

Article 20. If the owner for a special reason so desires, the Shipping Registrar may issue to a ship domiciled in Iceland a pass to ply between Icelandic ports before registration, and such a pass shall have in Iceland the effect of a nationality and registration certificate.

Where the Registry has received documents submitted for the registration of a ship required to proceed abroad immediately but, because of some defect therein, the ship cannot be registered immediately, the Shipping Registrar may issue for the ship a provisional nationality certificate which shall contain all the particulars mentioned in article 4, paragraphs 1-5. Such a certificate shall be valid for a period not exceeding two years, which the Registrar may extend if special circumstances prevent registration of the ship. . .

29. India

(a) MERCHANT SHIPPING ACT, 1894.¹

(b) ACT NO. X OF 5 JULY 1841.²

An Act for prescribing the rules to be observed in order that ships or vessels belonging to ports within the territories [of India], may become entitled to the privileges of British ships under a proclamation of the Governor General of India in Council made in pursuance of the Statute 3rd and 4th Victoria, Ch. 56.

[As modified up to the *1st January, 1951.*]

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Ships to be registered. It is hereby enacted that no ship or vessel shall be deemed a British ship under [the Proclamation of the Governor General of India in Council made in pursuance of the Statute 3rd and 4th Victoria, Ch. 56] (except as regards ships or vessels registered before the passing of this Act, or having a pass at the time of passing thereof) unless the person or persons claiming property therein shall have caused the same to have been registered at some one of the ports hereinafter mentioned * * * and shall have obtained a certificate of such registry from the person or persons authorized to make such registry and grant such certificate as hereinafter directed, the form of which certificate shall be as follows—

2. *Ports of registry.* * * * The ports at which registration shall be made shall be the ports of Calcutta, Madras, Bombay and such other places [in (India) as the Central Government] may, from time to time, declare to be registering ports under this Act:

Provided that ships or vessels built at any place other than any of such ports shall be allowed to make their first voyage to any of such ports, being the ports at which it is intended they shall be registered under a certificate to be granted by the [officer authorised by the Central Government in this behalf] at the place where the ship is built, or if there be no [such

¹ Part I of this Act is applicable in India, according to information received by the Secretariat in a letter from the Ministry for External Affairs of India dated 11 October 1954. For the text of this Act see *infra* under United Kingdom.

² Text of Act provided by the Ministry for External Affairs of India.

officer] there, then by three merchants of such place, which certificate shall contain all the particulars with regard to the ownership and description of the ships or vessels contained in a certificate of registry, and shall specify the ports at which it is intended that they shall respectively be registered, and which certificate shall have all the effect of a certificate of registry under this Act, during the first voyage from the place of building to the ports at which the ships or vessels respectively shall be afterwards registered:

Provided that such ships or vessels so proceeding on their first voyage as aforesaid shall be deemed British ships only whilst duly prosecuting such first voyage for the purpose of registry, and, if they be not registered within a reasonable time after their arrival at the port of registry, the owner or owners, or master or other person having or taking the command or charge of such ship or vessel, shall be liable, [on conviction before a Presidency Magistrate or a Magistrate of the first class,] to a penalty not exceeding five thousand rupees.

3. *Registrars.* * * * The persons authorized to make such registry, and to grant such certificate as aforesaid, shall be [such persons] as the [Central Government] may, from time to time, appoint * * *.

4. *Book of registry.* * * * At every port where registry shall be made in pursuance of this Act a book shall be kept by the registering-officer, in which all the particulars contained in the form of the certificate of the registry hereinbefore directed to be used shall be duly entered; and every registry shall be numbered in progression, beginning such progressive numeration at the commencement of each and every year. And such registering-officer shall forthwith, or within one month at the furthest, send to [the Central Government] a true and exact copy, together with the number of every certificate which shall be by him so granted.

21. *Registration de novo.* * * If any ship or vessel, after she shall have been registered pursuant to the directions of this Act, shall in any manner whatever be altered so as not to correspond with all the particulars contained in the certificate of her registry, or if any alteration shall take place in the ownership of any ship or vessel, or of any share or shares thereof, in such cases such ship or vessel shall be registered *de novo* in manner hereinbefore required as soon as she returns to the port to which she belongs, or to any other port within [India] on failure whereof such ship or vessel shall be deemed to be a ship or vessel not duly registered, and any person making use of a certificate for the purposes of any ship or vessel which has been granted in respect of the same, after the same ought to have been registered *de novo*, shall be liable on conviction before any Justice to a penalty not exceeding five thousand rupees recoverable as aforesaid.

26. *Ports to which ships belong.* * * * All ships or vessels registered under this Act shall be deemed to belong to the ports at which they shall be respectively registered. And all ships or vessels being registered or in respect of which passes may have been granted which are unexpired at the time of passing this Act shall for the purpose of being deemed British ships be deemed to belong to the ports at which they may have been registered, or, when passes shall have been granted which are unexpired, at which such passes may have been respectively granted. And such ships or vessels built

and owned as required by the Statute 3 and 4, Vict., Ch. 56, shall continue subject to all the rules in force at the respective Presidencies before the passing of this Act touching the registering, measurement, granting passes or other requisitions in respect of the same, and shall not be subject to the provisions of this Act, or any provisions of the Statute law, a compliance with which may heretofore have been necessary in order that ships or vessels built and owned as aforesaid might be deemed British ships for the purposes of trade.

27. [*Definition of "Local Government"*]. *Rep. by the A. O.* 1937.

PROCLAMATION

The Governor General of India in Council hereby declares that all ships and vessels built or to be built within the limits of the Charter of the East India Company (as those limits are defined by the Statute 3rd and 4th of Queen Victoria, Cap. 56 entitled "An Act further to regulate the trade of ships built and trading within the limits of the East India Company's Charter"), being owned by Her Majesty's subjects for whom the said Governor General in Council has power to legislate, and belonging, under the provisions of the Act passed by the Governor General in Council No. X of 1841, to any ports in the territories under the Government of the East India Company, shall be deemed to be British ships for all purposes of trade within the said limits, including the Cape of Good Hope and the territories and dependencies thereof.

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(c) MERCHANT SHIPPING LAWS (EXTENSION TO ACCEDING STATES AMENDMENT) ACT, No. XVIII OF 1949.¹

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6. Proper national colours for ships registered in, or owned by persons domiciled in, or bodies corporate established in India.—(1) The Central Government may, by notification in the Official Gazette, declare what shall be proper national colours for all ships registered in India, and for all vessels which are not registered in any British possession but are owned exclusively by persons domiciled in India or by bodies corporate established in India, and thereupon the colours so declared shall, in relation to all such ships and vessels, be the proper national colours for the purposes of section 73 and 74 of the Merchant Shipping Act, 1894 (57 and 58 Vict., c. 60), and any person hoisting on board any such ship or vessel any distinctive national colours, other than the proper national colour hereby so declared, shall be punishable with the penalty prescribed in sub-section (2) of section 73 of that Act.

(2) The Central Government may, by notification in the Official Gazette, exempt any ship or vessel or any class of ships or vessels from the operation of this section.

. . .

(d) NOTIFICATION OF THE GOVERNMENT OF INDIA, 22 JANUARY 1952.²

MERCHANT SHIPPING

No. 73-M.A. (2)/49.—In exercise of the powers conferred by section 6 of the Merchant Shipping Laws (Extension to Acceding States and Amend-

¹ Text of Act provided by the Ministry for External Affairs of India.

² Text of Notification provided by the Ministry for External Affairs of India.

ment) Act, 1949 (XVIII of 1949), the Central Government hereby declares that, except as hereinafter provided, a Red Ensign consisting of a red flag with a width one-half of its length and the National Flag of India superimposed in the top quarter next to the staff, shall, with effect from the 1st March 1952, be the proper national colours for all ships registered in India, and for all vessels which are not registered in any British Possession but are owned exclusively by persons domiciled in India or by bodies corporate established in India.

Provided that a Blue Ensign consisting of a royal blue flag, the width being one-half of the length and the National Flag of India superimposed in the top quarter next to the staff shall be the proper national colours for such ships and vessels as aforesaid which comply with the Regulations annexed hereto and which are authorised by the Commander-in-Chief, Indian Navy, by Warrant under his hand to wear such Blue Ensign.

2. The Notification of the Government of India in the late Ministry of Commerce, No. 73-MI(2) 47 dated the 24th December 1949, shall stand superseded with effect from the 1st March, 1952.

REGULATIONS

Indian Merchant Ships will be allowed to wear the Indian Blue Ensign, plain and undefaced, when the following conditions are fulfilled:

(a) The Officer commanding the ship must be an officer on the retired or emergency list of the Indian Navy or an Officer of the Indian Naval Reserve.

(b) The crew must include (in addition to the Commanding Officer) Officers and men of the Indian Naval Reserve, to the number specified from time to time by Naval Headquarters, but officers on their retired or emergency list of the Indian Navy may be included in the number specified.

(c) Before hoisting the Blue Ensign, the Officer commanding the ship must be provided with a Naval Headquarters Warrant.

(d) The fact that the Commanding Officer holds a Warrant authorising him to hoist the Blue Ensign must be noted on the ship's Articles of Agreement.

2. *Failure to fulfil conditions.* Commanding Officers failing to fulfil any of the above conditions, unless such failure is due to death or other circumstances over which they have no control, will no longer be entitled to fly the Blue Ensign.

3. *Subsidized merchant ships.* Indian merchant ships in receipt of Ministry of Defence (Navy) subvention and exclusively in their service will be allowed to wear the Blue Ensign under Naval Headquarters Warrant with any badge that may be prescribed in the Warrant.

4. In order to ascertain that the above conditions are strictly carried out, the Captain of one of the Indian Navy's ships meeting a ship wearing the Blue Ensign may send on board an officer not below the rank of Lieutenant at any convenient opportunity. This restriction as to the rank of the boarding officer in no way limits or otherwise affects the authority or the duties of Naval Officers under Merchant Shipping Acts or in time of war.

5. Applications for permission to wear the Blue Ensign in Indian merchant ships employed exclusively under the orders of the Ministry of Defence (Navy) should be made direct to the Naval Headquarters by the

owners, and for other Indian merchant ships applications should be made through the Director General of Shipping, Bombay.

30. Ireland

(a) MERCHANT SHIPPING ACT, 1894.¹

Note. This Act continues to be in force in the Republic of Ireland in conformity with Article 73 of the Constitution of 1922 and Article 50 of the Constitution of 1937.

(b) NATIONALITY AND CITIZENSHIP [No. 13] ACT, 1935.²

MUTUAL CITIZENSHIP RIGHTS BETWEEN SAORSTÁT EIREANN AND OTHER COUNTRIES

23... (5) Nothing in this section or any order made under this section shall operate—

(c) To entitle any person to become or be the owner of a ship or of a share in a ship registered in Saorstát Eireann and having the status of a ship registered under the Merchant Shipping Act, 1894, unless such person is a citizen of a country between which and Saorstát Eireann or between the Government of which and the Government of Saorstát Eireann a convention exists and is in force by virtue of which citizens of such country are entitled to own any such ship or a share in any such ship as aforesaid.

(c) MERCHANT SHIPPING ACT NO. 46 OF 23 DECEMBER 1947.³

An act to re-enact certain provisions relating to ships made by orders under the Emergency Powers Acts, 1939 to 1945, to provide for giving effect to certain international agreements or conventions relating to ships and to amend and extend the Merchant Shipping Acts, 1894 to 1939.

1.—In this Act—

the expression “Irish ship” means

(a) A ship which is registered in the State under the Principal Act, or

(b) A ship of which the owner is one or more than one Irish citizen and which is neither registered in the State under the Principal Act nor registered under the law of any other State;

the expression “the Minister” means the Minister for Industry and Commerce;

the expression “the Principal Act” means the Merchant Shipping Act, 1894.

¹ See *infra* under United Kingdom.

² Text of Act provided by the Ministry for External Affairs of Ireland.

³ *The Act of the Oireachtas passed in the year 1947*, p. 943.