

- (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.

4. The rules set forth in the present Code shall apply as follows—

(a) The rules contained in Chapter II (on vessels) except article 36, Chapter III (on crew of vessel. . .) shall apply to vessels wearing the flag of the USSR;

When, by virtue of this article, the rules of the Merchant Shipping Code are not applicable, Courts of the USSR and of Union Republics may apply foreign law so far as it is not inconsistent with the principles of the Soviet régime.

5. Provisions governing the application of foreign law may be included in contracts covered by the present Code to the extent to which the parties may depart from the rules laid down in the Code.

CHAPTER II. VESSELS

A. The right to wear the flag of the USSR and the right to own vessels

6. The right to wear the flag of the USSR shall be granted to vessels owned by—

(a) The USSR, the Union Republics and their constituent republics, local councils, and State institutions and undertakings with legal personality;

(b) Co-operative organizations which are part of a co-operative system, and other co-operative organizations all the members of which are citizens of the USSR, provided in both cases that the governing body is in the territory of the USSR;

(c) Joint enterprises (share companies and limited liability companies), provided that foreign capital has no interest therein and that all the members of the governing body and of other executive organs and the managing directors are citizens of the USSR;

(d) Share companies and companies set up for the purpose of engaging in trade or other business activities, provided that foreign capital has no interest therein and that all the members of the governing body and of other executive organs and the managing directors are citizens of the USSR;

(e) Soviet public organizations performing specific State and public duties under a statute;

(f) Trade union organizations of the USSR;

(g) Non-profit-making companies operating under special statutes of the USSR or of Union Republics, provided that all their members are citizens of the USSR or Soviet bodies corporate and that all the members of their executive organs are citizens of the USSR and that their managements are in the territory of the USSR;

(h) Citizens of the USSR.

The Council of People's Commissars of the USSR may enact exceptions to the rules of this article.

7. Citizens of the USSR, the bodies corporate defined in article 6, paragraphs (d), (f) and (g), and co-operative organizations serving an area smaller than a district may own only sailing vessels, with or without auxiliary power, vessels listed in paragraph (d) of article 1, or mechanically-powered vessels of gross burden not exceeding 20 register tons.

A vessel with machinery capable of propelling it in still water without the aid of sails at a speed not exceeding 6 knots is an auxiliary-powered sailing vessel.

8. Citizens of the USSR and co-operative organizations serving an area smaller than a district may own, in addition to the vessels defined in article 7, mechanically-powered vessels of gross burden exceeding 20 register tons, provided that these do not exceed, according to their survey certificates, 150 feet in length and that those citizens or members of co-operative organizations take part in the exploitation of the vessels by their own labour and do not possess other vessels.

9. The bodies corporate defined in article 6, paragraphs (a), (c) and (e), and co-operative organizations serving an area not smaller than a district (*okrug*), may own any kind of vessel of any tonnage.

10. All privately-owned vessels subject to nationalization under the decree of the Council of People's Commissars of the Russian Soviet Federated Socialist Republic of 26 January 1918 (Statute of the R.S.F.S.R. 1918, No. 19, page 290) and under the directive issued to give effect to that decree by the Higher Council of National Economy to the Chief Directorate of Water Transport on 18 May 1918, or under enactments of other Union Republics, shall be deemed to be nationalized, in whosesoever possession they may actually be, whether an authority has made an order therefor or not.

11. If an order of liquidation is made in respect of one of the bodies corporate defined in article 6, paragraphs (b), (c), (d), (e), (f) and (g), the USSR, acting by the People's Commissariat for Transport, may within six months from the date when such order is made by the competent organ purchase the vessels owned by the body at their real value, to be determined in case of dispute by a commission consisting of representatives of the People's Commissariat for Transport, the People's Commissariat for External and Internal Trade, and the People's Commissariat of the Workers' and Peasants' Inspection of the USSR.

12. If the owner of a vessel ceases to be a citizen of the USSR, or if title to a vessel passes by inheritance to a person not a citizen of the USSR, the USSR acting by the People's Commissariat for Transport may within six months acquire the vessel at its real value, to be determined in case of dispute in accordance with the procedure laid down in article 11.

13. If the owner of a vessel ceases to be a citizen of the USSR, or a share in a vessel passes by inheritance to a person not a citizen of the USSR, the co-owners who are citizens of the USSR may within three months acquire the share at a price to be mutually agreed upon or, in case of dispute, to be determined by a tribunal.

14. In a case to which articles 11 or 12 applies, the competent State institution or Court shall forthwith inform the People's Commissariat for Transport of any order of liquidation made in respect of a body corporate, and of the loss of USSR citizenship by a person, and of any transfer of title to a vessel by inheritance.

15. The right to wear the flag of the USSR shall be extinguished when the owner of a vessel ceases to satisfy the requirements of article 6.

In cases to which articles 12 and 13 apply, the right to wear the flag of the USSR shall be extinguished at the expiration of the time limits stated therein.

B. Registration of vessels at a port and their inclusion in the register of shipping.

16. A vessel entitled to wear the flag of the USSR (article 6) shall be registered at one of the commercial seaports of the USSR to be chosen by its owner.

Floating equipment (ship's boats etc.) which is part of the equipment of any vessel shall be exempt from registration.

The People's Commissariat for Transport may exempt from registration vessels belonging to the working population of the frontier regions of the USSR and not exploited for profit.

17. Vessels of burden not less than 20 register tons gross shall be entered in the register of shipping in addition to being registered at a port (article 16).

Vessels of burden less than 20 register tons gross may be entered in the register of shipping at the request of their owners.

Registers of shipping shall be kept by the authorities of the commercial seaports indicated in the list compiled by the People's Commissariat for Transport.

18. Each vessel shall be given a particular name, which may be changed only by the procedure prescribed by the People's Commissariat for Transport.

C. Ship's papers.

29. A vessel subject to entry in the register of shipping (article 17), except as provided by article 30, may not wear the flag of the USSR until it has been entered in that register and the owner has received a certificate of right to wear the flag of the USSR and a certificate of ownership.

A vessel not subject to entry in the register of shipping, except as provided in article 30, may not wear the flag of the USSR until the owner has received a ship's licence.

30. A vessel acquired abroad by a person entitled to own a vessel wearing the flag of the USSR shall be given by the consul of the USSR a temporary certificate of right to wear the flag of the USSR. The certificate shall be valid until the vessel has been registered at a port and, where required, entered in the register of shipping, but not longer than one year.

CHAPTER III *Crew of vessel*

Article 53. The crew of a vessel shall consist of citizens of the USSR; provided however that—

(a) The People's Commissariat for Transport, in agreement with the People's Commissariat for Foreign Affairs, the Unified State Political Department and the central committee of the water transport workers' trade union, may in exceptional circumstances include in a vessel's company, but not as master or first mate, an alien worker domiciled in the USSR;

(b) The People's Commissariat for Transport, in agreement with the central committee of the water transport workers' trade union, may permit local vessels engaged in minor coastal trade in the Far East under the flag of the USSR to be manned by foreign nationals;

(c) The master of a vessel may, with the consent of a consul of the USSR in a case where no suitably-qualified citizens of the USSR are available, complete his crew, except for radio observers, with foreign nationals; but the number of these shall not exceed one-quarter of the number of the crew, and their employment may not continue after the end of the voyage;

(d) While a vessel is navigating in tropical waters, the master may supplement the engine-room crew with a number of aliens not exceeding one-half its regular establishment.

In the cases to which paragraphs (c) and (d) of this article apply, former Russian citizens not admitted to citizenship of the USSR may be engaged as members of the crews of vessels only with the special permission in each case of a consul of the USSR.

Article 55. Where a contract is rescinded, the shipowner shall convey discharged persons who are citizens of the USSR to the port specified in the collective contract or, if no port is mentioned therein, then to the port where they were engaged, and provide them with full maintenance in cash and in kind until their return to the proper port. If the port where a discharged person was engaged is a foreign port, the shipowner shall convey him, at his request, either to the nearest port in the USSR or to the port where he was engaged and provide him with full maintenance until his arrival there.

Where a contract with an alien is rescinded the shipowner shall, in the absence of any provision to the contrary in the contract or in a special agreement, convey him to the port where he was engaged and provide him with full maintenance until his arrival there.

59. United Kingdom of Great Britain and Northern Ireland

MERCHANT SHIPPING ACT OF 25 AUGUST 1894¹ (57 & 58 VICT. c. 60).

An Act to consolidate Enactments relating to Merchant Shipping.

PART I. REGISTRY

Qualification for owning British ships

1. A ship shall not be deemed to be a British ship² unless owned wholly by persons of the following description (in this Act referred to as persons qualified to be owners of British ships); namely,

¹ *Temperley's Merchant Shipping Acts*, Fifth Ed., London, 1954, p. 3.

² . . . The term "*British ship*" is not defined in the Act. It would seem, however, that, unless she is employed by a government under letters of marque, the nationality of the owners is generally the criterion of the nationality of a vessel, at any rate so far as regards the duties and liabilities of her owners and persons belonging to her. Hence, a British-owned ship is a British ship for such purposes, even if she is not registered in this country, or if she is registered in, and carries the flag of, a foreign country. . .

Where a vessel is registered as a British ship, she cannot divest herself of her national character and the liabilities attached to it, except by ceasing to be owned wholly by persons qualified to be owners of British ships and thereupon closing her British register. . .