

48. Poland

ACT OF 28 MAY 1920 CONCERNING POLISH MERCHANT MARINE VESSELS. ¹

PART I.

Recognition of sea-going vessels as Polish merchant marine vessels

Article 1. Polish merchant marine vessels shall be deemed to mean any vessels navigating the seas for purposes of gain which are owned by the State, Polish nationals, or corporate bodies having their head offices in the territory of the Republic and in respect of which:

- (a) All stock-holdings or shares are nominal;
- (b) Aliens hold not more than 40 per cent of the nominal capital;
- (c) Aliens do not hold office in boards of management, supervision or control in excess of the proportion of their holding of the nominal capital and in addition are not personally liable in the case of limited share partnerships;
- (d) The principal executive (managing director) is a Polish national.

Article 2. A vessel shall also be deemed to be a Polish merchant marine vessel if at least three-fifths of the vessel is owned by the persons referred to in article 1, provided the joint owners' agent is a Polish national.

Article 3. Partnership concerns, the personally liable partners of which are not aliens shall have the rights enjoyed under this Act by Polish nationals; firms and partnerships which do not fulfil these requirements shall be treated on an equality with aliens.

Article 4. In evaluating the qualifications of individuals and corporate bodies (articles 1-3) in order to decide whether the vessels owned by them shall be recognized as Polish merchant marine vessels, persons of Polish racial origin who are not Polish nationals may be treated on an equality with citizens of the Republic. Aliens may be recognized as of Polish racial origin only with the consent of the Minister of Foreign Affairs.

Article 5. In addition to those provided for in other enactments, Polish merchant marine vessels shall have the following rights:

1. The exclusive right to carry on coasting trade (cabotage) in Polish territorial waters;
2. Inviolability *vis à vis* foreign vessels at sea, and extra-territorial rights in foreign waters and ports within the framework of international treaties, conventions and customs;
3. The right to enjoy the protection of the Polish naval authorities at sea and of Polish diplomatic and consular establishments abroad;
4. In war time, the rights deriving from neutrality, if such neutrality is proclaimed by the Government of Poland;
5. The right to State economic assistance under legislation specially promulgated for this purpose.

Article 6. In addition to the obligations laid down in other enactments, Polish merchant marine vessels shall be bound, in particular:

1. To fly at their sterns only the flag of the Polish mercantile marine;

¹ Text from *Dziennik Ustaw*, 1920, pp. 808-813. Translation by the Secretariat of the United Nations.

2. To man the vessels with Polish crews and to use the Polish language in keeping the ship's books and navigating the vessel. A Polish crew shall be deemed to mean a crew in which not less than three-quarters of the officers and seamen are nationals of the Polish State. Exceptions to this provision shall be allowed during the first five years after assent has been given to this Act, in accordance with the executive regulations.

Article 7. A maritime vessel shall forfeit the status of a Polish merchant marine vessel in the following cases:

1. If its ownership is transferred to an individual or corporate body which does not comply with the conditions laid down in articles 1-3;
2. If the membership of the company or partnership is changed in contravention of articles 1-3.

Article 8. If joint ownership of a vessel, as referred to in article 7, paragraph 2, has been changed against the wishes of the remaining joint owners, the vessel may, by decision of the registration office, continue to enjoy the status of a Polish vessel for the period required to buy back the part holding from the foreign nationals, but not for longer than one year from the occurrence of the event which led to the loss of status as a Polish vessel.

Article 9. The provisions of this Act shall also apply to ocean-going pleasure yachts, pilot vessels, larger fishing boats (over 50 cubic metres), tugs, lifeboats, training vessels for training merchant navy personnel, and vessels built in Poland for account of foreign States or their nationals, until such time as vessels in the latter category are registered by the competent foreign consul.

PART II

Registration of merchant vessels

Article 10. In order to certify the rights enjoyed by Polish merchant marine vessels, the vessels referred to in articles 1 and 9, with the exception of vessels with a gross capacity of under 50 square metres, shall be entered in a register.

Article 11. The register of merchant vessels shall be public and shall be available for perusal by interested persons, who may obtain for a fee, certified extracts from the register. The dues and costs of registration shall be borne by the parties concerned.

Article 12. Entries in the register shall comprise:

1. The date and serial number of registration of the vessel;
2. The name and classification of the vessel and the international identification signal;
3. The result of the official calculation of the vessel's measurement;
4. The date when and place where the vessel was built, if known;
5. An indication of the vessel's home port;
6. A detailed description of the owner of the vessel:

(a) In the case of individuals—the nationality, surnames, names and permanent addresses of the owner or joint owners, and the number of shares held by the various joint owners;

(b) in the case of corporate bodies—the name, head office, and place, date and number of the entry in the commercial register; nationality, names, surnames and permanent addresses of the partners who are person-

ally liable in firms and partnerships, and in other cases, the same information in respect of members of boards of directors;

7. The nationality, surnames, names and permanent addresses of the agent, if he has been appointed;

8. A declaration to the effect that all the conditions as regards nationality of the owner, joint owner, stock- or shareholders have been fulfilled;

9. Details of the title deeds of purchase of the vessel, or of the individual shares in the case of joint ownership.

Article 13. A vessel may be entered in the register only on proof of compliance with the terms of articles 1-4, after supplying all the information referred to in article 12 and depositing documents to prove that the vessel has been measured by the competent Polish authority.

Apart from the above, all the conditions referred to in articles 1-4, governing the grant to a vessel of the status of a Polish merchant vessel, shall be subject at all times to Government control. To this end, the authorities shall be entitled at all times to inspect correspondence, books, documents and any reports of maritime shipping enterprises, to investigate and verify the personnel situation and relative proportion of capital operative in the enterprises.

All this information shall, if so requested, be lodged with the registration office.

Article 14. No vessel which has been registered abroad may be registered in Poland.

The owner of a vessel purchased from foreign nationals must, when he applies for its registration in Poland, submit proof that the vessel has been struck off the foreign register.

Article 15. In the case of vessels purchased abroad from aliens, a certificate may be replaced by a provisional attestation from the Polish consul functioning abroad in the place where the vessel is lying at the time of the change of ownership (flag certificate). Such attestation may be issued for a period not exceeding one year from the date of issue. If the voyage cannot be completed within such period, the flag certificate may be prolonged for the necessary period by Polish consuls. The consul shall inform the registration office of the issue or prolongation of the attestation.

Article 16. Any owner of a vessel who is not resident in the Republic of Poland shall be bound to appoint an agent in Poland with power to carry out registration formalities and act for the principal in all matters relating to the ownership of the vessel.

Article 17. When the registry entry has been made, the owner of the vessel shall receive a registration document in the form of a ship's certificate. The ship's certificate and the certified extract from the register must always be kept on board the vessel.

Article 18. The certificate serves as proof:

1. That the information and documents required under articles 12 and 13 have been furnished;
2. That the vessel belongs to the Polish merchant navy;
3. That the vessel is entitled to fly the Polish merchant navy flag.

Article 19. When a vessel has been entered in the register, its name shall be inscribed on each side of the bow in indelible characters visible from a

distance, and the name of the vessel and its home port shall be similarly inscribed on the stern.

Article 20. Any subsequent changes in the information and legal details entered in the register must be declared and inserted in the register and as soon as possible thereafter endorsed on the ship's certificate.

The name of the vessel as chosen by the owner at the time of original registration may only be changed with the permission of the authorities.

Article 21. A vessel shall be struck off the register in the following cases:

1. If it is lost;
2. If it is considered to be unseaworthy;
3. If it loses the status of a Polish merchant marine vessel.

In the above cases the certificate must be cancelled and, if possible, withdrawn.

Article 22. The information to be entered in or deleted from the register under articles 12, 13, 20 and 21 shall be declared and proven:

(a) By the persons who, under article 12, paragraph 6, have to be entered in the register of merchant vessels;

(b) On behalf of corporate bodies, by their legal representatives;

(c) In the cases referred to in article 16, on behalf of the owner, by his agent;

(d) In the case of a change of ownership or joint ownership involving loss of the status of a Polish vessel, also by the person who has purchased the vessel or share therein.

Article 23. Any changes in or additions to the register must be declared by the persons liable therefor (Article 22) within six weeks from the date on which they learnt of the fact to be entered in the register. If there are several persons so liable, a declaration by one of these persons will suffice. The master shall also be deemed to be a person so liable, if his vessel is at the time lying in a port where there is a registration office.

49. Portugal

(a) SHIPPING ACT OF 8 JULY 1863.¹

PART I. NATIONALITY OF SHIPS: CONDITIONS OF GRANT OF NATIONALITY

Article 1. The nationality of a Portuguese merchant ship shall be determined by—

1. Its construction or origin;
2. Its owners or operators;
3. Its captain and officers;
4. Its company or crew.

Chapter I. Origin of ship

Article 2. A merchant ship shall be Portuguese only if built in Portugal.

Article 3. A foreign or foreign-built ship shall, however, be Portuguese for all purposes—

¹ *Collecção oficial de legislação portugieza*, 1863, pp. 279-280. Translation by the Secretariat of the United Nations.