



Merchant Shipping Act 1988

1988 CHAPTER 12

PART II

REGISTRATION OF BRITISH FISHING VESSELS

New system of registration for fishing vessels

13 Separate registration of fishing vessels

- (1) The Secretary of State shall by regulations make provision—
 - (a) for the establishment and maintenance of a register of British fishing vessels; and
 - (b) for the registration in that register of fishing vessels which are, by virtue of section 14, eligible to be registered as British fishing vessels.
- (2) Subject to subsection (3), a fishing vessel shall no longer be capable of being registered under any of the following enactments, namely—
 - (a) Part I of the 1894 Act;
 - (b) section 373 of that Act (registry of British fishing boats); or
 - (c) the Sea Fishing Boats (Scotland) Act 1886.
- (3) Where any fishing vessel is registered under any of those enactments immediately before the commencement of this Part, the registration of the vessel under that enactment shall (notwithstanding any repeals made by this Act) continue in force until—
 - (a) the vessel (being eligible to be registered as a British fishing vessel) is registered under this Part in accordance with regulations under this section, or
 - (b) the end of such period beginning with the commencement of this Part as may be prescribed,whichever first occurs.

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- (4) Any fishing vessel whose registration under any of those enactments continues in force by virtue of subsection (3) shall be deemed to be a vessel registered under this Part for the purposes of sections 19, 20 and 22 below.
- (5) Where a fishing vessel becomes registered under this Part at a time when it is already registered under the law of any country outside the United Kingdom, the owner of the vessel shall take all reasonable steps to secure the termination of the vessel's registration under the law of that country.
- (6) Any person who contravenes subsection (5) shall be guilty of an offence and liable on summary conviction to a fine not exceeding the third level on the standard scale.
- (7) Schedule 2 shall have effect for the purpose of supplementing this section.

14 Eligibility for registration as British fishing vessel

- (1) Subject to subsections (3) and (4), a fishing vessel shall only be eligible to be registered as a British fishing vessel if—
 - (a) the vessel is British-owned;
 - (b) the vessel is managed, and its operations are directed and controlled, from within the United Kingdom; and
 - (c) any charterer, manager or operator of the vessel is a qualified person or company.
- (2) For the purposes of subsection (1)(a) a fishing vessel is British-owned if—
 - (a) the legal title to the vessel is vested wholly in one or more qualified persons or companies; and
 - (b) the vessel is beneficially owned—
 - (i) as to not less than the relevant percentage of the property in the vessel, by one or more qualified persons, or
 - (ii) wholly by a qualified company or companies, or
 - (iii) by one or more qualified companies and, as to not less than the relevant percentage of the remainder of the property in the vessel, by one or more qualified persons.
- (3) The Secretary of State may by regulations specify further requirements which must be satisfied in order for a fishing vessel to be eligible to be registered as a British fishing vessel, being requirements imposed—
 - (a) in connection with the implementation of any of the requirements specified in subsection (1)(a) to (c), or
 - (b) in addition to the requirements so specified,and appearing to the Secretary of State to be appropriate for securing that such a vessel has a genuine and substantial connection with the United Kingdom.
- (4) Where, in the case of any fishing vessel, the Secretary of State is satisfied that—
 - (a) the vessel would be eligible to be registered as a British fishing vessel but for the fact that any particular individual, or (as the case may be) each of a number of particular individuals, is not a British citizen (and is accordingly not a qualified person), and
 - (b) it would be appropriate to dispense with the requirement of British citizenship in the case of that individual or those individuals, in view of the length of time

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he has or they have resided in the United Kingdom and been involved in the fishing industry of the United Kingdom,

the Secretary of State may determine that that requirement should be so dispensed with; and, if he does so, the vessel shall, so long as paragraph (a) above applies to it and any such determination remains in force, be treated for the purposes of this Part as eligible to be registered as a British fishing vessel.

(5) Where any share in a vessel is beneficially owned jointly by persons not all of whom are qualified persons or companies, then, for the purposes of this section, the whole of that share shall be treated as beneficially owned by persons who are not qualified persons or companies.

(6) For the purpose of determining whether a fishing vessel is eligible to be registered as a British fishing vessel, the Secretary of State may, if he thinks fit, appoint a person—

- (a) to investigate the eligibility of the vessel to be so registered, and
- (b) to make a report of his conclusions to the Secretary of State;

and any person so appointed shall, for the purpose of conducting the investigation, have the powers conferred on an inspector by the provisions of section 27 of the Merchant Shipping Act 1979 (other than paragraphs (d) to (h) of subsection (1) of that section).

(7) In this section—

“qualified company” means a company which satisfies the following conditions, namely—

- (a) it is incorporated in the United Kingdom and has its principal place of business there;
- (b) at least the relevant percentage of its shares (taken as a whole), and of each class of its shares, is legally and beneficially owned by one or more qualified persons or companies; and
- (c) at least the relevant percentage of its directors are qualified persons;

“qualified person” means—

- (a) a person who is a British citizen resident and domiciled in the United Kingdom, or
- (b) a local authority in the United Kingdom; and

“the relevant percentage” means 75 per cent. or such greater percentage (which may be 100 per cent.) as may for the time being be prescribed.

15 Grant or refusal of applications for registration of fishing vessels

(1) If, on an application for the registration of a fishing vessel made in accordance with regulations under section 13, the Secretary of State is satisfied—

- (a) that the vessel is eligible to be registered as a British fishing vessel, and
- (b) that any relevant requirements of any such regulations have been complied with in relation to the vessel,

he shall (subject to subsection (2)) cause the vessel to be registered as a British fishing vessel.

(2) Notwithstanding that the Secretary of State is so satisfied, he may refuse any such application if he is satisfied that there is not in force in respect of the vessel any certificate required to be so in force by virtue of section 4 of the Fishing Vessels (Safety Provisions) Act 1970 (prohibition on going to sea without appropriate certificates).

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- (3) If, on any such application, the Secretary of State is not satisfied as mentioned in subsection (1), he shall refuse the application.

16 Termination of registration where vessel is not eligible for registration or is not certificated

- (1) If for any reason it appears to the Secretary of State that a registered vessel may no longer be eligible to be registered as a British fishing vessel, he may by notice served on—

- (a) the owner of the vessel, or
- (b) any charterer, manager or operator of the vessel,

require that person, at such time or times as may be specified in the notice—

- (i) to produce to the Secretary of State such documents or descriptions of documents specified in the notice, and
- (ii) to furnish to him, in such form as may be specified in the notice, such accounts, estimates, returns or other information (of whatever nature) specified in the notice,

as the Secretary of State thinks necessary for the purpose of determining whether the vessel is eligible to be so registered.

- (2) In a case where the owner of a registered vessel is a company, subsection (1) shall apply to any person holding any shares in the company as it applies to the company.

- (3) Where the Secretary of State has served a notice under subsection (1) with respect to any vessel, then, unless he has become satisfied that the vessel is eligible to be registered as a British fishing vessel—

- (a) he shall, as soon as practicable after the end of the period of 30 days beginning with the date of service of that notice, serve a notice under subsection (6) on the owner of the vessel, and
- (b) the vessel's registration shall terminate by virtue of this subsection at the relevant time.

- (4) Where it appears to the Secretary of State that there is not in force in respect of any registered vessel any such certificate as is mentioned in section 15(2), he may by notice served on the owner of the vessel require the vessel to be presented for a survey under the fishing vessel survey rules within the period of 30 days beginning with the date of service of the notice.

- (5) If the vessel is not presented for such a survey within that period—

- (a) the Secretary of State shall serve a notice under subsection (6) on the owner of the vessel, and
- (b) the vessel's registration shall terminate by virtue of this subsection at the relevant time.

- (6) A notice under this subsection is a notice stating—

- (a) that the Secretary of State is not satisfied that the vessel in question is eligible to be registered as a British fishing vessel, or
- (b) that the vessel has not been presented for a survey as required by a notice under subsection (4),

as the case may be, and that the vessel's registration will accordingly terminate at the relevant time by virtue of subsection (3) or (5).

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- (7) In this section “the relevant time”, in relation to a notice under subsection (6), means the end of the period of 14 days beginning with the date of service of that notice.

17 Consequences of termination of registration by virtue of s.16

- (1) Where the registration of any vessel has terminated by virtue of section 16(3) or (5), then, without prejudice to the operation of any other provision of this Part of this Act or of regulations under section 13, the vessel shall not again be registered as a British fishing vessel unless—
- (a) the Secretary of State is satisfied that the earlier failure of the vessel to be eligible to be so registered or (as the case may be) to be presented for a survey was due to inadvertence, and (in the latter case) that the vessel has since been presented for a survey, or
 - (b) the Secretary of State consents to the vessel being so registered, or
 - (c) in the case of a vessel whose registration terminated by virtue of section 16(3), the Secretary of State is satisfied that the vessel has been disposed of by its former registered owner by means of a transaction at arm’s length and that no person who for the time being is a relevant owner of the vessel was a relevant owner of it at the time when its registration terminated.
- (2) In subsection (1)(a) “survey” means a survey under the fishing vessel survey rules.
- (3) For the purposes of subsection (1)(c) a person is a relevant owner of a vessel at any time if at that time—
- (a) the legal title to the vessel or any share in it is vested in that person, or
 - (b) the vessel or any share in it is beneficially owned by that person, or
 - (c) any shares in a company falling within paragraph (a) or (b) above are legally or beneficially owned by that person,
- whether vested in, or (as the case may be) owned by, that person alone or together with any other person or persons.

18 Registration of property in fishing vessels

- (1) For the purposes of the registration of a fishing vessel—
- (a) the property in the vessel shall be divided into 64 shares;
 - (b) except as provided by paragraph (c), the number of persons registered as owners of the vessel shall not at any time exceed 64;
 - (c) any number of persons not exceeding five may be registered as joint owners of the vessel or of any share in the vessel (but for the purposes of paragraph (b) the registered joint owners of any such share shall be treated as constituting one person);
 - (d) a registered joint owner of the vessel or of any share in the vessel shall not be entitled to dispose of his interest in the vessel or share separately from the interest or interests in it of the other joint owner or joint owners; and
 - (e) a person shall not be entitled to be registered as the owner of a fractional part of a share in the vessel.
- (2) Subsection (1)(b) and (c) do not prejudice any beneficial interest of any person represented by or claiming under or through a registered owner (including a registered joint owner).