

## CHAPTER V. CHANGE OF FLAG AND CANCELLATION OF REGISTRATION

*Article 342. (Sale by court order of ships and shares therein owned by aliens)* Participation in the sale by court order of shares in a ship as provided in article 158, last paragraph, and article 159, last paragraph, of the Code shall be limited to Italian citizens, Italian public bodies, Italian companies or bodies authorized under article 143 of the Code, and aliens or companies granted equal status under article 144 of the Code.

*Article 345. (Cancellation of registration)* The registration of a large ship in a register or of a small ship or a vessel in a list shall be cancelled in a case of—

- (1) Actual or presumed loss, evidenced by a report drawn up by the mercantile marine authority or the consular authority;
- (2) Dismantling, evidenced by a report thereof;
- (3) Loss of the qualifications for nationality, confirmed by a change of flag certificate;
- (4) Transfer to another register or list, evidenced by a communication from the competent authority that a new registration has been effected.

### 33. Japan

#### (a) SHIPPING ACT OF 1899, AMENDED TO 1954.<sup>1</sup>

*Article 1.* The following ships are Japanese ships:

- (1) Ships owned by the Japanese Government or a public office;
- (2) Ships owned by Japanese subjects;
- (3) Ships owned by commercial corporations with their head offices in Japan, where all the partners in the case of an unlimited partnership (Gomei-Kaisha), all the partners with unlimited liability in the case of a commandite partnership (Goshi-Kaisha), and all the directors in the case of a joint-stock company (Kabushiki-Kaisha) or a limited liability company (Yugen-Kaisha) are Japanese subjects;
- (4) Ships owned by a corporate body which has its head office in Japan and of which all representatives are Japanese subjects.

*Article 2.* Only a Japanese ship may wear the Japanese national flag.

*Article 3.* Only a Japanese ship may call at a non-open port or transport goods or passengers between Japanese ports, except as otherwise provided by statute or treaty, or to avoid shipwreck or capture, or by leave of the competent Minister.

*Article 4.* The owner of a Japanese ship shall designate its port of register in Japan and apply to the shipping authority for that port of register to gauge the ship.

3. An owner intending to navigate a ship acquired in a foreign port may apply to the Japanese consular or commercial authority to gauge the ship.

*Article 5.* The owner of a Japanese ship shall, after registering title to the ship, have an entry thereof made in the shipping register kept at the office of the shipping authority for its port of register.

<sup>1</sup> Act No. 46, 8 March 1899, as amended by successive Acts. Based on consolidated English text received from the Ministry of Transport of the Japanese Government, 1954.

2. When the said entry has been made, the shipping authority shall issue a certificate of nationality for the ship.

*Article 5-(2).* The owner of a Japanese ship shall, within the time limit determined by the competent Minister, submit the certificate of nationality of the ship to the shipping authority for its port of register (or, if it is urgently necessary for the ship to sail, then to the nearest shipping authority) for attestation.

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*Article 6.* Unless otherwise provided by statute or regulation, no Japanese ship may wear the Japanese national flag or be operated before the certificate of nationality or the provisional certificate of nationality of the ship has been applied for and obtained.

*Article 6-(2).* Where title to a ship registered in accordance with the provisions of article 5, paragraph 1, is transferred, the new owner shall not operate the ship unless he has applied for the certificate of nationality of the ship to be re-issued; but this provision shall not apply until the expiry of two weeks after the date on which he received notice of the fact.

*Article 7.* Japanese ships shall wear the Japanese national flag and indicate their names, ports of register, numbers, tonnage, load-lines and other particulars in accordance with statute and regulation.

*Article 8.* The name of a Japanese ship shall not be altered without permission of the shipping authority for its port of registry.

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*Article 13.* Where the certificate of nationality of a Japanese ship anchored in a foreign port has been lost or damaged, or any alteration has taken place in the particulars stated therein, the master of the ship may apply for and obtain in that port a provisional certificate of nationality for the ship.

2. If the event mentioned in the preceding paragraph has taken place during the voyage of a Japanese ship abroad, the master of the ship may apply for and obtain a provisional certificate of nationality at the first port of call.

3. Where a provisional certificate of nationality for the ship cannot be obtained in accordance with the provisions of the preceding two paragraphs, the master of the ship may apply for and obtain it at the next port of call.

*Article 14.* Where a Japanese ship has been lost, sunk or scrapped, or has lost Japanese nationality, . . . the owner shall, within two weeks from the day on which he receives notice of the fact, cause the ship's registration to be cancelled, and shall return the certificate of nationality of the ship without delay. The same shall apply where six months pass without news whether the ship exists or not.

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*Article 15.* Where a person who has acquired a ship in Japan does not designate its port of register within the jurisdictional area of the shipping authority for the place of acquisition, he may apply for and obtain a provisional certificate of nationality for the ship at the place where the office of the authority is situated.

*Article 16.* A person who has acquired a ship abroad may apply for and obtain a provisional certificate of nationality for the ship at the place of acquisition.

The provisions of article 13, paragraph 3, shall apply as appropriate to the case mentioned in the preceding paragraph.

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*Article 22.* The master of a ship other than a Japanese ship which wears the Japanese national flag with intent to misrepresent its nationality, or has been registered with a certificate of nationality or provisional certificate of nationality of a Japanese ship, shall be liable to penal servitude not exceeding two years or to a fine not exceeding one hundred thousand yen and, if he is also the owner, to confiscation of the ship.

2. The preceding paragraph shall not apply where a ship has worn the Japanese national flag for the purpose of evading capture.

3. The two preceding paragraphs shall apply where a Japanese ship wears a flag other than the Japanese national flag with intent to misrepresent its nationality.

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*Article 32.* The functions of shipping authorities shall be exercised abroad by Japanese consular or commercial authorities.

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*Article 37.* Where the owner of a ship which has obtained and is in possession of a vessel's registration certificate or licence at the entry of this Act into force is obliged to apply for and obtain a certificate of nationality for the ship in accordance with the provisions of this Act, he shall have an entry made in the register as provided for by Ordinance and may then apply for and obtain a certificate of nationality for the ship.

2. A vessel's registration certificate or licence shall have the same effect as a ship's certificate of nationality until a certificate of nationality is applied for and obtained for the ship in accordance with the provisions of the preceding paragraph.

*Article 38.* Where the owner of a vessel in possession of a vessel's provisional registration certificate at the entry into force of this Act is obliged to apply for and obtain a certificate of nationality for the ship in accordance with the provisions of this Act, the provisional registration certificate shall have the same effect as a provisional certificate of nationality until its expiry, but not after the ship has arrived at its port of register. After the provisional registration certificate has expired, the master of the ship may in case of necessity apply for and obtain a provisional certificate of nationality for the ship.

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(b) ORDINANCE NO. 24 OF 12 JUNE 1899 (AS AMENDED).<sup>1</sup>

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*Article 4.* A ship may sail by leave of the nearest shipping authority before the issue of its certificate of nationality or provisional certificate of nationality—

<sup>1</sup> Based on English text received from the Ministry of Transport of the Japanese Government, 1954.

- (a) To run trials;
- (b) For survey;
- (c) For other good and sufficient reason.

Where a shipping authority gives leave as aforesaid, except in a case to which item (a) applies, it shall issue a navigation certificate [in the prescribed form].

*Article 5.* The national flag may be worn by a ship before the issue to it of a certificate of nationality or a provisional certificate of nationality—

- (a) On a national holiday or a festival; but, where the holiday or festival is that of a foreign country, only in a port of that country;
- (b) For other complimentary or saluting purposes;
- (c) On launching;
- (d) Where the ship sails in accordance with article 4.

### 34. Korea

#### (a) SHIPPING ORDINANCE OF 7 APRIL 1914.<sup>1</sup>

*Article 1.* The following ships shall be ships of Korean nationality in accordance with this Ordinance:

- (a) Ships owned by the Government or a public office;
- (b) Ships owned by Korean nationals resident in Korea;
- (c) Ships owned by a firm of any of the following classes having its head office in Korea:
  - (1) An unlimited partnership of which all the partners are Korean nationals;
  - (2) A limited or commandite partnership of which all the partners with unlimited liability are Korean nationals;
  - (3) A joint-stock company or limited liability company of which all the directors are Korean nationals;
- (d) Ships owned by a corporate body which has its head office in Korea and of which all the representatives are Korean nationals.

#### (b) SHIPPING ACT OF 8 MARCH 1899.

*Article 5.* The owner of a Korean ship shall, after registering title to the ship, have an entry thereof made in the shipping register kept at the office of the shipping authority for its port of register.

When the said entry has been made, the shipping authority shall issue a certificate of nationality for the ship.

*Article 6.* Unless otherwise provided by statute or regulation no Korean ship may wear the national flag or be operated before the certificate of nationality or the provisional certificate of nationality has been issued.

*Article 7.* Korean ships shall wear the Korean national flag and indicate their names, ports of register, numbers, tonnage, load lines and other particulars in accordance with statute and regulation.

*Article 15.* Where a person who has acquired a ship in Korea does not designate its port of register within the jurisdictional area of the shipping

<sup>1</sup> This text and those of the other Korean enactments are based on English texts provided by the Ministry of Foreign Affairs of the Republic of Korea.