



Merchant Shipping Act 1894

1894 CHAPTER 60

PART I

REGISTRY.

Qualification for owning British Ships.

1 Qualification for owning British ship.

A ship shall not be deemed to be a British ship unless owned wholly by persons of the following description (in this Act referred to as persons qualified to be owners of British ships); namely,—

- (a) Natural-born British subjects;
- (b) Persons naturalized by or in pursuance of an Act of Parliament of the United Kingdom, or by or in pursuance of an Act or ordinance of the proper legislative authority in a British possession;
- (c) Persons made denizens by letters of denization; and
- (d) Bodies corporate established under and subject to the laws of some part of Her Majesty's dominions, and having their principal place of business in those dominions:

Provided that any person who either—

- (i) being a natural-born British subject has taken the oath of allegiance to a foreign sovereign or state or has otherwise become a citizen or subject of a foreign state ; or
- (ii) has been naturalized or made a denizen as aforesaid ;

shall not be qualified to be owner of a British ship unless, after taking the said oath, or becoming a citizen or subject of a foreign state, or on or after being naturalized or made denizen as aforesaid, he has taken the oath of allegiance to Her Majesty the Queen, and is during the time he is owner of the ship either resident in Her Majesty's dominions, or partner in a firm actually carrying on business in Her Majesty's dominions.

Obligation to register British Ships.

2 Obligation to register British ships.

- (1) Every British ship shall, unless exempted from registry, be registered under this Act.
- (2) If a ship required by this Act to be registered is not registered under this Act she shall not be recognised as a British ship.
- (3) A ship required by this Act to be registered may be detained until the master of the ship, if so required, produces the certificate of the registry of the ship.

3 Exemptions from registry.

The following ships are exempted from registry under this Act:—

- (1) Ships not exceeding fifteen tons burden employed solely in navigation on the rivers or coasts of the United Kingdom, or on the rivers or coasts of some British possession within which the managing owners of the ships are resident:
- (2) Ships not exceeding thirty tons burden and not having a whole or fixed deck, and employed solely in fishing or trading coastwise on the shores of Newfoundland or parts adjacent thereto, or in the Gulf of Saint Lawrence, or on such portions of the coasts of Canada as lie bordering on that gulf.

Procedure for Registration.

4 Registrars of British ships.

- (1) The following persons shall be registrars of British ships :—
 - (a) At any port in the United Kingdom, or Isle of Man, approved by the Commissioners of Customs for the registry of ships, the chief officer of customs :
 - (b) In Guernsey and Jersey, the chief officers of customs together with the governor :
 - (c) In Malta and Gibraltar, the governor:
 - (d) At Calcutta, Madras, and Bombay, the port officer:
 - (e) At any other port in any British possession approved by the governor of the possession for the registry of ships, the chief officer of customs, or, if there is no such officer there resident, the governor of the possession in which the port is situate, or any officer appointed for the purpose by the governor:
 - (f) At a port of registry established by Order in Council under this Act, persons of the description in that behalf declared by the Order:
- (2) Notwithstanding anything in this section Her Majesty may by Order in Council declare, with respect to any British possession named in the Order, not being the Channel Islands or the Isle of Man, the description of persons who are to be registrars of British ships in that possession.
- (3) A registrar shall not be liable to damages or otherwise for any loss accruing to any person by reason of any act done or default made by him in his character of registrar, unless the same has happened through his neglect or wilful act.

5 Register book.

Every registrar of British ships shall keep a book to be called the register book, and entries in that book shall be made in accordance with the following provisions :—

- (i) The property in a ship shall be divided into sixty-four shares :
- (ii) Subject to the provisions of this Act with respect to joint owners or owners by transmission, not more than sixty-four individuals shall be entitled to be registered at the same time as owners of any one ship; but this rule shall not affect the beneficial title of any number of persons or of any company represented by or claiming under or through any registered owner or joint owner :
- (iii) A person shall not be entitled to be registered as owner of a fractional part of a share in a ship ; but any number of persons not exceeding five may be registered as joint owners of a ship or of any share or shares therein :
- (iv) Joint owners shall be considered as constituting one person only as regards the persons entitled to be registered, and shall not be entitled to dispose in severalty of any interest in a ship, or in any share therein in respect of which they are registered:
- (v) A corporation may be registered as owner by its corporate name.

6 Survey and measurement of ship.

Every British ship shall before registry be surveyed by a surveyor of ships and her tonnage ascertained in accordance with the tonnage regulations of this Act, and the surveyor shall grant his certificate specifying the ship's tonnage and build, and such other particulars descriptive of the identity of the ship as may for the time being be required by the Board of Trade, and such certificate shall be delivered to the registrar before registry.

7 Marking of ship.

- (1) Every British ship shall before registry be marked permanently and conspicuously to the satisfaction of the Board of Trade as follows :—
 - (a) Her name shall be marked on each of her bows, and her name and the name of her port of registry must be marked on her stern, on a dark ground in white or yellow letters, or on a light ground in black letters, such letters to be of a length not less than four inches, and of proportionate breadth :
 - (b) Her official number and the number denoting her registered tonnage shall be cut in on her main beam ;
 - (c) A scale of feet denoting her draught of water shall be marked on each side of her stem and of her stern post in Roman capital letters or in figures, not less than six inches in length, the lower line of such letters or figures to coincide with the draught line denoted thereby, and those letters or figures must be marked by being cut in and painted white or yellow on a dark ground, or in such other way as the Board of Trade approve;
- (2) The Board of Trade may exempt any class of ships from all or any of the requirements of this section, and a fishing boat entered in the fishing boat register, and lettered and numbered in pursuance of the Fourth Part of this Act, need not have her name and port of registry marked under this section.

- (3) If the scale of feet showing the ship's draught of water is in any respect inaccurate, so as to be likely to mislead, the owner of the ship shall be liable to a fine not exceeding one hundred pounds.
- (4) The marks required by this section shall be permanently continued, and no alteration shall be made therein, except in the event of any of the particulars thereby denoted being altered in the manner provided by this Act;
- (5) If an owner or master of a British ship neglects to cause his ship to be marked as required by this section, or to keep her so marked, or if any person conceals, removes, alters, defaces, or obliterates, or suffers any person under his control to conceal, remove, alter, deface, or obliterate any of the said marks, except in the event aforesaid, or except for the purpose of escaping capture by an enemy, that owner, master, or person shall for each offence be liable to a fine not exceeding one hundred pounds, and on a certificate from a surveyor of ships, or Board of Trade inspector under this Act, that a ship is insufficiently or inaccurately marked the ship may be detained until the insufficiency or inaccuracy has been remedied.

8 Application for registry.

An application for registry of a ship shall be made in the case of individuals by the person requiring to be registered as owner, or by some one or more of the persons so requiring if more than one, or by his or their agent, and in the case of corporations by their agent, and the authority of the agent shall be testified by writing, if appointed by individuals, under the hands of the appointors, and, if appointed by a corporation, under the common seal of that corporation.

9 Declaration of ownership on registry.

A person shall not be entitled to be registered as owner of a ship or of a share therein 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 of ownership, referring to the ship as described in the certificate of the surveyor, and containing the following particulars :—

- (i) A statement of his qualification to own a British ship, or in the case of a corporation, of such circumstances of the constitution and business thereof as prove it to be qualified to own a British ship:
- (ii) A statement of the time when and the place where the ship was built, or, if the ship is foreign built, and the time and place of building unknown, a statement that she is foreign built, and that the declarant does not know the time or place of her building; and, in addition thereto, in the case of a foreign ship, a statement of her foreign name, or, in the case of a ship condemned, a statement of the time place and court at and by which she was condemned :
- (iii) A statement of the name of the master:
- (iv) A statement of the number of shares in the ship of which he or the corporation, as the case may be, is entitled to be registered as owner:
- (v) 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.

10 Evidence on first registry.

- (1) On the first registry of a ship the following evidence shall be produced in addition to the declaration of ownership:—
- (a) In the case of a British-built ship, a builder's certificate, that is to say, a certificate signed by the builder of the ship, and containing a true account of the proper denomination and of the tonnage of the ship, as estimated by him, and of the time when and the place where she was built, and of the name of the person (if any) on whose account the ship was built, and if there has been any sale, the bill of sale under which the ship, or a share therein, has become vested in the applicant for registry:
 - (b) In the case of a foreign-built ship, the same evidence as in the case of a British-built ship, unless the declarant who makes the declaration of ownership declares that the time and place of her building are unknown to him, or that the builder's certificate cannot be procured, in which case there shall be required only the bill of sale under which the ship, or a share therein, became vested in the applicant for registry:
 - (c) In the case of a ship condemned by any competent court, an official copy of the condemnation.
- (2) The builder shall grant the certificate required by this section, and such person as the Commissioners of Customs recognise as carrying on the business of the builder of a ship, shall be included, for the purposes of this section, in the expression "builder of the ship."
- (3) If the person granting a builder's certificate under this section wilfully makes a false statement in that certificate he shall for each offence be liable to a fine not exceeding one hundred pounds.

11 Entry of particulars in register book.

As soon as the requirements of this Act preliminary to registry have been complied with the registrar shall enter in the register book the following particulars respecting the ship:—

- (a) The name of the ship and the name of the port to which she belongs :
- (b) The details comprised in the surveyor's certificate:
- (c) The particulars respecting her origin stated in the declaration of ownership :
and
- (d) The name and description of her registered owner or owners, and if there are more owners than one, the proportions in which they are interested in her.

12 Documents to be retained by registrar.

On the registry of a ship the registrar shall retain in his possession the following documents; namely, the surveyor's certificate, the builder's certificate, any bill of sale of the ship previously made, the copy of the condemnation (if any), and all declarations of ownership.

13 Port of registry.

The port at which a British ship is registered for the time being shall be deemed her port of registry and the port to which she belongs.

Certificate of Registry.

14 Certificate of registry.

On completion of the registry of a ship, the registrar shall grant a certificate of registry comprising the particulars respecting her entered in the register book, with the name of her master.

15 Custody of certificate.

- (1) The certificate of registry shall be used only for the lawful navigation of the ship, and shall not be subject to detention by reason of any title, lien, charge, or interest whatever had or claimed by any owner, mortgagee, or other person to, on, or in the ship.
- (2) If any person, whether interested in the ship or not, refuses on request to deliver up the certificate of registry when in his possession or under his control to the person entitled to the custody thereof for the purposes of the lawful navigation of the ship, or to any registrar, officer of customs, or other person entitled by law to require such delivery, any justice by warrant under his hand and seal, or any court capable of taking cognizance of the matter, may summon the person so refusing to appear before such justice or court, and to be examined touching such refusal, and unless it is proved to the satisfaction of such justice or court that there was reasonable cause for such refusal, the offender shall be liable to a fine not exceeding one hundred pounds, but if it is shown to such justice or court that the certificate is lost, the person summoned shall be discharged, and the justice or court shall certify that the certificate of registry is lost.
- (3) If the person so refusing is proved to have absconded so that the warrant of a justice or process of a court cannot be served on him, or if he persists in not delivering up the certificate, the justice or court shall certify the fact, and the same proceedings may then be taken as in the case of a certificate mislaid, lost, or destroyed, or as near thereto as circumstances permit.

16 Penalty for use of improper certificate.

If the master or owner of a ship uses or attempts to use for her navigation a certificate of registry not legally granted in respect of the ship, he shall, in respect of each offence, be guilty of a misdemeanor, and the ship shall be subject to forfeiture under this Act.

17 Power to grant new certificate.

The registrar of the port of registry of a ship may, with the approval of the Commissioners of Customs, and on the delivery up to him of the certificate of registry of a ship, grant a new certificate in lieu thereof.

18 Provision for loss of certificate.

- (1) In the event of the certificate of registry of a ship being mislaid, lost, or destroyed, the registrar of her port of registry shall grant a new certificate of registry in lieu of her original certificate.
- (2) If the port (having a British registrar or consular officer) at which the ship is at the time of the event, or first arrives after the event—

- (a) is not in the United Kingdom, where the ship is registered in the United Kingdom ; or,
- (b) is not in the British possession in which the ship is registered; or,
- (c) where the ship is registered at a port of registry established by Order in Council under this Act, is not that port;

then the master of the ship, or some other person having knowledge of the facts of the case, shall make a declaration stating the facts of the case, and the names and descriptions of the registered owners of such ship to the best of the declarant's knowledge and belief, and the registrar or consular officer, as the case may be, shall thereupon grant a provisional certificate, containing a statement of the circumstances under which it is granted.

- (3) The provisional certificate shall within ten days after the first subsequent arrival of the ship at her port of discharge in the United Kingdom, where she is registered in the United Kingdom, or in the British possession in which she is registered, or where she is registered at a port of registry established by Order in Council under this Act at that port, be delivered up to the registrar of her port of registry, and the registrar shall thereupon grant the new certificate of registry; and if the master without reasonable cause fails to deliver up the provisional certificate within the ten days aforesaid, he shall be liable to a fine not exceeding fifty pounds.

19 Endorsement of change of master on certificate.

Where the master of a registered British ship is changed, each of the following persons; (that is to say,)

- (a) if the change is made in consequence of the sentence of a naval court, the presiding officer of that court; and
- (b) if the change is made in consequence of the removal of the master by a court under Part VI. of this Act, the proper officer of that court; and
- (c) if the change occurs from any other cause, the registrar, or if there is none the British consular officer, at the port where the change occurs,

shall endorse and sign on the certificate of registry a memorandum of the change, and shall forthwith report the change to the Registrar-General of Shipping and Seamen; and any officer of customs at any port in Her Majesty's dominions may refuse to admit any person to do any act there as master of a British ship unless his name is inserted in or endorsed on her certificate of registry as her last appointed master..

20 Endorsement of change of ownership on certificate.

- (1) Whenever a change occurs in the registered ownership of a ship, the change of ownership shall be endorsed on her certificate of registry either by the registrar of the ship's port of registry, or by the registrar of any port at which the ship arrives who has been advised of the change by the registrar of the ship's port of registry.
- (2) The master shall, for the purpose of such endorsement by the registrar of the ship's port of registry, deliver the certificate of registry to the registrar, forthwith after the change if the change occurs when the ship is at her port of registry, and if it occurs during her absence from that port and the endorsement under this section is not made before her return then upon her first return to that port.
- (3) The registrar of any port, not being the ship's port of registry, who is required to make an endorsement under this section may for that purpose require the master of the ship to

deliver to him the ship's certificate of registry, so that the ship be not thereby detained, and the master shall deliver the same accordingly.

- (4) If the master fails to deliver to the registrar the certificate of registry as required by this section he shall, for each offence, be liable to a fine not exceeding one hundred pounds.

21 Delivery up of certificate of ship lost or ceasing to be British owned.

- (1) In the event of a registered ship being either actually or constructively lost, taken by the enemy, burnt, or broken up, or ceasing by reason of a transfer to persons not qualified to be owners of British ships, or otherwise, to be a British ship, every owner of the ship or any share in the ship shall, immediately on obtaining knowledge of the event, if no notice thereof has already been given to the registrar, give notice thereof to the registrar at her port of registry, and that registrar shall make an entry thereof in the register book.
- (2) In any such case, except where the ship's certificate of registry is lost or destroyed, the master of the ship shall, if the event occurs in port immediately, but if it occurs elsewhere then within ten days after his arrival in port, deliver the certificate to the registrar, or, if there is none, to the British consular officer there, and the registrar, if he is not himself the registrar of her port of registry, or the British consular officer, shall forthwith forward the certificate delivered to him to the registrar of her port of registry.
- (3) If any such owner or master fails, without reasonable cause, to comply with this section, he shall for each offence be liable to a fine not exceeding one hundred pounds.

22 Provisional certificate for ships becoming British-owned abroad.

- (1) If at a port not within Her Majesty's dominions and not being a port of registry established by Order in Council under this Act, a ship becomes the property of persons qualified to own a British ship, the British consular officer there may grant to her master, on his application, a provisional certificate, stating—
- (a) the name of the ship ;
 - (b) the time and place of her purchase, and the names of her purchasers;
 - (c) the name of her master; and
 - (d) the best particulars respecting her tonnage, build, and description which he is able to obtain;
- and shall forward a copy of the certificate at the first convenient opportunity to the Registrar-General of Shipping and Seamen.
- (2) Such a provisional certificate shall have the effect of a certificate of registry until the expiration of six months from its date, or until the ship's arrival at a port where there is a registrar (whichever first happens), and on either of those events happening shall cease to have effect.

23 Temporary passes in lieu of certificates of registry.

Where it appears to the Commissioners of Customs, or to the governor of a British possession, that by reason of special circumstances it would be desirable that permission should be granted to any British ship to pass, without being previously registered, from any port in Her Majesty's dominions to any other port within Her Majesty's dominions, the Commissioners or the governor may grant a pass

accordingly, and that pass shall, for the time and within the limits therein mentioned, have the same effect as a certificate of 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.

Mortgages.

31 Mortgage of ship or share.

- (1) A registered ship or a share therein may be made a security for a loan or other valuable consideration, and the instrument creating the security (in this Act called a mortgage) shall be in the form marked B in the first part of the First Schedule to this Act, or as near thereto as circumstances permit, and on the production of such instrument the registrar of the ship's port of registry shall record it in the register book.
- (2) Mortgages shall be recorded by the registrar in the order in time in which they are produced to him for that purpose, and the registrar shall by memorandum under his hand notify on each mortgage that it has been recorded by him, stating the day and hour of that record.

32 Entry of discharge of mortgage.

Where a registered mortgage is discharged, the registrar shall, on the production of the mortgage deed, with a receipt for the mortgage money endorsed thereon, duly signed and attested, make an entry in the register book to the effect that the mortgage has been discharged, and on that entry being made the estate (if any) which passed to the mortgagee shall vest in the person in whom (having regard to intervening acts and circumstances, if any) it would have vested if the mortgage had not been made.

33 Priority of mortgages.

If there are more mortgages than one registered in respect of the same ship or share, the mortgagees shall, notwithstanding any express, implied, or constructive notice, be entitled in priority, one over the other, according to the date at which each mortgage is recorded in the register book, and not according to the date of each mortgage itself.

34 Mortgagee not treated as owner.

Except as far as may be necessary for making a mortgaged ship or share available as a security for the mortgage debt, the mortgagee shall not by reason of the mortgage be deemed the owner of the ship or share, nor shall the mortgagor be deemed to have ceased to be owner thereof.

35 Mortgagee to have power of sale.

Every registered mortgagee shall have power absolutely to dispose of the ship or share in respect of which he is registered, and to give effectual receipts for the purchase money; but where there are more persons than one registered as mortgagees of the same ship or share, a subsequent mortgagee shall not, except under the order of a court of competent jurisdiction, sell the ship or share, without the concurrence of every prior mortgagee.

36 Mortgage not affected by bankruptcy.

A registered mortgage of a ship or share shall not be affected by any act of bankruptcy committed by the mortgagor after the date of the record of the mortgage, notwithstanding that the mortgagor at the commencement of his bankruptcy had the ship or share in his possession, order, or disposition, or was reputed owner thereof, and the mortgage shall be preferred to any right, claim, or interest therein of the other creditors of the bankrupt or any trustee or assignee on their behalf.

37 Transfer of mortgages.

A registered mortgage of a ship or share may be transferred to any person, and the instrument effecting the transfer shall be in the form marked C in the first part of the First Schedule to this Act, or as near thereto as circumstances permit, and on the production of such instrument the registrar shall record it by entering in the register book the name of the transferee as mortgagee of the ship or share, and shall by memorandum under his hand notify on the instrument of transfer that it has been recorded by him, stating the day and hour of the record.

38 Transmission of interest in mortgage by death, bankruptcy, marriage, &c.

- (1) Where the interest of a mortgagee in a ship or share is transmitted on marriage, death, or bankruptcy, or by any lawful means, other than by a transfer under this Act, the transmission shall be authenticated by a declaration of the person to whom the interest is transmitted, containing a statement of the manner in which and the person to whom the property has been transmitted, and shall be accompanied by the like evidence as is by this Act required in case of a corresponding transmission of the ownership of a ship or share.
- (2) The registrar on the receipt of the declaration, and the production of the evidence aforesaid, shall enter the name of the person entitled under the transmission in the register book as mortgagee of the ship or share.

*Certificates of Mortgage and Sale.***39 Powers of mortgage and sale may be conferred by certificate.**

A registered owner, if desirous of disposing by way of mortgage or sale of the ship or share in respect of which he is registered at any place out of the country in which the port of registry of the ship is situate, may apply to the registrar, and the registrar shall thereupon enable him to do so by granting a certificate of mortgage or a certificate of sale.

40 Requisites for certificates of mortgage and sale.

Before a certificate of mortgage or sale is granted, the applicant shall state to the registrar, and the registrar shall enter in the register book, the following particulars; (that is to say,)

- (i) the name of the person by whom the power mentioned in the certificate is to be exercised, and, in the case of a mortgage the maximum amount of charge to be created, if it is intended to fix any such maximum, and in the case of a sale the minimum price at which a sale is to be made, if it is intended to fix any such minimum ;
- (ii) the place where the power is to be exercised, or if no place is specified, a declaration that it may be exercised anywhere, subject to the provisions of this Act;
- (iii) the limit of time within which the power may be exercised.

41 Restrictions on certificates of mortgage and sale.

A certificate of mortgage or sale shall not be granted so as to authorise any mortgage or sale to be made—

If the port of registry of the ship is situate in the United Kingdom, at any place within the United Kingdom ; or

If the port of registry is situate within a British possession, at any place within the same British possession ; or

If the port of registry is established by Order in Council under this Act, at that port, or within such adjoining area as is specified in the order; or

By any person not named in the certificate.

42 Contents of certificates of mortgage and sale.

A certificate of mortgage and a certificate of sale shall contain a statement of the several particulars by this Act directed to be entered in the register book on the application for the certificate, and in addition thereto an enumeration of any registered mortgages or certificates of mortgage or sale affecting the ship or share in respect of which the certificate is given.

43 Rules as to certificates of mortgage.

The following rules shall be observed as to certificates of mortgage:—

- (1) The power shall be exercised in conformity with the directions contained in the certificate :

- (2) Every mortgage made thereunder shall be registered by the endorsement of a record thereof on the certificate by a registrar or British consular officer :
- (3) A mortgage made in good faith thereunder shall not be impeached by reason of the person by whom the power was given dying before the making of the mortgage :
- (4) Whenever the certificate contains a specification of the place at which, and a limit of time not exceeding twelve months within which, the power is to be exercised, a mortgage made in good faith to a mortgagee without notice shall not be impeached by reason of the bankruptcy of the person by whom the power was given :
- (5) Every mortgage which is so registered as aforesaid on the certificate shall have priority over all mortgages of the same ship or share created subsequently to the date of the entry of the certificate in the register book; and, if there are more mortgages than one so registered, the respective mortgagees claiming thereunder shall, notwithstanding any express, implied, or constructive notice, be entitled one before the other according to the date at which each mortgage is registered on the certificate, and not according to the date of the mortgage:
- (6) Subject to the foregoing rules, every mortgagee whose mortgage is registered on the certificate shall have the same rights and powers and be subject to the same liabilities as he would have had and been subject to if his mortgage had been registered in the register book instead of on the certificate:
- (7) The discharge of any mortgage so registered on the certificate may be endorsed on the certificate by any registrar or British consular officer, on the production of such evidence as is by this Act required to be produced to the registrar on the entry of the discharge of a mortgage in the register book ; and on that endorsement being made, the interest, if any, which passed to the mortgagee shall vest in the same person or persons in whom it would (having regard to intervening acts and circumstances, if any,) have vested, if the mortgage had not been made:
- (8) On the delivery of any certificate of mortgage to the registrar by whom it was granted he shall, after recording in the register book, in such manner as to preserve its priority, any unsatisfied mortgage registered thereon, cancel the certificate, and enter the fact of the cancellation in the register book ; and every certificate so cancelled shall be void to all intents.

44 Rules as to certificates of sale.

The following rules shall be observed as to certificates of sale:—

- (1) A certificate of sale shall not be granted except for the sale of an entire ship :
- (2) The power shall be exercised in conformity with the directions contained in the certificate :
- (3) A sale made in good faith thereunder to a purchaser for valuable consideration shall not be impeached by reason of the person by whom the power was given dying before the making of such sale :
- (4) Whenever the certificate contains a specification of the place at which, and a limit of time not exceeding twelve months within which, the power is to be exercised, a sale made in good faith to a purchaser for valuable consideration without notice shall not be impeached by reason of the bankruptcy of the person by whom the power was given:

- (5) A transfer made to a person qualified to be the owner of a British ship shall be by a bill of sale in accordance with this Act:
- (6) If the ship is sold to a person qualified to be the owner of a British ship the ship shall be registered as new; but notice of all mortgages enumerated on the certificate of sale shall be entered in the register book:
- (7) Before registry anew there shall be produced to the registrar required to make the same the bill of sale by which the ship is transferred, the certificate of sale, and the certificate of registry of such ship:
- (8) The last-mentioned registrar shall retain the certificates of sale and registry, and after having endorsed on both of those instruments an entry of the fact of a sale having taken place, shall forward them to the registrar of the port appearing thereon to be the former port of registry of the ship, and the last-mentioned registrar shall thereupon make a memorandum of the sale in his register book, and the registry of the ship in that book shall be considered as closed, except as far as relates to any unsatisfied mortgages or existing certificates of mortgage entered therein:
- (9) On such registry anew the description of the ship contained in her original certificate of registry may be transferred to the new register book, without her being re-surveyed, and the declaration to be made by the purchaser shall be the same as would be required to be made by an ordinary transferee:
- (10) If the ship is sold to a person not qualified to be the owner of a British ship, the bill of sale by which the ship is transferred, the certificate of sale, and the certificate of registry shall be produced to a registrar or British consular officer, and that registrar or officer shall retain the certificates of sale and registry, and, having endorsed thereon the fact of that ship having been sold to a person not qualified to be the owner of a British ship, shall forward the certificates to the registrar of the port appearing on the certificate of registry to be the port of registry of that ship ; and that registrar shall thereupon make a memorandum of the sale in his register book, and the registry of the ship in that book shall be considered as closed, except so far as relates to any unsatisfied mortgages or existing certificates of mortgage entered therein:
- (11) If, on a sale being made to a person not qualified to be the owner of a British ship, default is made in the production of such certificates as are mentioned in the last rule, that person shall be considered by British law as having acquired no title to or interest in the ship; and further, the person upon whose application the certificate of sale was granted, and the person exercising the power, shall each be liable to a fine not exceeding one hundred pounds :
- (12) If no sale is made in conformity with the certificate of sale, that certificate shall be delivered to the registrar by whom the same was granted; and he shall thereupon cancel it and enter the fact of the cancellation in the register book; and every certificate so cancelled shall be void for all intents and purposes.

45 Power of Commissioners of Customs in case of loss of certificate of mortgage or sale.

On proof at any time to the satisfaction of the Commissioners of Customs that a certificate of mortgage or sale is lost or destroyed, or so obliterated as to be useless, and that the powers thereby given have never been exercised, or if they have been exercised, then on proof of the several matters and things that have

been done thereunder, the registrar may, with the sanction of the Commissioners, as circumstances require, either issue a new certificate, or direct such entries to be made in the register books, or such other things to be done, as might have been made or done if the loss, destruction, or obliteration had not taken place.

46 Revocation of certificates of mortgage and sale.

- (1) The registered owner of any ship or share therein in respect of which a certificate of mortgage or sale has been granted, specifying the places where the power thereby given is to be exercised, may, by an instrument under his hand, authorise the registrar by whom the certificate was granted to give notice to the registrar or British consular officer at every such place that the certificate is revoked.
- (2) Notice shall thereupon be given accordingly and shall be recorded by the registrar or British consular officer receiving it, and after it is recorded the certificate shall be deemed to be revoked and of no effect so far as respects any mortgage or sale to be thereafter made at that place.
- (3) The notice after it has been recorded shall be exhibited to every person applying for the purpose of effecting or obtaining a mortgage or transfer under the certificate.
- (4) A registrar or British consular officer on recording any such notice shall state to the registrar by whom the certificate was granted whether any previous exercise of the power to which such certificate refers has taken place.

Name of Ship.

47 Rules as to name of ship.

- (1) A ship shall not be described by any name other than that by which she is for the time being registered.
- (2) A change shall not be made in the name of a ship without the previous written permission of the Board of Trade.
- (3) Application for that permission shall be in writing, and if the Board are of opinion that the application is reasonable they may entertain it, and thereupon require notice thereof to be published in such form and manner as they think fit.
- (4) On permission being granted to change the name, the ship's name shall forthwith be altered in the register book, in the ship's certificate of registry, and on her bows and stern.
- (5) If it is shown to the satisfaction of the Board of Trade that the name of any ship has been changed without their permission they shall direct that her name be altered into that which she bore before the change, and the name shall be altered in the register book, in the ship's certificate of registry, and on her bows and stern accordingly.
- (6) Where a ship having once been registered has ceased to be so registered no person unless ignorant of the previous registry (proof whereof shall lie on him) shall apply to register, and no registrar shall knowingly register, the ship, except by the name by which she was previously registered, unless with the previous written permission of the Board of Trade.

- (7) Where a foreign ship, not having at any previous time been registered as a British ship, becomes a British ship, no person shall apply to register, and no registrar shall knowingly register, the ship, except by the name which she bore as a foreign ship immediately before becoming a British ship, unless with the previous written permission of the Board of Trade.
- (8) If any person acts, or suffers any person under his control to act, in contravention of this section, or omits to do, or suffers any person under his control to omit to do, anything required by this section, he shall for each offence be liable to a fine not exceeding one hundred pounds, and (except in the case of an application being made under the section with respect to a foreign ship which not having at any previous time been registered as a British ship has become a British ship) the ship may be detained until this section is complied with.

Registry of Alterations, Registry anew, and Transfer of Registry.

48 Registry of alterations.

- (1) When a registered ship is so altered as not to correspond with the particulars relating to her tonnage or description contained in the register book, then, if the alteration is made at any port having a registrar, that registrar, or, if it is made elsewhere, the registrar of the first port having a registrar at which the ship arrives after the alteration, shall, on application being made to him, and on receipt of a certificate from the proper surveyor stating the particulars of the alteration, either cause the alteration to be registered, or direct that the ship be registered anew.
- (2) On failure to register anew a ship or to register an alteration of a ship so altered as aforesaid, that ship shall be deemed not duly registered, and shall not be recognised as a British ship.

49 Regulations for registry of alteration.

- (1) For the purpose, of the registry of an alteration in a ship, the ship's certificate of registry shall be produced to the registrar, and the registrar shall, in his discretion, either retain the certificate of registry and grant a new certificate of registry containing a description of the ship as altered, or endorse and sign on the existing certificate a memorandum of the alteration.
- (2) The particulars of the alteration so made, and the fact of the new certificate having been granted, or endorsement having been made, shall be entered by the registrar of the ship's port of registry in his register book; and for that purpose the registrar to whom the application for the registry of the alteration has been made (if he is not the registrar of the ship's port of registry), shall forthwith report to the last-mentioned registrar the particulars and facts as aforesaid, accompanied, where a new certificate of registry has been granted, by the old certificate of registry.

50 Provisional certificate and endorsement where ship is to be registered anew.

- (1) Where any registrar, not being the registrar of the ship's port of registry, on an application as to an alteration in a ship directs the ship to be registered anew, he shall either grant a provisional certificate, describing the ship as altered, or provisionally endorse the particulars of the alteration on the existing certificate.

- (2) Every such provisional certificate, or certificate provisionally endorsed, shall, within ten days after the first subsequent arrival of the ship at her port of discharge in the United Kingdom, if she is registered in the United Kingdom, or, if she is registered in a British possession, at her port of discharge in that British possession, or, if she is registered at a port of registry established by Order in Council under this Act, at that port, be delivered up to the registrar thereof, and that registrar shall cause the ship to be registered anew.
- (3) The registrar granting a provisional certificate under this section, or provisionally endorsing a certificate, shall add to the certificate or endorsement a statement that the same is made provisionally, and shall send a report of the particulars of the case to the registrar of the ship's port of registry, containing a similar statement as the certificate or endorsement.

51 Registry anew on change of ownership.

Where the ownership of any ship is changed, the registrar of the port at which the ship is registered may, on the application of the owners of the ship, register the ship anew, although registration anew is not required under this Act.

52 Procedure for registry anew.

- (1) Where a ship is to be registered anew, the registrar shall proceed as in the case of first registry, and on the delivery up to him of the existing certificate of registry, and on the other requisites to registry, or in the case of a change of ownership such of them as he thinks material, being duly complied with, shall make such registry anew, and grant a certificate thereof.
- (2) When a ship is registered anew, her former register shall be considered as closed, except so far as relates to any unsatisfied mortgage or existing certificates of sale or mortgage entered thereon, but the names of all persons appearing on the former register to be interested in the ship as owners or mortgagees shall be entered on the new register, and the registry anew shall not in any way affect the rights of any of those persons.

53 Transfer of registry.

- (1) The registry of any ship may be transferred from one port to another on the application to the registrar of the existing port of registry of the ship made by declaration in writing of all persons appearing on the register to be interested therein as owners or mortgagees, but that transfer shall not in any way affect the rights of those persons or any of them, and those rights shall in all respects continue in the same manner as if no such transfer had been effected.
- (2) On any such application the registrar shall transmit notice thereof to the registrar of the intended port of registry with a copy of all particulars relating to the ship, and the names of all persons appearing on the register to be interested therein as owners or mortgagees.
- (3) The ship's certificate of registry shall be delivered up to the registrar either of the existing or intended port of registry, and, if delivered up to the former, shall be transmitted to the registrar of the intended port of registry.

- (4) On the receipt of the above documents the registrar of the intended port of registry shall enter in his register book all the particulars and names so transmitted as aforesaid, and grant a fresh certificate of registry, and thenceforth such ship shall be considered as registered at the new port of registry, and the name of the ship's new port of registry shall be substituted for the name of her former port of registry on the ship's stern.

54 Restrictions on re-registration of abandoned ships.

Where a ship has ceased to be registered as a British ship by reason of having been wrecked or abandoned, or for any reason other than capture by the enemy or transfer to a person not qualified to own a British ship, the ship shall not be re-registered until she has, at the expense of the applicant for registration, been surveyed by a surveyor of ships and certified by him to be seaworthy.

Incapacitated Persons.

55 Provision for cases of infancy or other incapacity.

- (1) Where by reason of infancy, lunacy, or any other cause any person interested in any ship, or any share therein, is incapable of making any declaration or doing anything required or permitted by this Act to be made or done in connexion with the registry of the ship or share, the guardian or committee, if any, of that person, or, if there is none, any person appointed on application made on behalf of the incapable person, or of any other person interested, by any court or judge having jurisdiction in respect of the property of incapable persons, may make such declaration, or a declaration as nearly corresponding thereto as circumstances permit, and do such act or thing in the name and on behalf of the incapable person; and all acts done by the substitute shall be as effectual as if done by the person for whom he is substituted.
- (2) The Trustee Act, 1850, and the Acts amending the same, shall, so far as regards the court exercising jurisdiction in lunacy in Ireland, apply to shares in ships registered under this Act as if they were stock as defined by that Act.

Trusts and Equitable Rights.

56 Notice of trusts not received.

No notice of any trust, express, implied, or constructive, shall be entered in the register book or be receivable by the registrar, and, subject to any rights and powers appearing by the register book to be vested in any other person, the registered owner of a ship or of a share therein shall have power absolutely to dispose in manner in this Act provided of the ship or share, and to give effectual receipts for any money paid or advanced by way of consideration.

57 Equities not excluded by Act.

The expression "beneficial interest," where used in this Part of this Act, includes interests arising under contract and other equitable interests; and the intention of this Act is, that without prejudice to the provisions of this Act for preventing notice of trusts from being entered in the register book or received by the registrar, and without prejudice to the powers of disposition and of giving receipts conferred by this Act

on registered owners and mortgagees, and without prejudice to the provisions of this Act relating to the exclusion of unqualified persons from the ownership of British ships, interests arising under contract or other equitable interests may be enforced by or against owners and mortgagees of ships in respect of their interest therein in the same manner as in respect of any other personal property.

Liability of Beneficial Owner.

58 Liability of owners.

Where any person is beneficially interested, otherwise than by way of mortgage, 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 subject to all pecuniary penalties imposed by this or any other Act on the owners of ships or shares therein, so nevertheless that proceedings may be taken for the enforcement of any such penalties against both or either of the aforesaid parties, with or without joining the other of them.

Managing Owner.

59 Ship's managing owner or manager to be registered.

- (1) The name and address of the managing owner for the time being of every ship registered at a port in the United Kingdom shall be registered at the custom house of that port.
- (2) Where there is not a managing owner there shall be so registered the name of the ship's husband or other person to whom the management of the ship is entrusted by or on behalf of the owner ; and any person whose name is so registered shall, for the purposes of this Act, be under the same obligations, and subject to the same liabilities, as if he were the managing owner.
- (3) If default is made in complying with this section the owner shall be liable, or if there are more owners than one each owner shall be liable in proportion to his interest in the ship, to a fine not exceeding in the whole one hundred pounds each time the ship leaves any port in the United Kingdom.

Declarations, Inspection of Register, and Fees.

60 Power of registrar to dispense with declarations and other evidence.

When, under this Part of this Act, any person is required to make a declaration on behalf of himself or of any corporation, or any evidence is required to be produced to the registrar, and it is shown to the satisfaction of the registrar that from any reasonable cause that person is unable to make the declaration, or that the evidence cannot be produced, the registrar may, with the approval of the Commissioners of Customs, and on the production of such other evidence, and subject to such terms as they may think fit, dispense with the declaration or evidence.

61 Mode of making declarations.

- (1) Declarations required by this Part of this Act shall be made before a registrar of British ships, or a justice of the peace, or a commissioner for oaths, or a British consular officer.
- (2) Declarations required by this Part of this Act may be made on behalf of a corporation by the secretary or any other officer of the corporation authorised by them for the purpose.

62 Application of fees.

All fees authorised to be taken under this Part of this Act, shall, except where otherwise in this Act provided, if taken in any part of the United Kingdom, be applied in payment of the general expenses of carrying into effect this Part of this Act, or otherwise as the Treasury may direct; if taken in a British possession, be disposed of in such way as the Executive Government of the possession direct; and if taken at any port of registry established by Order in Council under this Act, be disposed of as Her Majesty in Council directs.

*Returns, Evidence, and Forms.***63 Returns to be made by registrars.**

- (1) Every registrar in the United Kingdom shall at the expiration of every month, and every other registrar at such times as may be fixed by the Registrar-General of Shipping and Seamen, transmit to him a full return, in such form as the said Registrar-General may direct, of all registries, transfers, transmissions, mortgages, and other dealings with ships which have been registered by or communicated to him in his character of registrar, and of the names of the persons concerned in the same, and of such other particulars as may be directed by the said Registrar-General.
- (2) Every registrar at a port in the United Kingdom shall on or before the first day of February and the first day of August in every year transmit to the Registrar-General of Shipping and Seamen a list of all ships registered at that port, and also of all ships whose registers have been transferred or cancelled at that port since the last preceding return.

64 Evidence of register book, certificate of registry, and other documents.

- (1) A person, on payment of a fee not exceeding one shilling, to be fixed by the Commissioners of Customs, may on application to the registrar at a reasonable time during the hours of his official attendance, inspect any register book.
- (2) The following documents shall be admissible in evidence in manner provided by this Act, namely:—
 - (a) Any register book under this Part of this Act on its production from the custody of the registrar or other person having the lawful custody thereof;
 - (b) A certificate of registry under this Act purporting to be signed by the registrar or other proper officer ;
 - (c) An endorsement on a certificate of registry purporting to be signed by the registrar or other proper officer ;

- (d) Every declaration made in pursuance of this Part of this Act in respect of a British ship.
- (3) A copy or transcript of the register of British ships kept by the Registrar-General of Shipping and Seamen under the direction of the Board of Trade shall be admissible in evidence in manner provided by this Act, and have the same effect to all intents as the original register of which it is a copy or transcript.

65 Forms of documents, and instructions as to registry.

- (1) The several instruments and documents specified in the second part of the First Schedule to this Act shall be in the form prescribed by the Commissioners of Customs, with the consent of the Board of Trade, or as near thereto as circumstances permit; and the Commissioners of Customs may, with the consent of the Board of Trade, make such alterations in the forms so prescribed, and also in the forms set out in the first part of the said schedule, as they may deem requisite.
- (2) A registrar shall not be required without the special direction of the Commissioners of Customs to receive and enter in the register book any bill of sale, mortgage, or other instrument for the disposal or transfer of any ship or share, or any interest therein, which is made in any form other than that for the time being required under this Part of this Act, or which contains any particulars other than those contained in such form; but the said Commissioners shall, before altering the forms, give such public notice thereof as may be necessary in order to prevent inconvenience.
- (3) The Commissioners of Customs shall cause the said forms to be supplied to all registrars under this Act for distribution to persons requiring to use the same, either free of charge, or at such moderate prices as they may direct.
- (4) The Commissioners of Customs, with the consent of the Board of Trade, may also, for carrying into effect this Part of this Act, give such instructions to their officers as to the manner of making entries in the register book, as to the execution and attestation of powers of attorney, as to any evidence required for identifying any person, as to the referring to themselves of any question involving doubt or difficulty, and generally as to any act or thing to be done in pursuance of this Part of this Act, as they think fit.

Forgery and false Declarations.

66 Forgery of documents.

If any person forges, or fraudulently alters, or assists in forging or fraudulently altering, or procures to be forged or fraudulently altered, any of the following documents, namely, any register book, builder's certificate, surveyor's certificate, certificate of registry, declaration, bill of sale, instrument of mortgage, or certificate of mortgage or sale under this Part of this Act, or any entry or endorsement required by this Part of this Act to be made in or on any of those documents, that person shall in respect of each offence be guilty of felony.

67 False declarations.

- (1) If any person in the case of any declaration made in the presence of or produced to a registrar under this Part of this Act, or in any document or other evidence produced to such registrar—

- (i) wilfully makes, or assists in making, or procures to be made any false statement concerning the title to or ownership of, or the interest existing in any ship, or any share in a ship; or
- (ii) utters, produces, or makes use of any declaration, or document containing any such false statement knowing the same to be false,

he shall in respect of each offence be guilty of a misdemeanor.

- (2) If any person wilfully makes a false declaration touching the qualification of himself or of any other person or of any corporation to own a British ship or any share therein, he shall for each offence be guilty of a misdemeanor, and that ship or share shall be subject to forfeiture under this Act, to the extent of the interest therein of the declarant, and also, unless it is proved that the declaration was made without authority, of any person or corporation on behalf of whom the declaration is made.

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.

*Forfeiture of Ship.***76 Proceedings on forfeiture of ship.**

- (1) Where any ship has either wholly or as to any share therein become subject to forfeiture under this Part of this Act,
 - (a) any commissioned officer on full pay in the military or naval service of Her Majesty;
 - (b) any officer of customs in Her Majesty's dominions; or
 - (c) any British consular officer,may seize and detain the ship, and bring her for adjudication before the High Court in England or Ireland, or before the Court of Session in Scotland, and elsewhere before any Colonial Court of Admiralty or Vice-Admiralty Court in Her Majesty's dominions, and the court may thereupon adjudge the ship with her tackle, apparel, and furniture to be forfeited to Her Majesty, and make such order in the case as to the court seems just, and may award to the officer bringing in the ship for adjudication such portion of the proceeds of the sale of the ship, or any share therein, as the court think fit.
- (2) Any such officer as in this section mentioned shall not be responsible either civilly or criminally to any person whomsoever in respect of any such seizure or detention as aforesaid, notwithstanding that the ship has not been brought in for adjudication, or if so brought in is declared not liable to forfeiture, if it is shown to the satisfaction of the court before whom any trial relating to such ship or such seizure or detention is held that there were reasonable grounds for such seizure or detention; but if no such grounds are shown the court may award costs and damages to any party aggrieved, and make such other order in the premises as the court thinks just.

*Measurement of Ship and Tonnage.***77 Rules for ascertaining register tonnage.**

- (1) The tonnage of every ship to be registered, with the exceptions herein-after mentioned, shall, previously to her being registered, be ascertained by Rule I. in the Second Schedule to this Act, and the tonnage of every ship to which that Rule I. can be applied, whether she is about to be registered or not, shall be ascertained by the same rule.
- (2) Ships which, requiring to be measured for any purpose other than registry, have cargo on board, and ships which, requiring to be measured for the purpose of registry, cannot be measured by Rule I., shall be measured by Rule II. in the said schedule, and the owner of any ship measured under Rule II. may at any subsequent period apply to the Board of Trade to have the ship re-measured under Rule I., and the Board may thereupon, upon payment of such fee not exceeding seven shillings and sixpence for each transverse section as they may authorise, direct the ship to be re-measured accordingly, and the number denoting the register tonnage shall be altered accordingly.
- (3) For the purpose of ascertaining the register tonnage of a ship the allowance and deductions herein-after mentioned shall be made from the tonnage of the ship ascertained as aforesaid.
- (4) In the measurement of a ship for the purpose of ascertaining her register tonnage, no deduction shall be allowed in respect of any space which has not been first included in the measurement of her tonnage.
- (5) In ascertaining the tonnage of open ships Rule IV in the said schedule shall be observed.
- (6) Throughout the rules in the Second Schedule to this Act, the tonnage deck shall be taken to be the upper deck in ships which have less than three decks, and to be the second deck from below in all other ships, and in carrying those rules into effect all measurements shall be taken in feet, and fractions of feet shall be expressed in decimals.
- (7) The Board of Trade may make such modifications and alterations as from time to time become necessary in the rules in the Second Schedule to this Act for the purpose of the more accurate and uniform application thereof, and the effectual carrying out of the principle of measurement therein adopted.
- (8) The provisions of this Act relating to tonnage, together with the rules for the time being in force, are in this Act referred to as the tonnage regulations of this Act.

78 Allowance for engine-room space in steamships.

- (1) In the case of any ship propelled by steam or other power requiring engine room, an allowance shall be made for the space occupied by the propelling power, and the amount so allowed shall be deducted from the gross tonnage of the ship ascertained as in the last preceding section mentioned, and the remainder shall (subject to any deductions herein-after mentioned) be deemed to be the register tonnage of the ship, and that deduction shall be estimated as follows; (that is to say,
 - (a) As regards ships propelled by paddle wheels in which the tonnage of the space solely occupied by and necessary for the proper working of the boilers and machinery is above twenty per cent. and under thirty per cent. of the gross tonnage of the ship, the deduction shall be thirty-seven one-hundredths of

the gross tonnage; and in ships propelled by screws, in which the tonnage of such space is above thirteen per cent. and under twenty per cent. of the gross tonnage, the deduction shall be thirty-two one-hundredths of the gross tonnage :

- (b) As regards all other ships, the deduction shall, if the Board of Trade and the owner both agree thereto, be estimated in the same manner; but either they or he may, in their or his discretion, require the space to be measured and the deduction estimated accordingly; and whenever the measurement is so required, the deduction shall consist of the tonnage of the space actually occupied by or required to be enclosed for the proper working of the boilers and machinery, with the addition in the case of ships propelled by paddle wheels of one half, and in the case of ships propelled by screws of three fourths of the tonnage of the space ; and in the case of ships propelled by screws, the contents of the shaft trunk shall be added to and deemed to form part of the space ; and the measurement of the space shall be governed by Rule III. in the Second Schedule to this Act.
- (2) Such portion of the space above the crown of the engine room and above the upper deck as is framed in for the machinery or for the admission of light and air shall not be included in the measurement of the space occupied by the propelling power, except in pursuance of a request in writing to the Board of Trade by the owner of the ship, but shall not be included in pursuance of that request unless—
- (a) that portion is first included in the measurement of the gross tonnage; and
 - (b) a surveyor of ships certifies that the portion so framed in is reasonable in extent and is so constructed as to be safe and seaworthy, and that it cannot be used for any purpose other than the machinery or for the admission of light and air to the machinery or boilers of the ship.
- (3) Goods or stores shall not be stowed or carried in any space measured for propelling power, and if the same are so carried in any ship, the master and owner of the ship shall each be liable to a fine not exceeding one hundred pounds.

79 Deductions for ascertaining tonnage.

- (1) In measuring or re-measuring a ship for the purpose of ascertaining her register tonnage, the following deductions shall be made from the space included in the measurement of the tonnage, namely :—
- (a) In the case of any ship—
 - (i) any space used exclusively for the accommodation of the master; and any space occupied by seamen or apprentices and appropriated to their use, which is certified under the regulations scheduled to this Act with regard thereto.
 - (ii) any space used exclusively for the working of the helm, the capstan, and the anchor gear, or for keeping the charts, signals, and other instruments of navigation, and boatswains stores; and
 - (iii) the space occupied by the donkey engine and boiler, if connected with the main pumps of the ship ; and
 - (b) In the case of a ship wholly propelled by sails, any space set apart and used exclusively for the storage of sails:

(2) The deductions allowed under this section, other than a deduction for a space occupied by seamen or apprentices, and certified as aforesaid, shall be subject to the following provisions, namely:—

- (a) The space deducted must be certified by a surveyor of ships as reasonable in extent and properly and efficiently constructed for the purpose for which it is intended ;
- (b) There must be permanently marked in or over every such space a notice stating the purpose to which it is to be applied, and that whilst so applied it is to be deducted from the tonnage of the ship;
- (c) The deduction on account of space for storage of sails must not exceed two and a half per cent. of the tonnage of the ship.

80 Provisions as to deductions in case of certain steamships.

In the case of a screw steamship which, on the twenty-sixth day of August, one thousand eight hundred and eighty-nine, had an engine-room allowance of thirty-two per cent. of the gross tonnage of the ship, and in which any crew space on deck has not been included in the gross tonnage, whether its contents have been deducted therefrom or not, the crew space shall, on the application of the owner of the ship, or by direction of the Board of Trade, be measured and its contents ascertained and added to the register tonnage of the ship ; and if it appears that with that addition to the tonnage the engine room does not occupy more than thirteen per cent. of the tonnage of the ship, the existing allowance for engine room of thirty-two per cent. of the tonnage shall be continued.

81 Measurement of ships with double bottoms for water ballast.

In the case of a ship constructed with a double bottom for water ballast, if the space between the inner and outer plating thereof is certified by a surveyor of ships to be not available for the carriage of cargo, stores, or fuel, then the depth required by the provisions of Rule I. relating to the measurement of transverse areas shall be taken to be the upper side of the inner plating of the double bottom, and that upper side shall, for the purposes of measurement, be deemed to represent the floor timber referred to in that Rule.

82 Tonnage once ascertained to be the tonnage of ship.

Whenever the tonnage of any ship has been ascertained and registered in accordance with the tonnage regulations of this Act, the same shall thenceforth be deemed to be the tonnage of the ship, and shall be repeated in every subsequent registry thereof, unless any alteration is made in the form or capacity of the ship, or unless it is discovered that the tonnage of the ship has been erroneously computed; and in either of those cases the ship shall be re-measured, and her tonnage determined and registered according to the tonnage regulations of this Act.

83 Fees for measurement.

Such fees as the Board of Trade determine shall be paid in respect of the measurement of a ship's tonnage not exceeding those specified in the Third Schedule to this Act, and those fees shall be paid into the Mercantile Marine Fund.

84 Tonnage of ships of foreign countries adopting tonnage regulations.

- (1) Whenever it appears to Her Majesty the Queen in Council that the tonnage regulations of this Act have been adopted by any foreign country, and are in force there, Her Majesty in Council may order that the ships of that country shall, without being re-measured in Her Majesty's dominions, be deemed to be of the tonnage denoted in their certificates of registry or other national papers, in the same manner, to the same extent, and for the same purposes as the tonnage denoted in the certificate of registry of a British ship is deemed to be the tonnage of that ship.
- (2) Her Majesty in Council may limit the time during which the Order is to remain in operation, and make the Order subject to such conditions and qualifications (if any) as Her Majesty may deem expedient, and the operation of the Order shall be limited and modified accordingly.
- (3) If it is made to appear to Her Majesty that the tonnage of any foreign ship, as measured by the rules of the country to which she belongs, materially differs from that which would be her tonnage if measured under this Act, Her Majesty in Council may order that, notwithstanding any Order in Council for the time being 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 this Act.

85 Space occupied by deck cargo to be liable to dues.

- (1) If any ship, British or foreign, other than a home trade ship as defined by this Act, carries as deck cargo, that is to say, in any uncovered space upon deck, or in any covered space not included in the cubical contents forming the ship's registered tonnage, timber, stores, or other goods, all dues payable on the ship's tonnage shall be payable as if there were added to the ship's registered tonnage the tonnage of the space occupied by those goods at the time at which the dues become payable.
- (2) The space so occupied shall be deemed to be the space limited by the area occupied by the goods and by straight lines enclosing a rectangular space sufficient to include the goods.
- (3) The tonnage of the space shall be ascertained by an officer of the Board of Trade or of Customs in manner directed as to the measurement of poops or other closed-in spaces by Rule I. in the Second Schedule to this Act, and when so ascertained shall be entered by him in the ship's official log-book, and also in a memorandum which he shall deliver to the master, and the master shall, when the said dues are demanded, produce that memorandum in like manner as if it were the certificate of registry, or, in the case of a foreign ship, the document equivalent to a certificate of registry, and in default shall be liable to the same penalty as if he had failed to produce the said certificate or document.
- (4) Nothing in this section shall apply to any ship employed exclusively in trading or going from place to place in any river or inland water of which the whole or part is in any British possession, or to deck cargo carried by a ship while engaged in the coasting trade of any British possession.

86 Surveyors and regulations for measurement of ships.

All duties in relation to the survey and measurement of ships shall be performed by surveyors of ships under this Act in accordance with regulations made by the Board of Trade.

87 Levy of tonnage rates under Local Acts on the registered tonnage.

Any persons having power to levy tonnage rates on ships may, if they think fit, with the consent of the Board of Trade, levy those tonnage rates upon the registered tonnage of the ships as determined by the tonnage regulations of this Act, notwithstanding that any local Act under which those rates are levied provides for levying the same upon some different system of tonnage measurement.

*Ports of Registry in Place under Foreign Jurisdiction Act.***88 Foreign ports of registry.**

Where, in accordance with the Foreign Jurisdiction Act, 1890, Her Majesty exercises jurisdiction within any port, it shall be lawful for Her Majesty, by Order in Council, to declare that port a port of registry, and by the same or any subsequent Order in Council to declare the description of persons who are to be registrars of British ships at that port of registry, and to make regulations with respect to the registry of British ships thereat.

*Registry in Colonies.***89 Powers of governors in colonies.**

In every British possession the governor of the possession shall occupy the place of the Commissioners of Customs with regard to the performance of anything relating to the registry of a ship or of any interest in a ship registered in that possession, and shall have power to approve a port within the possession for the registry of ships.

90 Terminable certificates of registry for small ships in colonies.

- (1) The governor of a British possession may, with the approval of a Secretary of State, make regulations providing that, on an application for the registry under this Act in that possession of any ship which does not exceed sixty tons burden, the registrar may grant, in lieu of a certificate of registry as required by this Act, a certificate of registry to be terminable at the end of six months or any longer period from the granting thereof, and all certificates of registry granted under any such regulations shall be in such form and have effect subject to such conditions as the regulations provide.
- (2) Any ship to which a certificate is granted under any such regulations shall, while that certificate is in force, and in relation to all things done or omitted during that period, be deemed to be a registered British ship.

Application of Part I.

91 Application of Part I.

This Part of this Act shall apply to the whole of Her Majesty's dominions, and to all places where Her Majesty has jurisdiction.