

*Article 6.* Les bâtiments de mer, d'une jauge brute inférieure à cent tonneaux sont exemptés des formalités de khmérisation.

*Article 8.* Tout navire doit être immatriculé sur un registre spécial du port d'attache. Il doit être pourvu, en même temps que son immatriculation, d'un signal distinctif conforme aux dispositions internationales.

## 7. Canada

### CANADA SHIPPING ACT, 1934.<sup>1</sup>

#### PART I. RECORDING, REGISTERING AND LICENSING

##### *Recording vessels*

3. (1) Every vessel that is about to be built or is being built or equipped in Canada, and when completed will be a ship registrable in Canada, may be recorded, pending registration, under an assigned number and a temporary name in the office of the registrar of ships at the port in Canada at or nearest to which such vessel is about to be built or is being built or equipped.

(2) On the recording of any such vessel, (which, after recording, is hereinafter termed a recorded vessel) and as a condition precedent thereto, the owner thereof shall deliver to such registrar, in compliance with Form C, in the Eleventh Schedule, a written and signed description of such vessel and a statement of the port in Canada at which it is intended to be registered. 1934, c. 44, s. 3; 1950, c. 26, s. 3.

##### *Registering ships*

6. 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 or persons recognized by law throughout Her Majesty's dominions as having the status of natural born British subjects;

(b) Persons naturalized by or in pursuance of the law of some part of Her Majesty's dominions;

(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;

but any person who either

(i) Being a natural born British subject or being recognized as aforesaid as having the status of 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; is not qualified to be the 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

<sup>1</sup> Chapter 29 of the Revised Statutes of Canada, 1952, amended by Chapter 20, 1-2 Elizabeth II, 1952-53.

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. 1934, c. 44, s. 6.

7. (1) Notwithstanding that an unregistered ship is owned wholly by persons qualified to be owners of British ships, that ship (unless she is exempted from registration or is not required to be registered by this Act or by the law of the port, whether in or out of Canada, to which she belongs) shall not be recognized in Canada, or for the purposes of this Act, as being entitled to the rights and privileges which heretofore have been or hereafter shall be accorded to British ships registered in any part of Her Majesty's dominions.

(2) Every British ship that is owned wholly by persons qualified to be owners of British ships and is not registered out of Canada may be registered in Canada.

(3) Every British ship that is so owned by persons so qualified a majority whereof, either in number or in extent of ownership, are residents of Canada, and every British ship that being so owned by persons so qualified, is, as to its management and use, principally controlled in Canada, shall, unless she is registered out of Canada, be registered in Canada.

(4) Any ship whatever may be detained until the master of the ship, if so required, produces the certificate of registry of the ship. 1934, c. 44, s. 7.

8. Ships not exceeding ten tons register tonnage employed solely in navigation on the lakes, rivers or coasts of Canada and pleasure yachts not exceeding ten tons register tonnage wherever employed or operated are exempted from registry under this Act. 1948, c. 35, s. 2.

#### *Procedure for Canadian registration of British ships*

17. (1) 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.

(2) The first registration of a recorded vessel as a ship shall be made by the registrar in whose office the vessel is recorded; such registrar shall, upon such registration, if required, change the temporary name of such vessel and register it as a ship under its changed name; he shall also transfer from his record book to his register book and register in such register book, as if mortgages made or granted after the registration of such vessel as a ship, all builder's mortgages relating to such vessel which have been recorded in his record book and according to that record remain undischarged; he shall so register such builder's mortgages in the order and according to the priority in which they were entered of record in such record book and they shall so (and as fully as if they and each of them were mortgages made or granted in their recorded order and priority after the registration of such vessel as a ship) have effect. 1934, c. 44, s. 17.

20. No registrar shall register any ship purchased or otherwise acquired from a foreign subject or corporation where any bill of sale or other document under or by virtue of which the ship became vested in the applicant for registry contains any provision express, implied or constructive, restricting the use of the vessel or imputing any measure of continued control thereof by the Government of a foreign country. 1934, c. 44, s. 20.

21. (1) Where in the opinion of the Minister any person who applies to be registered as owner of a ship has not sufficient assets in Canada, other than the ship itself, to reimburse Her Majesty for any expenses Her Majesty may subsequently incur in connection with such ship, her master or a member of her crew, the Minister may prohibit a registrar from registering such person as owner until security for such expenses, in such form and such amount as the Minister may decide, has been furnished.

(2) Where no security is given under subsection (1) or where, in the opinion of the Minister, the security given under subsection (1) is not sufficient, the Minister may, by notice in writing, order the registered owner of a ship to furnish security or additional security, as the case may be, in such form and such amount as the Minister may decide, and an officer of Customs at any port in Canada may detain the ship until the security or additional security is furnished. 1934, c. 44, s. 21; 1950, c. 26, s. 4.

22. Notwithstanding anything in this Part a ship built outside of Canada shall not, without the consent of the Minister, be registered in Canada. 1950, c. 26, s. 5.

#### *Certificate of registry*

23. (1) 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.

(2) Every Canadian ship registered on the 1st day of August, 1936, shall be deemed to be registered under the provisions of this Act. 1934, c. 44, s. 22; 1950, c. 26, s. 2.

27. (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) Where the port at which the ship is at the time of the event, or first arrives after the event, is not in Canada but has a British registrar or consular officer 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 British registrar or consular officer, as the case may be, may 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 Canada 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 is liable to a fine not exceeding two hundred and fifty dollars. 1934, c. 44, s. 26; 1950, c. 26, s. 2.

36. (1) Where at a port not within Her Majesty's dominions and not being a port of registry established by Order in Council under the *Merchant Shipping Acts*, a ship becomes the property of persons qualified to own a British ship and such persons declare to him an intent to apply to have her registered in Canada, the 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 Minister.

(2) Such a provisional certificate has 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 in Canada where there is a registrar (whichever first happens), and on either of those events happening ceases to have effect. 1934, c. 44, s. 35; 1950, c. 26, s. 2.

37. Where it appears to the Minister 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 Canada to any other port within Her Majesty's dominions, the Minister may grant a pass accordingly, and that pass, for the time and within the limits therein mentioned, has the same effect as a certificate of registry. 1934, c. 44, s. 36.

#### *Transfers and transmissions*

38. (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.

39. Where a registered ship or a share therein is transferred, the transferee is not entitled to be registered as owner thereof until he, or, in the case of a corporation, the person authorized 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. 1934, c. 44, s. 38.

42. (1) Where the property in a Canadian ship or share therein is transmitted on marriage, death, bankruptcy, or otherwise to a person not qualified to own a British ship the Admiralty Court 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.

*National character and flag*

86. (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. 1934, c. 44, s. 84.

87. (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 is 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. 1934, c. 44, s. 85.

88. If the master or owner of a Canadian 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 the law of Canada or of any other part of Her Majesty's dominions 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 is subject to forfeiture under this Act; and the master, if he commits or is privy to the commission of the offence, is in respect of each contravention of this section guilty of an indictable offence. 1934, c. 44, s. 86; 1950, c. 26, s. 2.

89. If an unqualified person acquires as owner, otherwise than by such transmission as hereinbefore provided for, any interest either legal or beneficial, in a ship using a British flag and assuming the British national character, that interest is subject to forfeiture under this Act. 1934, c. 44, s. 87.

90. Where it is declared by this Act that a British ship shall not be recognized as a British ship, that ship is not 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 recognized British ship. 1934, c. 44, s. 88.

91. (1) The red ensign usually worn by merchant ships, with the shield of the Coat of Arms of Canada in the fly, is hereby declared to be the proper national colours for all Canadian ships and all ships and boats that would be registered in Canada if they were required to be registered at all, belonging to any British subject resident in Canada, except in the case of any ship or boat for the time being allowed to wear any other national colours in pursuance of a warrant from Her Majesty or under regulations which may be made by the Governor in Council.

(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 registered in Canada or belonging to any British subject resident in Canada without warrant from Her Majesty or under the aforesaid regulations, 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, are for each offence liable to a fine not exceeding twenty-five hundred dollars.

(3) Any commissioned officer on full pay in the naval, army or air service of Canada or in the naval, army or air service of Her Majesty or any officer of Customs in Her Majesty's dominions, or any consular officer, may board any ship or boat registered in Canada or owned by any resident of Canada 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 Admiralty Court.

(5) Any offence mentioned in this section may also be prosecuted, and the fine for it recovered, summarily, but where any such offence is prosecuted summarily, the court imposing the fine shall not impose a higher fine than five hundred dollars.

(6) Nothing in this section authorizes the imposition of more than one fine in respect of the same offence. 1934, c. 44, s. 89; 1950, c. 26, s. 2.

92. (1) A Canadian ship or a ship belonging to a British subject resident in Canada shall hoist the proper national colours

(a) On a signal being made to her by one of Her Majesty's ships or any ship in the service of and belonging to the Government of Canada,

(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 is for each offence liable to a fine not exceeding five hundred dollars. 1934, c. 44, s. 90; 1950, c. 26, s. 2.

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## 8. Ceylon

MERCHANT SHIPPING ACT, 1894.<sup>1</sup>

## 9. Chile

(a) COMMERCIAL CODE, 23 NOVEMBER 1865.<sup>2</sup>

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*Article 827.* A ship shall not be classed as a Chilean ship unless it has been registered in accordance with the provisions of the Shipping Act.

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<sup>1</sup> See *infra* under United Kingdom.

<sup>2</sup> *Códigos de la República de Chile*, vol. III (1945), p. 187. Translation by the Secretariat of the United Nations.