2)(a)(ia) words substituted by 2015 c. 2 Sch. 11 para. 16(2)
- s. 145(2A) inserted by 2003 c. 44 Sch. 36 para. 13(3)
- s. 145(2A) words substituted by 2015 c. 2 Sch. 11 para. 16(3)
- s. 153(2A) inserted by S.I. 2006/1244 reg. 4(4) (This amendment comes into force on the day on which the International Convention on Civil Liability for Bunker Oil Pollution Damage 2001 comes into force in respect of the United Kingdom. That Convention came into force on 21.11.2008 as notified in the Gazettes)
- s. 153A inserted by S.I. 2006/1244 reg. 5 (This amendment comes into force on the day on which the International Convention on Civil Liability for Bunker Oil Pollution Damage 2001 comes into force in respect of the United Kingdom. That Convention came into force on 21.11.2008 as notified in the Gazettes)
- s. 154(2A)(2B) inserted by S.I. 2006/1244 reg. 6(6) (This amendment comes into force on the day on which the International Convention on Civil Liability for Bunker Oil Pollution Damage 2001 comes into force in respect of the United Kingdom. That Convention came into force on 21.11.2008 as notified in the Gazettes)
- s. 156(2A)(2B) inserted by S.I. 2006/1244 reg. 8(5) (This amendment comes into force on the day on which the International Convention on Civil Liability for Bunker Oil Pollution Damage 2001 comes into force in respect of the United Kingdom. That Convention came into force on 21.11.2008 as notified in the Gazettes)
- s. 166A inserted by S.I. 2006/1244 reg. 9 (This amendment comes into force on the day on which the International Convention on Civil Liability for Bunker Oil Pollution Damage 2001 comes into force in respect of the United Kingdom. That Convention came into force on 21.11.2008 as notified in the Gazettes)
- s. 163A inserted by S.I. 2006/1244 reg. 17 (This amendment comes into force on the day on which the International Convention on Civil Liability for Bunker Oil Pollution Damage 2001 comes into force in respect of the United Kingdom. That Convention came into force on 21.11.2008 as notified in the Gazettes)
- s. 163A(8) words substituted by S.I. 2009/1941 Sch. 1 para. 152(3)
- s. 164(1A) inserted by S.I. 2006/1244 reg. 18(3) (This amendment comes wholly into force on the day on which the International Convention on Civil Liability

for Bunker Oil Pollution Damage 2001 comes into force in respect of the United Kingdom. That Convention came into force on 21.11.2008 as notified in the Gazettes)

- s. 164(1A) words omitted by S.I. 2016/1061 art. 2(a)
- s. 164(2A) inserted by S.I. 2016/1061 art. 2(b)
- s. 165(1A)(1B) inserted by S.I. 2006/1244 reg. 19(3) (This amendment comes into force on the day on which the International Convention on Civil Liability for Bunker Oil Pollution Damage 2001 comes into force in respect of the United Kingdom. That Convention came into force on 21.11.2008 as notified in the Gazettes)
- s. 165(4A)-(4C) inserted by S.I. 2006/1244 reg. 19(7) (This amendment comes into force on the day on which the International Convention on Civil Liability for Bunker Oil Pollution Damage 2001 comes into force in respect of the United Kingdom. That Convention came into force on 21.11.2008 as notified in the Gazettes)

- s. 166(3A)(3B) inserted by S.I. 2006/1244 reg. 20(3) (This amendment comes into force on the day on which the International Convention on Civil Liability for Bunker Oil Pollution Damage 2001 comes into force in respect of the United Kingdom. That Convention came into force on 21.11.2008 as notified in the Gazettes)
- s. 167(4) added by S.I. 2006/1244 reg. 21(3) (This amendment comes into force on the day on which the International Convention on Civil Liability for Bunker Oil Pollution Damage 2001 comes into force in respect of the United Kingdom. That Convention came into force on 21.11.2008 as notified in the Gazettes)
- s. 172(1)(e)-(g) inserted by S.I. 2006/1265 art. 3(a) (This amendment comes into force on which the Supplementary Fund Protocol enters into force in respect of the United Kingdom. That protocol came into force on 8.9.2006 as notified in the Gazettes)
- s. 172(3) inserted by S.I. 2006/1265 art. 3(b) (This amendment comes into force on which the Supplementary Fund Protocol enters into force in respect of the United Kingdom. That protocol came into force on 8.9.2006 as notified in the Gazettes)

- s. 176A176B inserted by S.I. 2006/1265 art. 6 (This amendment comes into force on which the Supplementary Fund Protocol enters into force in respect of the United Kingdom. That protocol came into force on 8.9.2006 as notified in the Gazettes)

- s. 183(2A) inserted by S.I. 2012/3152 reg. 14(2)
- s. 183(8) inserted by S.I. 2012/3152 reg. 14(4)
- s. 192A(b) words substituted by S.I. 2015/664 Sch. 4 para. 89(a)
- s. 192A(c) words substituted by S.I. 2015/664 Sch. 4 para. 89(b)
- s. 197A inserted by 2013 c. 23 s. 9(1)
- s. 214(1) s. 214 renumbered as s. 214(1) by 2013 c. 25 Sch. 8 para. 21(2)

- s. 214(2) inserted by 2013 c. 25 Sch. 8 para. 21(3)
- s. 221(2A) inserted by S.I. 2003/2867 Sch. para. 24(2)

- s. 221(4A)-(4C) inserted by S.I. 2003/2867 Sch. para. 24(3)
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### Commencement Orders yet to be applied to the Merchant Shipping Act 1995

Commencement Orders bringing legislation that affects this Act into force:

- S.I. 2003/3142 art. 2-4Sch. 12 commences (2003 c. 21)
- S.I. 2004/827 art. 2-4 commences (2003 c. 20)
- S.I. 2004/2304 art. 2 commences (2004 c. 21)
- S.I. 2004/2917 art. 2 commences (2004 c. 21)
- S.I. 2005/910 art. 3 commences (2003 c. 39)
- S.I. 2005/1126 art. 2 commences (2005 c. 11)
- S.I. 2006/1014 art. 2Sch. 12 commences (2005 c. 4)
- S.I. 2007/204 art. 2-4 commences (2006 c. 28)
- S.I. 2007/1030 art. 2 commences (2006 c. 45)
- S.I. 2007/1375 art. 2 commences (2006 c. 28)
- S.I. 2008/1653 art. 2 commences (2007 c. 15)
- S.I. 2009/1604 art. 2 commences (2005 c. 4)
- S.I. 2009/3345 art. 2Sch. commences (2009 c. 23)
- S.I. 2010/298 art. 2Sch. commences (2009 c. 23)
- S.I. 2011/2329 art. 23 commences (2011 c. 5)
- S.S.I. 2005/392 art. 2 commences (2005 asp 5)
- S.S.I. 2011/268 art. 3 commences (2011 asp 7)
- S.R. 2006/257 art. 2 commences (S.I. 2006/1254 (N.I.))