



Merchant Shipping Act 1995

1995 CHAPTER 21

PART I

BRITISH SHIPS

1 British ships and United Kingdom ships.

- (1) A ship is a British ship if—
- (a) the ship is registered in the United Kingdom under Part II; or
 - (b) the ship is, as a Government ship, registered in the United Kingdom in pursuance of an Order in Council under section 308; or
 - (c) the ship is registered under the law of a relevant British possession; or
 - (d) the ship is a small ship other than a fishing vessel and—
 - (i) is not registered under Part II, but
 - (ii) is wholly owned by qualified owners, and
 - (iii) is not registered under the law of a country outside the United Kingdom.
- (2) For the purposes of subsection (1)(d) above—
- “qualified owners” means persons of such description qualified to own British ships as is prescribed by regulations made by the Secretary of State for the purposes of that paragraph; and
 - “small ship” means a ship less than 24 metres in length (“length” having the same meaning as in the tonnage regulations).
- (3) A ship is a “United Kingdom ship” for the purposes of this Act (except section 85 and 144(3)) if the ship is registered in the United Kingdom under Part II (and in Part V “United Kingdom fishing vessel” has a corresponding meaning).

Status: Point in time view as at 08/12/2022.

Changes to legislation: Merchant Shipping Act 1995, PART 1 is up to date with all changes known to be in force on or before 15 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

2 British flag.

- (1) The flag which every British ship is entitled to fly is the red ensign (without any defacement or modification) and, subject to subsections (2) and (3) below, no other colours.
- (2) Subsection (1) above does not apply to Government ships.
- (3) The following are also proper national colours, that is to say—
 - (a) any colours allowed to be worn in pursuance of a warrant from Her Majesty or from the Secretary of State;
 - (b) in the case of British ships registered in a relevant British possession, any colours consisting of the red ensign defaced or modified whose adoption for ships registered in that possession is authorised or confirmed by Her Majesty by Order in Council.
- (4) Any Order under subsection (3)(b) above shall be laid before Parliament after being made.

3 Offences relating to British character of ship.

- (1) If the master or owner of a ship which is not a British ship does anything, or permits anything to be done, for the purpose of causing the ship to appear to be a British ship then, except as provided by subsections (2) and (3) below, the ship shall be liable to forfeiture and the master, the owner and any charterer shall each be guilty of an offence.
- (2) No liability arises under subsection (1) above where the assumption of British nationality has been made for the purpose of escaping capture by an enemy or by a foreign ship of war in the exercise of some belligerent right.
- (3) Where the registration of any ship has terminated by virtue of any provision of registration regulations, any marks prescribed by registration regulations displayed on the ship within the period of 14 days beginning with the date of termination of that registration shall be disregarded for the purposes of subsection (1) above.
- (4) If the master or owner of a British ship does anything, or permits anything to be done, for the purpose of concealing the nationality of the ship, the ship shall be liable to forfeiture and the master, the owner and any charterer of the ship shall each be guilty of an offence.
- (5) Without prejudice to the generality of subsections (1) and (4) above, those subsections apply in particular to acts or deliberate omissions as respects—
 - (a) the flying of a national flag;
 - (b) the carrying or production of certificates of registration or other documents relating to the nationality of the ship; and
 - (c) the display of marks required by the law of any country.
- (6) Any person guilty of an offence under this section shall be liable—
 - (a) on summary conviction, to [^{F1}a fine not exceeding £50,000][^{F1}a fine];
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.
- (7) This section applies to things done outside, as well as to things done within, the United Kingdom.

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Textual Amendments

- F1** Words in s. 3(6)(a) substituted (E.W.) (12.3.2015) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\)](#), reg. 1(1), [Sch. 4 para. 27\(2\)](#) (with reg. 5(1))

4 Penalty for carrying improper colours.

- (1) If any of the following colours, namely—
- (a) any distinctive national colours except—
 - (i) the red ensign,
 - (ii) the Union flag (commonly known as the Union Jack) with a white border, or
 - (iii) any colours authorised or confirmed under section 2(3)(b); or
 - (b) any colours usually worn by Her Majesty's ships or resembling those of Her Majesty, or
 - (c) the pendant usually carried by Her Majesty's ships or any pendant resembling that pendant,
- are hoisted on board any British ship without warrant from Her Majesty or from the Secretary of State, the master of the ship, or the owner of the ship (if on board), and every other person hoisting them shall be guilty of an offence.
- (2) A person guilty of an offence under subsection (1) above shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to a fine.
- (3) If any colours are hoisted on board a ship in contravention of subsection (1) above, any of the following, namely—
- (a) any commissioned naval or military officer,
 - (b) any officer of customs and excise, and
 - (c) any British consular officer,
- may board the ship and seize and take away the colours.
- (4) Any colours seized under subsection (3) above shall be forfeited to Her Majesty.
- (5) In this section “colours” includes any pendant.

5 Duty to show British flag.

- (1) Subject to subsection (2) below, a British ship, other than a fishing vessel, shall hoist the red ensign or other proper national colours—
- (a) on a signal being made to the ship by one of Her Majesty's ships (including any ship under the command of a commissioned naval officer); and
 - (b) on entering or leaving any foreign port; and
 - (c) in the case of ships of 50 or more tons gross tonnage, on entering or leaving any British port.
- (2) Subsection (1)(c) above does not apply to a small ship (as defined in section 1(2)) registered under Part II.

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6 Duty to declare national character of ship.

- (1) An officer of customs and excise shall not grant a clearance or transire for any ship until the master of such ship has declared to that officer the name of the nation to which he claims that the ship belongs, and that officer shall thereupon enter that name on the clearance or transire.
- (2) If a ship attempts to proceed to sea without such clearance or transire, the ship may be detained until the declaration is made.

7 Proceedings on forfeiture of a ship.

- (1) Where any ship has either wholly or as to any share in it become liable to forfeiture under this Part—
 - (a) any commissioned naval or military officer, or
 - (b) any person appointed by the Secretary of State for the purposes of this section;may seize and detain the ship and bring the ship for adjudication before the court.
- (2) Where a ship is subject to adjudication under this section the court may—
 - (a) adjudge the ship and her equipment to be forfeited to Her Majesty; and
 - (b) make such order in the case as seems just.
- (3) No officer or person bringing proceedings under this section shall be liable in damages in respect of the seizure or detention of the ship, notwithstanding that the ship has not been proceeded against or, if proceeded against, adjudicated not liable to forfeiture, if the court is satisfied that there were reasonable grounds for the seizure or detention.
- (4) If the court is not so satisfied the court may award costs (or in Scotland expenses) and damages to the party aggrieved and make such other order as the court thinks just.
- (5) In this section “the court” means the High Court or, in Scotland, the Court of Session.

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