

Article 12. If a ship is ascertained to be wrecked or beyond repair or to have ceased to be entitled to wear the Turkish flag, it shall be erased from the register and its certificate cancelled; and an announcement to that effect shall be published in a single issue of the Official Gazette.

Article 15. A ship in respect of which the registration procedure prescribed for ships in Turkish waters has been carried out but for which no ship's certificate has been obtained may not wear the Turkish flag.

57. Union of South Africa

MERCHANT SHIPPING ACT NO. 57 OF 1951.¹

CHAPTER II

Recording, registering and licensing of ships

20. (1) On the first registry of a ship in the Union the owner shall produce—

(a) A declaration of ownership, in the prescribed form;

(b) In the case of a ship built elsewhere than in the Union, a certificate signed by the builder and containing a true account of the size and dimensions and the tonnage of the ship as estimated by the said builder, and of the time when and the place where she was built, and of the name of the person on whose account she was built, unless the person who makes the declaration of ownership declares that the time and place of building are unknown to him, or that the builder's certificate cannot be obtained, in which case there shall be required only the deed of sale under which the ship became vested in the applicant for registry;

(c) If there has been any sale, the deed of sale under which the ship has been vested in the applicant for registry;

(d) In the case of a ship that has been forfeited, an official copy of the notice of forfeiture.

(2) The builder of a ship shall not within the Union refuse or omit upon request by the owner to grant the certificate required by this section.

(3) The proper officer may demand proof of ownership of the ship to his satisfaction before proceeding with the registry of the ship.

23. On completion of the registry of a ship, the proper officer shall grant a certificate of registry in the prescribed form, containing the particulars respecting the ship entered in the register in accordance with section *twenty-one* and stating the name of her master.

28. (1) Whenever a change occurs in the registered ownership of a South African ship, such change of ownership shall be endorsed on the certificate of registry by the proper officer at the ship's port of registry, or by the proper officer at any other port at which the ship arrives after such officer has been advised of the change by the proper officer at the ship's port of registry.

¹ Text of Act provided by the Permanent Delegation of the Union of South Africa.

(2) If a change of ownership of a South African ship occurs when the ship is at her port of registry, the master shall, for the purpose of endorsement in terms of sub-section (1), deliver the certificate of registry to the proper officer immediately after such change of ownership takes place, or upon the ship's return to that port, if the change occurs during the absence of the ship from that port and no endorsement in terms of sub-section (1) has been made by a proper officer at some other port.

(3) The proper officer at any port who is by this section required to make an endorsement on the certificate of registry of a South African ship, may require the master to produce such certificate forthwith.

29. (1) In the event of a South African ship being either actually or constructively lost, taken by the enemy, burnt or broken up, or ceasing to be a South African ship by reason of transfer to a person not qualified to own a South African ship or for any other cause, the registered owner of the ship or of any share in the ship shall immediately on obtaining knowledge of the event report the particulars thereof to the proper officer at the port of registry of the ship, who shall record such particulars in the register and the registry of the ship in that register shall be considered closed, except in respect of any unsatisfied mortgages or existing certificates of mortgage entered therein.

(2) In any such case, except where the ship's certificate of registry is lost or destroyed, the master of the ship shall immediately, if the event occurs in port, or within three days after his arrival in port, if it occurs elsewhere, deliver the certificate to the proper officer, and that officer shall forthwith forward the certificate to the proper officer at the port of registry of the ship.

(3) If the registry of a ship is considered closed in terms of sub-section (1) by reason of its transfer to a person not qualified to own a South African ship, and if the ship thereafter comes within the area of jurisdiction of any court in the Union or in any other part of the Commonwealth which has jurisdiction to give judgment upon any unsatisfied mortgage entered in the register, and to order that the ship be sold in execution of the judgment, or which would have had such jurisdiction if the transfer of the ship had not been made, the court may exercise such jurisdiction notwithstanding the transfer of the ship, without prejudice, in a case in which the ship has been sold under a judgment of a court, to the effect of that judgment.

(4) For the purposes of sub-section (1) a ship shall be deemed to be constructively lost if—

(a) She is reasonably abandoned on account of her actual total loss appearing to be unavoidable; or

(b) She cannot be preserved from actual total loss without an expenditure which would exceed her value when the expenditure had been incurred; or

(c) She has been so damaged that the cost of repairing the damage would exceed her value when repaired.

30. (1) If at a port outside the Union a ship becomes the property of a person qualified to own a South African ship, and if that person declares to the proper officer at that port that it is his intention to apply to have her registered in the Union, the proper officer may grant to the master of the ship, on application by him, a provisional certificate stating—

(a) The name of the ship;

(b) The time and place of her purchase, and the name and address of the purchaser;

(c) The name of the master; and

(d) The best particulars respecting the tonnage, build, and description of the ship which he is able to obtain, and shall forward a copy of the certificate at the first convenient opportunity to the Director.

(2) A provisional certificate issued in terms of sub-section (1) shall be deemed to be a certificate of registry until the expiry of six months from the date on which it was issued, or until the ship's arrival at a port of registry in the Union, whichever is the earlier date, but shall thereafter have no effect.

31. Whenever by reason of special circumstances it appears desirable to the Director that permission should be granted to a ship which, in terms of this Act, is entitled to be registered in the Union, or, in terms of the laws in force in any other part of the Commonwealth is entitled to be registered in that part to proceed to sea without being previously registered, he may authorize the granting or a pass in the prescribed form for the ship to be taken from any port in the Union to any other port in the Union or, as the case may be, to any port in that other part of the Commonwealth, and that pass shall for the time and within the limits therein mentioned be deemed to be a certificate of registry.

32. (1) When a South African ship is so altered that she does not correspond with the particulars contained in the register relating to her tonnage or description, the proper officer at the port where the alteration is made, or, if the alteration is not made at a port, the proper officer at the first port at which the ship afterwards arrives, shall, on application, and on receipt of a certificate from a surveyor stating the particulars of the alteration, either cause the alteration to be registered or direct that the ship be registered anew.

(2) If a proper officer directs that a ship be registered anew, the owner of the ship shall forthwith make application for registry anew of the ship.

(3) For the purpose of the registry of an alteration in a ship the ship's certificate of registry shall be produced to the proper officer who 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 particulars of the alteration on the existing certificate.

(4) The particulars of the alteration and the fact that a new certificate has been granted or an endorsement made shall be entered in the register by the proper officer at the ship's port of registry, and for that purpose the proper officer to whom the application for the registry of the alteration has been made (if he is not the proper officer at the ship's port of registry) shall forthwith report to the last-mentioned officer the particulars and facts of the case, accompanied, where a new certificate of registry has been granted, by the old certificate of registry.

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37. If a ship has ceased to be registered as a South African ship by reason of having been wrecked or abandoned, or for any other reason except capture by the enemy or transfer to a person not qualified to own a South African ship, the ship shall not be re-registered until she has at the expense

of the applicant for registration been inspected by a surveyor and certified by him to be seaworthy.

43. (1) When ownership of a South African ship or share therein is transmitted on marriage or death or otherwise to a person not qualified to own a South African ship, that person may apply to the Director for an order directing that the property be sold and the proceeds of the sale, after deduction of the expenses thereof, be paid to him.

(2) The application shall be made in the form and manner prescribed, and shall be accompanied by proofs of the applicant's claim.

(3) Upon any such application being made to him, the Director shall direct that notice of the application be published in the *Gazette* and in such newspapers and be served upon such persons as he may determine. The notice shall be in a form approved by the Director and shall call upon all persons who may object to the order being made to lodge their objections in writing with the Director within a period determined by him and mentioned in the notice.

(4) Upon proof of the due publication and service of the notice, the Director shall, if no objection in writing has been lodged with him within the period mentioned in the notice, and if he is satisfied of the justice of the applicant's claim, make the order applied for.

(5) If objection in writing is lodged with the Director within the period mentioned in the notice, or if he is not satisfied of the justice of the applicant's claim, he shall refuse to make the order.

(6) If the Director refuses to make the order, the applicant may apply to the superior court within whose area of jurisdiction the port of registry of the ship is situated for such an order as is referred to in sub-section (1).

(7) The court may make the order on any terms and conditions it thinks fit, or may refuse to make the order, or generally may do what it considers best in the interests of the justice of the case.

(8) Every such application to the Director shall be made within thirty days after the date on which the event occurred on which the transmission took place, and every such application to the court shall be made within thirty days after the refusal by the Director to make the order. The court may allow an extension of the time (not exceeding in all one year from the said date) within which the application to the Director or the court^o must be made.

(9) If such application is not made within the time fixed by or extended under sub-section (8), or if the court refuse an order for sale, the ship or share transmitted shall be liable to forfeiture.

63. (1) An officer of customs shall not grant a clearance for any ship until the master of the ship has declared to that officer the name of the country to which he claims the ship belongs, and that officer shall thereupon inscribe that name on the clearance.

(2) If a ship attempts to proceed to sea without such clearance, it may be detained by the officer of customs until the declaration is made.

64. The following classes of ships shall be recognized as ships of South African nationality, to wit:

(a) Any ship registered under this Act;

(b) Any ship which in terms of section *fourteen* or sub-section (2) of section *thirty* is deemed to be registered under this Act;

- (c) Any ship licensed under this Act;
- (d) Any ship (other than a ship referred to in paragraphs (a), (b) or (c) which is owned by the Government of the Union; and
- (e) Any pleasure yacht of less than twenty-five gross tons—
 - (i) The whole of which is owned by persons all of whom in terms of section *eleven* are qualified to own a South African ship; and
 - (ii) The majority of the owners of which, either in number or extent of ownership, are persons resident in the Union.

CHAPTER IV

Engagement, discharge, repatriation, payment, discipline and general treatment of seamen, cadets and apprentice-officers

102. (1) The master of every South African ship of more than one hundred gross register tons shall, and the master of every other South African ship may, enter into an agreement (in this Act called the agreement with the crew) with every seaman whom he engages to serve in that ship: Provided that the proper officer may refuse to allow the engagement of a seaman—

(a) Who has not completed any period of pre-sea training that may be prescribed; or

(b) Who does not possess a knowledge of one of the official languages of the Union sufficient to enable him to understand fully any necessary orders given him in that language in the performance of his duties.

58. Union of Soviet Socialist RepublicsMERCHANT SHIPPING CODE, No. 366 OF 14 JUNE 1929.¹

INTRODUCTORY PROVISIONS

1. The term "vessel" for the purposes of the present code includes—

(a) Seagoing vessels (merchant vessels) engaged in carrying freight or passengers, exploiting fisheries and other sea resources, assisting vessels in distress at sea, raising sunken property or towing other vessels;

(b) Seagoing vessels on special government service (icebreakers, tug-boats and other floating harbour installations, vessels used exclusively for lifesaving purposes or for the protection of fisheries, revenue cutters, quarantine boats, cable ships, training ships, etc.);

(c) Seagoing vessels used exclusively for scientific purposes;

(d) Seagoing vessels used for sports and other purposes not governed by paragraphs (a), (b) or (c) of this article.

2. The present Code, except Annexes V, VI and IX, shall not apply to warships.

3. For the purposes of this Code a person exploiting a vessel on his own behalf shall be deemed to be a shipowner, whether or not he actually owns the vessel or exploits it by agreement with its owner or on any other lawful ground.

¹ *Sobraniye Zakonov*, 1929, No. 41, p. 766. Translation by the Secretariat of the United Nations.