

ภาคผนวก

แบบพิมพ์หนังสือรับรองการได้มาของตัวเรือและเครื่องจักร แบบ ข.

แบบ ข.

หนังสือรับรองการได้มาของตัวเรือและเครื่องจักร
ในกรณีที่เป็นเรือที่ต่อหรือซื้อจากต่างประเทศ

วันที่.....เดือน.....พ.ศ.

ข้าพเจ้า (นาย/นาง/นางสาว)นามสกุล.....
อายุ.....ปี บ้านเลขที่.....หมู่ที่.....ถนน.....
แขวง/ตำบล.....เขต/อำเภอ.....จังหวัด.....
รหัสไปรษณีย์.....หมายเลขโทรศัพท์.....

ขอให้ถ้อยคำต่อเจ้าพนักงานออกไปอนุญาตถึงการ ได้มาของตัวเรือและเครื่องจักร ดังนี้

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พร้อมด้วยสำเนาเอกสารข้อตกลงสองฝ่ายระหว่างผู้ซื้อและผู้ขาย (Memorandums of Agreement, MOA)
และคำรับรองของผู้ขายในเรื่องการโอนสัญชาติเรือ (Letter of Undertaking, LOU)

หากถ้อยคำที่ได้ให้ไว้ในข้างต้นเป็นเท็จ จนเป็นเหตุให้มีการโต้แย้งถึงการ ได้มาของตัวเรือและ
เครื่องจักร ข้าฯ เจ้าขอรับผิดชอบทางอาญา ความรับผิดชอบทางแพ่ง และความเสียหายอื่นๆ ทั้งสิ้น

(ลงชื่อ).....เจ้าของเรือ
(.....)

(ลงชื่อ).....พยาน
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(.....)

ภาคผนวก ข**United Nations Convention on Conditions for Registration of Ships 1986****Article 1****Objectives**

For the purpose of ensuring or, as the case may be, strengthening the genuine link between a State and ships flying its flag, and in order to exercise effectively its jurisdiction and control over such ships with regard to identification and accountability of shipowners and operators as well as with regard to administrative, technical, economic and social matters, a flag State shall apply the provisions contained in this Convention.

Article 2**Definitions**

For the purposes of this Convention:

"Ship" means any self-propelled sea-going vessel used in international seaborne trade for the transport of goods, passengers, or both with the exception of vessels of less than 500 gross registered tons;

"Flag State" means a State whose flag a ship flies and is entitled to fly;

"Owner" or "shipowner" means, unless clearly indicated otherwise, any natural or juridical person recorded in the register of ships of the State of registration as an owner of a ship;

"Operator" means the owner or bareboat charterer, or any other natural or juridical person to whom the responsibilities of the owner or bareboat charterer have been formally assigned;

"State of registration" means the State in whose register of ships a ship has been entered;

"Register of ships" means the official register or registers in which particulars referred to in article 11 of this Convention are recorded;

"National maritime administration" means any State authority or agency which is established by the State of registration in accordance with its legislation and which, pursuant to that legislation, is responsible, *inter alia* , for the implementation of international agreements concerning maritime transport and for the application of rules and standards concerning ships under its jurisdiction and control;

"Bareboat charter" means a contract for the lease of a ship, for a stipulated period of time, by virtue of which the lessee has complete possession and control of the ship, including the right to appoint the master and crew of the ship, for the duration of the lease;

"Labour-supplying country" means a country which provides seafarers for service on a ship flying the flag of another country.

Article 3

Scope of application

This Convention shall apply to all ships as defined in article 2.

Article 4

General provisions

1. Every State, whether coastal or land-locked, has the right to sail ships flying its flag on the high seas.

2. Ships have the nationality of the State whose flag they are entitled to fly.

3. Ships shall sail under the flag of one State only.

4. No ships shall be entered in the registers of ships of two or more States at a time, subject to the provisions of paragraphs 4 and 5 of article 11 and to article 12.

5. A ship may not change its flag during a voyage or while in a port of call, save in the case of a real transfer of ownership or change of registry.

Article 5

National Maritime Administration

1. The flag State shall have a competent and adequate national maritime administration, which shall be subject to its jurisdiction and control.

2. The flag State shall implement applicable international rules and standards concerning, in particular, the safety of ships and persons on board and the prevention of pollution of the marine environment.

3. The maritime administration of the flag State shall ensure:

(a) That ships flying the flag of such State comply with its laws and regulations concerning registration of ships and with applicable international rules and standards concerning, in particular, the safety of ships and persons on board and the prevention of pollution of the marine environment;

(b) That ships flying the flag of such State are periodically surveyed by its authorized surveyors in order to ensure compliance with applicable international rules and standards;

(c) That ships flying the flag of such State carry on board documents, in particular those evidencing the right to fly its flag and other valid relevant documents, including those required by international conventions to which the State of registration is a Party;

(d) That the owners of ships flying the flag of such State comply with the principles of registration of ships in accordance with the laws and regulations of such State and the provisions of this Convention.

4. The State of registration shall require all the appropriate information necessary for full identification and accountability concerning ships flying its flag.

Article 6

Identification and accountability

1. The State of registration shall enter in its register of ships, *inter alia*, information concerning the ship and its owner or owners. Information concerning the operator, when the operator is not the owner, should be included in the register of ships or in the official record of operators to be maintained in the office of the Registrar or be readily accessible to him, in accordance with the laws and regulations of the State of

registration. The State of registration shall issue documentation as evidence of the registration of the ship.

2. The State of registration shall take such measures as are necessary to ensure that the owner or owners, the operator or operators, or any other person or persons who can be held accountable for the management and operation of ships flying its flag can be easily identified by persons having a legitimate interest in obtaining such information.

3. Registers of ships should be available to those with a legitimate interest in obtaining information contained therein, in accordance with the laws and regulations of the flag State.

4. A State should ensure that ships flying its flag carry documentation including information about the identity of the owner or owners, the operator or operators or the person or persons accountable for the operation of such ships, and make available such information to port State authorities.

5. Log-books should be kept on all ships and retained for a reasonable period after the date of the last entry, notwithstanding any change in a ship's name, and should be available for inspection and copying by persons having a legitimate interest in obtaining such information, in accordance with the laws and regulations of the flag State. In the event of a ship being sold and its registration being changed to another State, log-books relating to the period before such sale should be retained and should be available for inspection and copying by persons having a legitimate interest in obtaining such information, in accordance with the laws and regulations of the former flag State.

6. A State shall take necessary measures to ensure that ships it enters in its register of ships have owners or operators who are adequately identifiable for the purpose of ensuring their full accountability.

7. A State should ensure that direct contact between owners of ships flying its flag and its government authorities is not restricted.

Article 7

Participation by nationals in the ownership and/or manning of ships

With respect to the provisions concerning manning and ownership of ships as contained in paragraphs 1 and 2 of article 8 and paragraphs 1 to 3 of article 9, respectively, and without prejudice to the application of any other provisions of this Convention, a State of registration has to comply either with the provisions of paragraphs 1 and 2 of article 8 or with the provisions of paragraphs 1 to 3 of article 9, but may comply with both.

Article 8

Ownership of ships

1. Subject to the provisions of article 7, the flag State shall provide in its laws and regulations for the ownership of ships flying its flag.

2. Subject to the provisions of article 7, in such laws and regulations the flag State shall include appropriate provisions for participation by that State or its nationals as owners of ships flying its flag or in the ownership of such ships and for the level of such participation. These laws and regulations should be sufficient to permit the flag State to exercise effectively its jurisdiction and control over ships flying its flag.

Article 9

Manning of ships

1. Subject to the provisions of article 7, a State of registration, when implementing this Convention, shall observe the principle that a satisfactory part of the complement consisting of officers and crew of ships flying its flag be nationals or persons domiciled or lawfully in permanent residence in that State.

2. Subject to the provisions of article 7 and in pursuance of the goal set out in paragraph 1 of this article, and in taking necessary measures to this end, the State of registration shall have regard to the following:

- (a) the availability of qualified seafarers within the State of registration;

(b) multilateral or bilateral agreements or other types of arrangements valid and enforceable pursuant to the legislation of the State of registration;

(c) the sound and economically viable operation of its ships.

3. The State of registration should implement the provision of paragraph 1 of this article on a ship, company or fleet basis.

4. The State of registration, in accordance with its laws and regulations, may allow persons of other nationalities to serve on board ships flying its flag in accordance with the relevant provisions of this Convention.

5. In pursuance of the goal set out in paragraph 1 of this article, the State of registration should, in co-operation with shipowners, promote the education and training of its nationals or persons domiciled or lawfully in permanent residence within its territory.

6. The State of registration shall ensure:

(a) that the manning of ships flying its flag is of such a level and competence as to ensure compliance with applicable international rules and standards, in particular those regarding safety at sea;

(b) that the terms and conditions of employment on board ships flying its flag are in conformity with applicable international rules and standards;

(c) that adequate legal procedures exist for the settlement of civil disputes between seafarers employed on ships flying its flag and their employers;

(d) that nationals and foreign seafarers have equal access to appropriate legal processes to secure their contractual rights in their relations with their employers.

Article 10

Role of flag States in respect of the management of shipowning companies and ships

1. The State of registration, before entering a ship in its register of ships, shall ensure that the shipowning company or a subsidiary shipowning company is established and/or has its principal place of business within its territory in accordance with its laws and regulations.

2. Where the shipowning company or a subsidiary shipowning company or the principal place of business of the shipowning company is not established in the flag State, the latter shall ensure, before entering a ship in its register of ships, that there is a representative or management person who shall be a national of the flag State, or be domiciled therein. Such a representative or management person may be a natural or juridical person who is duly established or incorporated in the flag State, as the case may be, in accordance with its laws and regulations, and duly empowered to act on the shipowner's behalf and account. In particular, this representative or management person should be available for any legal process and to meet the shipowner's responsibilities in accordance with the laws and regulations of the State of registration.

3. The State of registration should ensure that the person or persons accountable for the management and operation of a ship flying its flag are in a position to meet the financial obligations that may arise from the operation of such a ship to cover risks which are normally insured in international maritime transportation in respect of damage to third parties. To this end the State of registration should ensure that ships flying its flag are in a position to provide at all times documents evidencing that an adequate guarantee, such as appropriate insurance or any other equivalent means, has been arranged. Furthermore, the State of registration should ensure that an appropriate mechanism, such as a maritime lien, mutual fund, wage insurance, social security scheme, or any governmental guarantee provided by an appropriate agency of the State of the accountable person, whether that person is an owner or operator, exists to cover wages and related monies owed to seafarers employed on ships flying its flag in the event of default of payment by their employers. The State of registration may also provide for any other appropriate mechanism to that effect in its laws and regulations.

Article 11

Register of ships

1. A State of registration shall establish a register of ships flying its flag, which register shall be maintained in a manner determined by that State and in conformity with the relevant provisions of this Convention. Ships entitled by the laws and

regulations of a State to fly its flag shall be entered in this register in the name of the owner or owners or, where national laws and regulations so provide, the bareboat charterer.

2. Such register shall, *inter alia* , record the following:

- (a) the name of the ship and the previous name and registry if any;
- (b) the place or port of registration or home port and the official number or mark of identification of the ship;
- (c) the international call sign of the ship, if assigned;
- (d) the name of the builders, place of build and year of building of the ship;
- (e) the description of the main technical characteristics of the ship;
- (f) the name, address and, as appropriate, the nationality of the owner or of each of the owners;

and, unless recorded in another public document readily accessible to the Registrar in the flag State:

- (g) the date of deletion or suspension of the previous registration of the ship;
- (h) the name, address and, as appropriate, the nationality of the bareboat charterer, where national laws and regulations provide for the registration of ships bareboat chartered-in;
- (i) the particulars of any mortgages or other similar charges upon the ship as stipulated by national laws and regulations.

3. Furthermore, such register should also record:

- (a) if there is more than one owner, the proportion of the ship owned by each;
- (b) the name, address and, as appropriate, the nationality of the operator, when the operator is not the owner or the bareboat charterer.

4. Before entering a ship in its register of ships a State should assure itself that the previous registration, if any, is deleted.

5. In the case of a ship bareboat chartered-in a State should assure itself that right to fly the flag of the former flag State is suspended. Such registration shall be effected on production of evidence, indicating suspension of previous registration as

regards the nationality of the ship under the former flag State and indicating particulars of any registered encumbrances.

Article 12

Bareboat charter

1. Subject to the provisions of article 11 and in accordance with its laws and regulations a State may grant registration and the right to fly its flag to a ship bareboat chartered-in by a charterer in that State, for the period of that charter.

2. When shipowners or charterers in States Parties to this Convention enter into such bareboat charter activities, the conditions of registration contained in this Convention should be fully complied with.

3. To achieve the goal of compliance and for the purpose of applying the requirements of this Convention in the case of a ship so bareboat chartered-in the charterer will be considered to be the owner. This Convention, however, does not have the effect of providing for any ownership rights in the chartered ship other than those stipulated in the particular bareboat charter contract.

4. A State should ensure that a ship bareboat chartered-in and flying its flag, pursuant to paragraphs 1 to 3 of this article, will be subject to its full jurisdiction and control.

5. The State where the bareboat chartered-in ship is registered shall ensure that the former flag State is notified of the deletion of the registration of the bareboat chartered ship.

6. All terms and conditions, other than those specified in this article, relating to the relationship of the parties to a bareboat charter are left to the contractual disposal of those parties.

Article 13

Joint ventures

1. Contracting Parties to this Convention, in conformity with their national policies, legislation and the conditions for registration of ships contained in this

Convention, should promote joint ventures between shipowners of different countries, and should, to this end, adopt appropriate arrangements, *inter alia* , by safeguarding the contractual rights of the parties to joint ventures, to further the establishment of such joint ventures in order to develop the national shipping industry.

2. Regional and international financial institutions and aid agencies should be invited to contribute, as appropriate, to the establishment and/or strengthening of joint ventures in the shipping industry of developing countries, particularly in the least developed among them.

Article 14

Measures to protect the interests of labour-supplying countries

1. For the purpose of safeguarding the interests of labour-supplying countries and of minimizing labour displacement and consequent economic dislocation, if any, within these countries, particularly developing countries, as a result of the adoption of this Convention, urgency should be given to the implementation, *inter alia* , of the measures as contained in Resolution 1 annexed to this Convention.

2. In order to create favourable conditions for any contract or arrangement that may be entered into by shipowners or operators and the trade unions of seamen or other representative seamen bodies, bilateral agreements may be concluded between flag States and labour-supplying countries concerning the employment of seafarers of those labour-supplying countries.

Article 15

Measures to minimize adverse economic effects

For the purpose of minimizing adverse economic effects that might occur within developing countries, in the process of adapting and implementing conditions to meet the requirements established by this Convention, urgency should be given to the implementation, *inter alia* , of the measures as contained in Resolution 2 annexed to this Convention.

Article 16

Depositary

The Secretary-General of the United Nations shall be the depositary of this Convention.

Article 17

Implementation

1. Contracting Parties shall take any legislative or other measures necessary to implement this Convention.

2. Each Contracting Party shall, at appropriate times, communicate to the depositary the texts of any legislative or other measures which it has taken in order to implement this Convention.

3. The depositary shall transmit upon request to Contracting Parties the texts of the legislative or other measures which have been communicated to him pursuant to paragraph 2 of this article.

Article 18

Signature, ratification, acceptance, approval and accession

1. All States are entitled to become Contracting Parties to this Convention by:

- (a) signature not subject to ratification, acceptance or approval; or
- (b) signature subject to and followed by ratification, acceptance or approval; or
- (c) accession.

2. This Convention shall be open for signature from 1 May 1986 to and including 30 April 1987, at the Headquarters of the United Nations in New York and shall thereafter remain open for accession.

3. Instruments of ratification, acceptance, approval or accession shall be deposited with the depositary.

Article 19

Entry into force

1. This Convention shall enter into force 12 months after the date on which not less than 40 States, the combined tonnage of which amounts to at least 25 per cent of world tonnage, have become Contracting Parties to it in accordance with article 18. For the purpose of this article the tonnage shall be deemed to be that contained in annex III to this Convention.

2. For each State which becomes a Contracting Party to this Convention after the conditions for entry into force under paragraph 1 of this article have been met, the Convention shall enter into force for that State 12 months after that State has become a Contracting Party.

Article 20

Review and amendments

1. After the expiry of a period of eight years from the date of entry into force of this Convention, a Contracting Party may, by written communication addressed to the Secretary-General of the United Nations, propose specific amendments to this Convention and request the convening of a review conference to consider such proposed amendments. The Secretary-General shall circulate such communication to all Contracting Parties. If, within 12 months from the date of the circulation of the communication, not less than two-fifths of the Contracting Parties reply favourably to the request, the Secretary-General shall convene the Review Conference.

2. The Secretary-General of the United Nations shall circulate to all Contracting Parties the texts of any proposals for, or views regarding, amendments, at least six months before the opening date of the Review Conference.

Article 21

Effect of amendments

1. The decisions of a review conference regarding amendments shall be taken by consensus or, upon request, by a vote of a two-thirds majority of the Contracting Parties present and voting. Amendments adopted by such a conference shall be communicated by the Secretary-General of the United Nations to all the

Contracting Parties for ratification, acceptance, or approval and to all the States signatories of the Convention for information.

2. Ratification, acceptance or approval of amendments adopted by a review conference shall be effected by the deposit of a formal instrument to that effect with the depositary.

3. Any amendment adopted by a review conference shall enter into force only for those Contracting Parties which have ratified, accepted or approved it, on the first day of the month following one year after its ratification, acceptance or approval by two-thirds of the Contracting Parties. For any State ratifying, accepting or approving an amendment after it has been ratified, accepted or approved by two-thirds of the Contracting Parties, the amendment shall enter into force one year after its ratification, acceptance or approval by that State.

4. Any State which becomes a Contracting Party to this Convention after the entry into force of an amendment shall, failing an expression of a different intention by that State:

(a) Be considered as a Party to this Convention as amended; and

(b) Be considered as a Party to the unamended Convention in relation to any Contracting Party not bound by the amendment.

Article 22

Denunciation

1. Any Contracting Party may denounce this Convention at any time by means of a notification in writing to this effect addressed to the depositary.

2. Such denunciation shall take effect on the expiration of one year after the notification is received by the depositary, unless a longer period has been specified in the notification.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have affixed their signatures hereunder on the dates indicated.

DONE at Geneva on 7 February 1986 in one original in the Arabic, Chinese, English, French, Russian and Spanish languages, all texts being equally authentic.

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Merchant Shipping Act 1995 (Chapter 1 Registration)

Part I

British ships

British ships and United Kingdom ships.

1.—(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).

British flag.

2.—(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.

Offences relating to British character of ship.

3.—(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 a fine not exceeding £50,000;
- (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.

Penalty for carrying improper colours.

4.—(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.

Duty to show British flag.

5.—(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.

Duty to declare national character of ship.

6.—(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.

Proceedings on forfeiture of a ship.

7.—(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

Part II

Registration

General

Central register of British ships.

8.—(1) There shall continue to be a register of British ships for all registrations of ships in the United Kingdom.

(2) The register shall be maintained by the Registrar General of Shipping and Seamen as registrar.

(3) The Secretary of State may designate any person to discharge, on behalf of the registrar, all his functions or such of them as the Secretary of State may direct.

(4) The Secretary of State may give to the registrar directions of a general nature as to the discharge of any of his functions.

(5) The register shall be so constituted as to distinguish, in a separate part, registrations of fishing vessels and may be otherwise divided into parts so as to distinguish between classes or descriptions of ships.

(6) The register shall be maintained in accordance with registration regulations and the private law provisions for registered ships and any directions given by the Secretary of State under subsection (4) above.

(7) The register shall be available for public inspection.

Registration of ships: basic provisions.

9.—(1) A ship is entitled to be registered if—

(a) it is owned, to the prescribed extent, by persons qualified to own British ships; and

(b) such other conditions are satisfied as are prescribed under subsection (2)(b) below;

(and any application for registration is duly made).

(2) It shall be for registration regulations—

(a) to determine the persons who are qualified to be owners of British ships, or British ships of any class or description, and to prescribe the extent of the ownership required for compliance with subsection (1)(a) above;

(b) to prescribe other requirements designed to secure that, taken in conjunction with the requisite ownership, only ships having a British connection are registered.

(3) The registrar may, nevertheless, if registration regulations so provide, refuse to register or terminate the registration of a ship if, having regard to any relevant requirements of this Act, he considers it would be inappropriate for the ship to be or, as the case may be, to remain registered.

(4) The registrar may, if registration regulations so provide, register a fishing vessel notwithstanding that the requirement of subsection (1)(a) above is not satisfied in relation to a particular owner of a share in the vessel if the vessel otherwise has a British connection.

(5) Where a ship becomes registered at a time when it is already registered under the law of a country other than the United Kingdom, the owner of the ship shall take all reasonable steps to secure the termination of the ship's registration under the law of that country.

(6) Subsection (5) above does not apply to a ship which becomes registered on a transfer of registration to the register from a relevant British possession.

(7) Any person who contravenes subsection (5) above shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(8) In this section "the relevant requirements of this Act" means the requirements of this Act (including requirements falling to be complied with after registration) relating to—

(a) the condition of ships or their equipment so far as relevant to their safety or any risk of pollution; and

(b) the safety, health and welfare of persons employed or engaged in them.

(9) In this Part references to a ship's having a British connection are references to compliance with the conditions of entitlement imposed by subsection (1)(a) and (b) above and "declaration of British connection" is to be construed accordingly.

Registration regulations.

10.—(1) The Secretary of State shall by regulations (to be known as registration regulations) make provision for and in connection with the registration of ships as British ships.

(2) Without prejudice to the generality of subsection (1) above, registration regulations may, in particular, make provision with respect to any of the following matters—

(a) the persons by whom and the manner in which applications in connection with registration are to be made;

(b) the information and evidence (including declarations of British connection) to be provided in connection with such applications and such supplementary information or evidence as may be required by any specified authority;

(c) the shares in the property in, and the numbers of owners (including joint owners) of, a ship permitted for the purposes of registration and the persons required or permitted to be registered in respect of a ship or to be so registered in specified circumstances;

(d) the issue of certificates (including provisional certificates) of registration, their production and surrender;

(e) restricting and regulating the names of ships registered or to be registered;

(f) the marking of ships registered or to be registered, including marks for identifying the port to which a ship is to be treated as belonging;

(g) the period for which registration is to remain effective without renewal;

(h) the production to the registrar of declarations of British connection or other information relating thereto, as respects registered ships, at specified intervals or at his request;

(i) the survey and inspection of ships registered or to be registered and the recording of their tonnage as ascertained (or re-ascertained) under the tonnage regulations;

(j) the refusal, suspension and termination of registration in specified circumstances;

(k) matters arising out of the expiration, suspension or termination of registration (including the removal of marks and the cancellation of certificates);

(l) the charging of fees in connection with registration or registered ships;

(m) the transfer of the registration of ships to and from the register from and to registers or corresponding records in countries other than the United Kingdom;

(n) inspection of the register;

(o) any other matter which is authorised or required by this Part to be prescribed in registration regulations;

but no provision determining, or providing for determining, the fees to be charged or prescribing any arrangements for their determination by other persons shall be made without the approval of the Treasury.

(3) Registration regulations may—

(a) make different provision for different classes or descriptions of ships and for different circumstances;

(b) without prejudice to paragraph (a) above, make provision for the granting of exemptions or dispensations by the Secretary of State from specified requirements of the regulations, subject to such conditions (if any) as he thinks fit to impose; and

(c) make such transitional, incidental or supplementary provision as appears to the Secretary of State to be necessary or expedient, including provision authorising investigations and conferring powers of inspection for verifying the British connection of a ship.

(4) Registration regulations—

(a) may make provision for the registration of any class or description of ships to be such as to exclude the application of the private law provisions for registered ships and, if they do, may regulate the transfer, transmission or mortgaging of ships of the class or description so excluded;

(b) may make provision for any matter which is authorised or required by those provisions to be prescribed by registration regulations; and

(c) shall make provision precluding notice of any trust being entered in the register or being receivable by the registrar except as respects specified classes or descriptions of ships or in specified circumstances.

(5) Registration regulations may create offences subject to the limitation that no offence shall be punishable with imprisonment or punishable on summary conviction with a fine exceeding level 5 on the standard scale.

(6) Registration regulations may provide for—

(a) the approval of forms by the Secretary of State; and

(b) the discharge of specified functions by specified authorities or persons.

(7) Registration regulations may provide for any of their provisions to extend to places outside the United Kingdom.

(8) Any document purporting to be a copy of any information contained in an entry in the register and to be certified as a true copy by the registrar shall be evidence (and, in Scotland, sufficient evidence) of the matters stated in the document.

(9) Registration regulations may provide that any reference in any other Act or in any instrument made under any other Act to the port of registry or the port to which a ship belongs shall be construed as a reference to the port identified by the marks required for the purpose by registration regulations.

Tonnage ascertained for registration to be tonnage of ship.

11. When the tonnage of any ship has been ascertained and registered in accordance with the tonnage regulations that tonnage shall be treated as the tonnage of the ship except so far as registration regulations provide, in specified circumstances, for the ship to be re-measured and the register amended accordingly.

Tonnage of ships of foreign countries adopting tonnage regulations.

12.—(1) Her Majesty may by Order in Council make such provision in relation to the ships of a foreign country as is authorised by this section where it appears to Her that the tonnage regulations have been adopted by the foreign country and are in force there.

(2) An Order under this section may order that the ships of the foreign country shall, without being re-measured in the United Kingdom, be treated as being of the tonnage denoted by their certificates of registration or other national papers, to the same extent,

and for the same purposes as the tonnage denoted in the certificate of registration of a United Kingdom ship is treated as being the tonnage of that ship.

(3) Where an Order under this section is in force in relation to the ships of any country any space shown in the ship's certificate of registration or other national papers as deducted from the tonnage shall, if a similar deduction in the case of a United Kingdom ship depends on compliance with any conditions or on the compliance being evidenced in any manner, be treated as complying with those conditions and as being so evidenced, unless a surveyor of ships certifies to the Secretary of State that the construction and equipment of the ship as respects that space do not come up to the standard which would be required if the ship were a United Kingdom ship.

(4) Any such Order may—

(a) operate for a limited time; and

(b) be subject to such conditions and qualifications (if any) as Her Majesty may consider expedient.

(5) If it appears to Her Majesty that the tonnage of any foreign ship, as measured by the rules of the country to which the ship belongs, materially differs from what it would be under the tonnage regulations, Her Majesty may by Order in Council order that, notwithstanding any Order in Council in force under this section, any of the ships of that country may, for all or any of the purposes of this Act, be re-measured in accordance with the tonnage regulations.

Status of certificate of registration.

13. The certificate of registration of a British ship shall be used only for the lawful navigation of the ship, and shall not be subject to detention to secure any private right or claim.

Offences relating to a ship's British connection.

14.—(1) Any person who, in relation to any matter relevant to the British connection of a ship—

(a) makes to the registrar a statement which he knows to be false or recklessly makes a statement which is false; or

(b) furnishes to the registrar information which is false,

shall be guilty of an offence.

(2) If at any time there occurs, in relation to a registered ship, any change affecting the British connection of the ship the owner of the ship shall, as soon as practicable after the change occurs, notify the registrar of that change; and if he fails to do so he shall be guilty of an offence.

(3) Any person who intentionally alters, suppresses, conceals or destroys a document which contains information relating to the British connection of a ship and which he has been required to produce to the registrar in pursuance of registration regulations shall be guilty of an offence.

(4) A person guilty of an offence under this section shall be liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.

(5) This section applies to things done outside, as well as to things done within, the United Kingdom.

Supplementary provisions as respects fishing vessels.

15.—(1) Subject to subsection (2) below, if a fishing vessel which—

(a) is either—

(i) entitled to be registered, or

(ii) wholly owned by persons qualified to be owners of British ships, but

(b) is registered neither under this Act in the part of the register relating to fishing vessels nor under the law of any country outside the United Kingdom,

fishes for profit the vessel shall be liable to forfeiture and the skipper, the owner and the charterer of the vessel shall each be guilty of an offence.

(2) Subsection (1) above does not apply to fishing vessels of such classes or descriptions or in such circumstances as may be specified in regulations made by the Secretary of State.

(3) If the skipper or owner of a fishing vessel which is not registered in the United Kingdom does anything, or permits anything to be done, for the purpose of causing the vessel to appear to be a vessel registered in the United Kingdom, then, subject to subsection (4) below, the vessel shall be liable to forfeiture and the skipper, the owner and any charterer of the vessel shall each be guilty of an offence.

(4) Where the registration of a fishing vessel has terminated by virtue of any provision of registration regulations, any marks prescribed by registration regulations displayed on the fishing vessel within the period of 14 days beginning with the date of termination of that registration shall be disregarded for the purposes of subsection (3) above.

(5) Any person guilty of an offence under this section shall be liable—

(a) on summary conviction, to a fine not exceeding £50,000;

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.

(6) Proceedings for an offence under this section shall not be instituted—

(a) in England and Wales, except by or with the consent of the Attorney General, the Secretary of State or the Minister; or

(b) in Northern Ireland, except by or with the consent of the Attorney General for Northern Ireland, the Secretary of State or the Minister.

(7) In subsection (6) above "the Minister"—

(a) in relation to England and Wales, means the Minister of Agriculture, Fisheries and Food; and

(b) in relation to Northern Ireland, means the Secretary of State concerned with sea fishing in Northern Ireland.

(8) This section applies to things done outside, as well as to things done within, the United Kingdom.

(9) Sections 8 and 9 of the [1968 c. 77.] Sea Fisheries Act 1968 (general powers of British sea-fishery officers and powers of sea-fishery officers to enforce conventions) shall apply in relation to any provision of this section or of registration regulations in their application to fishing vessels or fishing vessels of any class or description as they apply in relation to any order mentioned in section 8 of that Act and in relation to any convention mentioned in section 9 of that Act respectively; and sections 10 to 12 and 14 of that Act (offences and supplemental proceedings as to legal proceedings) shall apply accordingly.

Private law provisions for registered ships and liability as owner.

16.—(1) Schedule 1 (which makes provision relating to the title to, and the registration of mortgages over, ships) shall have effect.

(2) Schedule 1 does not apply in relation to ships which are excluded from its application by registration regulations under section 10(4)(a).

(3) Where any person is beneficially interested, otherwise than as mortgagee, in any ship or share in a ship registered in the name of some other person as owner, the person so interested shall, as well as the registered owner, be liable to any pecuniary penalties imposed by or under this Act or any other Act on the owners of registered ships.

(4) Where the registration of any ship terminates by virtue of any provision of registration regulations, the termination of that registration shall not affect any entry made in the register so far as relating to any undischarged registered mortgage of that ship or of any share in it.

(5) In subsection (4) above "registered mortgage" has the same meaning as in that Schedule.

(6) In this Part "the private law provisions for registered ships" means the provisions of Schedule 1 and registration regulations made for the purposes of that Schedule or the provisions of registration regulations made under section 10(4)(a).

Ships on bareboat charter

Ships bareboat chartered-in by British charterers.

17.—(1) This section applies to any ship which—

(a) is registered under the law of a country other than the United Kingdom ("the country of original registration"),

(b) is chartered on bareboat charter terms to a charterer who is a person qualified to own British ships, and

(c) is so chartered in circumstances where the conditions of entitlement to registration prescribed under section 9(2)(b), read with the requisite modifications, are satisfied as respects the charterer and the ship.

(2) The "requisite modifications" of those conditions are the substitution for any requirement to be satisfied by or as respects the owner of a ship of a corresponding requirement to be satisfied by or as respects the charterer of the ship.

(3) A ship to which this section applies is entitled to be registered if an application for registration is duly made, but section 9(3) applies also in relation to registration by virtue of this section.

(4) The registration of a ship registered by virtue of this section shall remain in force (unless terminated earlier by virtue of registration regulations and subject to any suspension thereunder) until the end of the charter period and shall then terminate by virtue of this subsection.

(5) Section 9(5) does not apply to a ship registered by virtue of this section but registration regulations shall include provision for securing that the authority responsible for the registration of ships in the country of original registration is notified of the registration of the ship and of the termination of its registration whether by virtue of subsection (4) above or registration regulations.

(6) Accordingly, throughout the period for which a ship is registered by virtue of this section—

(a) the ship shall, as a British ship, be entitled to fly the British flag;

(b) this Act shall, subject to subsections (7) and (8) below, apply to the ship as a British ship or as a registered ship as it applies to other British ships and to registered ships; and

(c) any other enactment applicable to British ships or ships registered under this Act shall, subject to subsection (8) below, apply to the ship as a British ship or as a registered ship.

(7) The private law provisions for registered ships shall not apply to a ship registered by virtue of this section and any matters or questions corresponding to those for which the private law provisions for registered ships make provision shall be determined by reference to the law of the country of original registration.

(8) Her Majesty may, subject to subsection (9) below, by Order in Council, provide that any enactment falling within subsection (6)(b) or (c) above—

(a) shall not have effect in accordance with that subsection in relation to a ship registered by virtue of this section, or

(b) shall so have effect subject to such modifications (if any) as may be specified in the Order.

(9) No provision shall be made by an Order in Council under subsection (8) above which would have the effect of relaxing the relevant requirements of this Act (as defined in section 9(8)) in their application to a ship to which this section applies.

(10) An Order in Council under subsection (8) above may make such transitional, incidental or supplementary provision as appears to Her Majesty to be necessary or expedient (including provision divesting or providing for the divestment of ownership in the ship).

(11) In this section—

"bareboat charter terms", in relation to a ship, means the hiring of the ship for a stipulated period on terms which give the charterer possession and control of the ship, including the right to appoint the master and crew; and

"the charter period" means the period during which the ship is chartered on bareboat charter terms.

*Supplemental***Regulation of registration in British possessions by reference to categories of registries.**

18.—(1) Her Majesty may by Order in Council make provision for regulating the registration in relevant British possessions of ships other than small ships and fishing vessels by reference to categories of registries established by the Order.

(2) Any such Order may—

(a) establish different categories of registries to which different restrictions on the registrations of ships in such possessions apply, being restrictions framed by reference to—

(i) ships' tonnages, or

(ii) types of ships, or

(iii) any other specified matter, or

(iv) any combination of matters falling within one or more of the preceding sub-paragraphs,

as well as a category of registries to which no such restriction applies;

(b) assign any relevant British possession to such one of the categories so established as appears to Her Majesty to be appropriate;

(c) provide that, where a relevant British possession has been assigned to a category to which any such restriction on registration as is mentioned in paragraph (a) applies, no ship covered by that restriction shall be registered under the law of that possession;

(d) specify circumstances in which ships may be exempted from any provision made by virtue of paragraph (c) above.

(3) Any provision made by virtue of subsection (2)(c) above shall be expressed to be without prejudice to the operation of any provision for the time being in force under the law of any such possession as is mentioned in subsection (2)(c) above by virtue of which the registration of ships in that possession is, or may be, further restricted.

(4) An Order in Council under this section may make such transitional, incidental or supplementary provision as appears to Her Majesty to be necessary or expedient.

(5) In this section "small ship" has the meaning given by section 1(2).

Tonnage regulations.

19.—(1) The tonnage of any ship to be registered under this Part shall be ascertained in accordance with regulations made by the Secretary of State ("tonnage regulations").

(2) Tonnage regulations—

(a) may make different provisions for different descriptions of ships or for the same description of ships in different circumstances;

(b) may make any regulation dependent on compliance with such conditions, to be evidenced in such manner, as may be specified in the regulations;

(c) may prohibit or restrict the carriage of goods or stores in spaces not included in the registered tonnage and may provide for making the master and the owner each liable to a fine not exceeding level 3 on the standard scale where such a prohibition or restriction is contravened.

(3) Tonnage regulations may make provision—

(a) for assigning to a ship, either instead of or as an alternative to the tonnage ascertained in accordance with the other provisions of the regulations, a lower tonnage applicable where the ship is not loaded to the full depth to which it can safely be loaded;

(b) for indicating on the ship, by such mark as may be specified in the regulations, that such a lower tonnage has been assigned to it; and

(c) where the lower tonnage has been assigned to it as an alternative, for indicating on the ship the depth to which the ship may be loaded for the lower tonnage to be applicable.

(4) Tonnage regulations may provide for the measurement and survey of ships to be undertaken, in such circumstances as may be specified in the regulations by persons

appointed by such organisations as may be authorised for the purpose by the Secretary of State.

(5) Tonnage regulations may provide for the issue, by the Secretary of State or by persons appointed by such organisations as may be authorised for the purpose by the Secretary of State, of certificates of the registered tonnage of any ship or of the tonnage which is to be taken for any purpose specified in the regulations as the tonnage of a ship not registered in the United Kingdom, and for the cancellation and delivery up of such certificates in such circumstances as may be prescribed by the regulations.

(6) Regulations requiring the delivery up of any certificate may make a failure to comply with the requirement an offence punishable on summary conviction with a fine not exceeding level 3 on the standard scale.

Proceedings on forfeiture of ship.

20. Section 7 applies in relation to ships or shares in ships which become liable to forfeiture under this Part as it applies in relation to ships or shares in ships which become liable to forfeiture under Part 1.

Disclosure of information relating to registration by other government departments.

21.—(1) No obligation as to secrecy or other restriction on the disclosure of information (whether imposed by statute or otherwise) shall preclude any of the persons mentioned in subsection (2) below from disclosing—

- (a) to the Secretary of State, or
- (b) to the registrar, or
- (c) to an authorised officer of the Secretary of State,

information for the purpose of assisting the Secretary of State in the performance of his functions under this Part.

(2) The persons referred to in subsection (1) above are—

- (a) the Minister of Agriculture, Fisheries and Food,

(b) the Secretaries of State respectively concerned with sea fishing in Scotland, Wales and Northern Ireland,

(c) the Department of Agriculture for Northern Ireland,

(d) the Commissioners of Customs and Excise, and

(e) an authorised officer of any of the persons falling within paragraphs (a) to (d) above.

(3) Information obtained by any person in pursuance of subsection (1) above shall not be disclosed by him to any other person except where the disclosure is made—

(a) to a person to whom the information could have been disclosed by any of the persons mentioned in subsection (2) above in accordance with subsection (1) above, or

(b) for the purposes of any legal proceedings arising out of this Part.

Forgery of documents: Scotland.

22.—(1) In Scotland, if any person forges or fraudulently alters—

(a) any entry or endorsement in the register; or

(b) subject to subsection (2) below, any other document as respects which provision is made by, under or by virtue of this Part (or any entry or endorsement in or on such other document and as respects which provision is so made),

he shall be liable—

(i) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding six months or to both; or

(ii) on conviction on indictment, to a fine or to imprisonment or to both.

(2) Subsection (1)(b) does not apply in respect of actings which constitute an offence under section 288(6) or 300(8).

Interpretation.

23.—(1) In this Part—

"British connection" and "declaration of British connection" have the meaning given in section 9(9);

"the private law provisions for registered ships" has the meaning given in section 16;
"the register" means the register of British ships maintained for the United Kingdom under section 8 and "registered" (except with reference to the law of another country) is to be construed accordingly; and

"the registrar" means the Registrar General of Shipping and Seamen in his capacity as registrar or, as respects functions of his being discharged by another authority or person, that authority or person.

(2) Where, for the purposes of any enactment the question arises whether a ship is owned by persons qualified to own British ships, the question shall be determined by reference to registration regulations made under section 9(2)(a).

ภาคผนวก ง

The Ship Registration Regulations of the PRC 1994

Chapter I General Provisions

Article 1 These Regulations are enacted with a view to strengthening the supervision and control over ships by the State, and safeguarding the legitimate rights and interests of the parties involved in the registration of ships.

Article 2 The following ships shall be registered in accordance with the provisions of these Regulations:

(1) Ships owned by citizens of the People's Republic of China whose residences or principal places of business are located within the territory thereof;

(2) Ships owned by enterprises with legal person status established under the laws of the People's Republic of China and whose principal places of business are located within the territory thereof, provided that foreign investment is involved, the proportion of registered capital contributed by Chinese investors shall not be less than 50 per cent ;

(3) Service ships of the Government of the People's Republic of China and ships owned by institutions with legal person status;

(4) Other ships whose registration is deemed necessary by the competent authority of harbour superintendency of the People's Republic of China.

Military ships, fishery ships and sports craft shall be registered in compliance with the provisions of the relevant laws and regulations.

Article 3 Sailing ships are allowed to fly the national flag of the People's Republic of China after being registered and granted the nationality of the People's Republic of China. No ship may fly the national flag of the People's Republic of China without being registered during navigation.

Article 4 A ship shall not have dual nationality. A ship registered abroad shall not be granted the Chinese nationality unless its former registration of nationality has already been suspended or deleted.

Article 5 The acquisition, transference or extinction of the ownership of a ship shall be registered at the Ship Registration Administration; no acquisition, transference or extinction of the ship's ownership shall act against a third party unless registered.

Where a ship is jointly owned by two or more legal persons or individuals, the joint ownership thereof shall be registered at the Ship Registration Administration. The joint ownership of the ship shall not act against a third Party unless registered.

Article 6 The establishment, transference or extinction of ship mortgage or bare boat chartering shall be registered at the Ship Registration Administration. No mortgage or bare boat chartering shall act against a third party unless registered.

Article 7 Ships of Chinese nationality shall be manned by Chinese citizens. In case it is necessary to recruit foreign seafarers, their employment shall be approved by the competent authority of transport and communications under the State Council.

Seafarers on board ships of Chinese nationality who are required to possess certificates of competency shall hold the appropriate certificates of competency issued by the People's Republic of China.

Article 8 The Harbour Superintendency Administration of the People's Republic of China is the competent authority in charge of registration of ships.

The Harbour Superintendency Administrations at various ports are the proper agencies conducting the registration of ships (hereinafter referred to as the Ship Registration Administration). The scope of authority thereof shall be defined by the Harbour Superintendency Administration of the People's Republic of China.

Article 9 The port where a ship is registered shall be the port of registry of the ship.

The owner of a ship may choose a port closer to his residence or his principal place of business as the port of registry, but he is not allowed to choose two or more ports as the port of registry.

Article 10 Each ship shall have only one name.

The name of a ship shall be checked and approved by the Ship Registration Administration at its port of registry. A ship's name shall not be the same as any of those that have already been registered, neither in wording nor in pronunciation.

Article 11 The Ship Registration Administration shall establish a Register of Ships.

The Register of Ships shall be accessible to those having an interest therein.

Article 12 With respect to a State-owned ship operated by an enterprise owned by the whole people having a legal person status granted by the state, the provisions of these Regulations concerning the ship owner shall be applicable to that legal person.

Chapter II Registration of Ownership of Ships

Article 13 A ship owner applying for registration of the ownership of a ship shall produce to the Ship Registration Administration at the port of registry the documents evidencing his legal status, and submit the originals and/or copies of the documents evidencing his ownership over the ship and the technical information thereof.

For the registration of ownership of a ship purchased, the following documents shall be submitted:

- (1) Seller's invoice, sales contract and delivery document;
- (2) Document issued by the ship registration authority at the original port of registry certifying the deletion of the ownership;
- (3) Document evidencing that the ship is not under mortgage or that the mortgagees agree to the transference of the mortgaged ship.

For the registration of ownership of a newly-built ship, the contract of ship construction and the delivery document shall be submitted.

For the registration of ownership of a ship under construction, the contract of ship construction shall be submitted.

For the registration of ownership of a ship built by oneself for one's own use, a document evidencing the procurement of ownership shall be submitted.

For the registration of ownership of a ship procured through heritage, presentation, auction under legal process, or court judgement, a document with appropriate legal effect evidencing the ship's ownership shall be submitted.

Article 14 The Ship Registration Administration, having examined and verified the application for registration of ownership, shall issue to the ship owner whose application meets the requirements of these Regulations the Certificate of Registration of Ship's Ownership within 7 days after the date of receipt of the application, whereupon an official registration number shall be granted to the registered ship and the following particulars shall be recorded in the Register of Ships:

- (1) Ship's name and its call sign;
- (2) Port of registry, official registration number and identification mark of the ship;
- (3) Name and address of the ship owner and name of his legal representative;
- (4) Way in which the ship's ownership was procured and the date of procurement;
- (5) Date on which the ship's ownership was registered;
- (6) Name of ship builder, and time and place of building;

(7) Value of the ship, material of ship's hull and ship's main technical information;

(8) Original name and port of registry of the ship and the date of deletion or suspension of its original registration;

(9) Information about joint ownership if the ship is owned by two or more owners;

(10) Name and address of bare boat charterer or ship operator, and name of his legal representative, if the ship owner is not the one who operates or actually controls the ship;

(11) Information about the establishment of mortgage, if any.

The Ship Registration Administration shall inform the shipowner in writing of any non-compliance of his application with these Regulations within 7 days after the date of receipt of the application.

Chapter III Nationality of Ships

Article 15 A shipowner applying for the nationality of a ship shall, in addition to the Certificate of Registration of Ship's Ownership, submit the following documents according to the ship's navigation zone:

(1) For ships engaged in international voyages, the valid technical documents of the ship issued by an authorized organization for survey of ships in accordance with the type of the ship:

(a) Tonnage Measurement Certificate;

(b) Load line Certificate;

(c) Cargo Ship Safety Construction Certificate;

(d) Cargo Ship Safety Equipment Certificate;

(e) Passenger Quota Certificate;

(f) Passenger Ship Safety Certificate;

(g) Cargo Ship Safety Radiotelegraphy Certificate;

(h) International Oil Pollution Prevention Certificate;

- (i) Ship Safety Navigation Certificate;
- (j) Other relevant technical certificates.

(2) For a ship engaged in domestic voyages, the ship survey book issued by an authorized organization for survey of ships and other valid technical certificates according to the type of the ship.

A shipowner applying for the Chinese nationality of a ship of foreign nationality purchased abroad which still has the foreign nationality, shall submit a certificate issued by the original ship registration authority at the former port of registry to the effect that the former nationality has been deleted or that the former nationality will be immediately deleted at such time as the new registration is effected.

The Ship Registration Administration shall issue a Certificate of Ship's Nationality to the ship whose application has been examined and approved to be in compliance with these Regulations.

Article 16 Subject to its approval, the Ship Registration Administration shall issue the Certificate of Ship's Nationality to a ship registered under Article 13 of these Regulations. The validity period of the Certificate of Ship's Nationality shall be 5 years.

Article 17 For a ship newly built in this country and sold overseas, the shipowner shall apply to the Ship Registration Administration at the place of construction for a Provisional Certificate of Ship's Nationality by submitting the document evidencing the ownership of the ship, and the valid technical certificate thereof.

For a newly-built ship purchased from overseas, the shipowner shall apply to the local Embassy or Consulate of the People's Republic of China for a Provisional Certificate of Ship's Nationality by submitting the document evidencing the ownership of the ship and its valid technical certificates.

For a ship built in a place of this country other than its intended port of registry, the shipowner who needs a Provisional Certificate of Ship's Nationality, shall apply to the Ship Registration Administration at the place of shipbuilding for the

certificate by submitting the contract of ship construction, the delivery document and its valid technical certificates.

For a ship built overseas, the shipowner shall apply to the local Embassy or Consulate of the People's Republic of China for a Provisional Certificate of Ship's Nationality by submitting the contract of ship construction, the delivery document and the valid technical certificates of the ship.

For a ship bare boat chartered overseas, the bare boat charterer shall apply to the Ship Registration Administration for a Provisional Certificate of Ship's Nationality by submitting the bare boat charter party and the certificate issued by the ship registration authority at the former port of registry to the effect that the former nationality of the ship has been suspended or deleted, or that the former nationality of the ship will be suspended or deleted immediately at such time as the new registration is effected.

The Ship Registration Administration or the local Embassy or Consulate of the People's Republic of China, having examined and verified that the application is in compliance with these Regulations, shall issue a Provisional Certificate of Ship's Nationality to the ship.

Article 18 The validity period of a Provisional Certificate of Ship's Nationality shall generally not exceed 1 year.

For a ship which is bare boat chartered overseas, the validity period of the Provisional Certificate of Ship's Nationality can be determined according to the charter period, but shall not exceed 2 years. Where the charter period exceed 2 years, the charterer shall, within the period of validity, apply to the Ship Registration Administration at ship's port of registry for the renewal of its Provisional Certificate of Ship's Nationality.

Article 19 The Provisional Certificate of Ship's Nationality shall have the same legal effect as the Certificate of Ship's Nationality.

Chapter IV Registration of Ship Mortgage

Article 20 Where mortgage is established with respect to a ship of 20 tons gross tonnage or over, the mortgagee and the mortgagor shall apply to the Ship Registration Administration at the ship's port of registry for the registration of ship mortgage by submitting the following documents:

- (1) Written application signed by both mortgagee and mortgagor;
- (2) Certificate of Ship's Ownership or contract of ship construction;
- (3) Contract of ship mortgage.

If there are other mortgages established on the ship, the relevant certificates shall be submitted.

Where mortgage is established on a jointly-owned ship, the joint owners shall, in addition, submit a document evidencing the agreement by the joint owners holding more than two-thirds or contracted proportion of shares thereof.

Article 21 After the application has been examined and verified to be in compliance with these Regulations, the Ship Registration Administration shall, within 7 days after the date of receipt of the application, record matters regarding the mortgagee, the mortgagor and the ship as well as the date of mortgage registration in the register of ships and the Certificate of Ship's Ownership, and issue the Certificate of Registration of Ship Mortgage to the mortgagee.

Article 22 The registration of ship mortgage shall specify the following items:

- (1) Name and address of mortgagee and name and address of mortgagor;
- (2) Name and nationality of the mortgaged ship, the number of the Certificate of Registration of Ship's Ownership and the title of the administration that issued the certificate;
- (3) Amount of debt secured, interest rate and payoff period.

The Ship Registration Administration should make the information about the registration of ship mortgage available to the public.

Article 23 In case of mortgage transference, the mortgagee and the transferee shall apply to the Ship Registration Administration at the ship's port of registry for registration of the mortgage transference by submitting the contract of ship mortgage transference.

After the application has been examined and verified to be in compliance with the requirements of these Regulations, the Ship Registration Administration shall record the transferee as the mortgagee in the register of ships and in the Certificate of Registration of Ship's Ownership, issue to the transferee a Certificate of Registration of Ship's Mortgage, and seal up the former Certificate of Registration of Ship's Mortgage.

The mortgagee shall notify the mortgagor of the mortgage transference prior to its registration thereof.

Article 24 Where two or more mortgages are established on the same ship, the Ship Registration Administration shall make the registration in sequence of the dates on which the applications were registered, and indicate the dates of registration in the Register of Ships.

The date on which the application is registered shall be the date of registration. In case two or more applications are made on the same day, the dates of registration shall be the same.

Chapter V Registration of Bare boat Charter

Article 25 In any of the following cases, the shipowner and the charterer shall apply for the registration of bareboat charter:

- (1) A ship of Chinese nationality bareboat chartered to a Chinese enterprise;
- (2) A ship of foreign nationality bareboat chartered to a Chinese enterprise;

(3) A ship of Chinese nationality bareboat chartered overseas.

Article 26 Where a ship is chartered within the territory of this country, the shipowner and the charterer shall, prior to the commencement of the charter, apply to the Ship Registration Administration at the ship's port of registry for the registration of the bareboat charter by submitting the Certificate of Registration of Ship's Ownership, the Certificate of Ship's Nationality and the text and the copy of the bareboat charter party.

After the application has been examined and verified to be in compliance with the requirements of these Regulations, the Ship Registration Administration at the port of registry shall record the main points of the bareboat charter in the Certificate of Registration of Ship's Ownership and the Register of Ships respectively, and issue the Certificate of Registration of Bareboat Charter to the shipowner and the charterer.

Article 27 Where a ship is bareboat chartered overseas, the shipowner shall apply to the Ship Registration Administration at the port of registry for registration of the bareboat charter by submitting the documents specified in Article 26 of these Regulations.

After the application has been examined and verified to be in compliance with the requirements of these Regulations, the Ship Registration Administration shall suspend or delete the nationality of the ship in accordance with Article 42 of these Regulations and issue to the applicant the Certificate of Registration of Bareboat Charter in duplicate.

Article 28 Where a ship is bareboat chartered from overseas, the charterer shall choose the port of registry for the ship according to Article 9 of these Regulations and apply, prior to the commencement of the charter, to the Ship Registration Administration for registration of the bareboat charter by submitting the following documents:

(1) The text and copy of the bareboat charter party;

(2) Ship's valid technical certificates issued by an authorized organization for ship survey;

(3) A certificate issued by the ship registration authority of the former port of registry to the effect that the former nationality of the ship has been suspended or deleted, or that the former nationality of the ship will be suspended or deleted immediately when the new registration is effected.

After the application has been examined and verified to be in compliance with the requirements of these Regulations, the Ship Registration Administration shall issue the Certificate of Registration of Bareboat Charter and the Provisional Certificate of Ship's Nationality in accordance with Article 17 of these Regulations, and record the original country of registration in the Register of Ships.

Article 29 In case the bareboat charter period is to be extended, the shipowner and the charterer shall, 15 days prior to the expiration of the charter period, apply to the Ship Registration Administration for the renewal of the bareboat charter registration by submitting texts and copies of the Certificate of Registration of Bareboat Charter and the contract for extension.

Article 30 During the period of the bareboat charter, the charterer shall not apply for the registration of subletting the charter unless agreed by the shipowner in writing.

Chapter VI Ship's Mark and Company Flag

Article 31 A ship shall be marked as follows:

- (1) Ship's name in Chinese on both sides of the stem and at the stern;
- (2) Port of registry below the name at the stern;
- (3) The corresponding Chinese phonetic alphabets below the ship's name and port of registry;

(4) Draft scale on both sides of the stem and at the stern;

(5) Load line mark at mid ship, both sides.

Where a ship being constrained by its type and size is unable to be marked as above, it shall be marked with its name and port of registry at an easily-seen position.

Article 32 A shipowner may apply to the Ship Registration Administration at the port of registry for registration of the ship's funnel mark and its company flag by submitting the drawings of the standard design in compliance with the stipulations.

Article 33 Ships belonging to one company shall only use the same funnel mark and the same company flag.

The funnel mark and the company flag of a company shall be examined by the Ship Registration Administration at the port of registry.

The funnel mark and the company flag of a company shall not be the same as or similar to those which have been registered previously.

Article 34 The Ship Registration Administration shall publicize the funnel mark and company flags which have been approved and registered.

The registered funnel mark and company flags shall be used exclusively by the applicant and shall not be used by other ships or companies.

Chapter VII Alteration and Deletion of Registration

Article 35 In case of any alteration to the entries of the ship registration, the shipowner shall apply to the Ship Registration Administration at the port of registry for the registration of alteration by submitting the relevant documents of ship registration and those evidencing such alteration.

Article 36 In case a ship's port of registry is to be changed, the shipowner shall apply to the Ship Registration Administration at the former port of registry for registration of the change by submitting the ship's Certificate of Nationality and the document evidencing such a change. After the application has been examined and verified to be in compliance with the requirements of these Regulations, the Ship Registration Administration at the former port of registry shall indicate the change in the column of "Alteration" in the Certificate of Ship's Nationality and deliver the entire file of the ship's registration to the Ship Registration Administration at the new port of registry where the shipowner shall apply again for new registration thereof.

Article 37 In case of any change of joint ownership, the ship owners shall apply to the Ship Registration Administration at the port of registry for registration of the change by submitting the Certificate of Registration of Ship's Ownership and the document evidencing such change.

Article 38 In case the contract of ship's mortgage is changed, the mortgagee and the mortgagor shall apply to the Ship Registration Administration for registration of such a change by submitting the Certificate of Registration of Ship's Ownership, the Certificate of Registration of Ship's Mortgage and the document evidencing such change.

After the application has been examined and verified to be in compliance with the requirements of these Regulations, the Ship Registration Administration at the port of registry shall indicate the change of the mortgage contract in the Certificate of Registration of Ship's Ownership, the Certificate of Registration of Ship's Mortgage and the Registry of Ships.

Article 39 In case of transference of ship's ownership, the former shipowner shall apply to the Ship Registration Administration at the port of registry for the

registration of deletion by submitting the Certificate of Ship's Ownership, Certificate of Ship's Nationality and other relevant documents.

After the application has been examined and verified to be in compliance with the requirements of these Regulations, the Ship Registration Administration at the port of registry shall delete the registration regarding ship's ownership and other relevant registrations in the Register of Ships, withdraw the certificates of registration concerned, and issue a certificate of deletion of ship's registration to the shipowner. If the ship is sold overseas, the Ship Registration Administration shall issue a certificate to the effect that the ship's nationality has been deleted, or that the ship's nationality will be deleted immediately when the ship is registered anew.

Article 40 In case a ship is lost (dismantled or sunken included) or missing, the shipowner shall, within 3 months after the ship is lost (dismantled or sunken) or missing, apply to the Ship Registration Administration at the port of registry for the registration of deletion by submitting the Certificate of Registration of Ship's Ownership, Certificate of Ship's Nationality and the document evidencing that the ship has been lost (dismantled or sunken) or missing. After the application has been examined and verified to be in compliance with the requirements of these Regulations, the Ship Registration Administration shall delete the ship's registration in the Register of Ships, withdraw the certificates of registrations concerned, and issue a certificate of deletion to the shipowner.

Article 41 In case a contract of mortgage is terminated, the mortgagee and the mortgagor shall apply to the Ship Registration Administration at the port of registry for the registration of deletion by submitting the Certificate of Registration of Ship's Ownership, Certificate of Registration of Ship's Mortgage and the document signed by the mortgagee evidencing the termination of the mortgage contract. After the application has been examined and verified to be in compliance with the requirements of these Regulations, the Ship Registration Administration at the port of registry shall delete the

registrations of the ship's mortgage in the Certificate of Ship's Ownership and the Register of Ships.

Article 42 In case a ship is bareboat chartered overseas, the shipowner shall, in addition to applying for registration of bareboat charter in accordance with Article 27 of these Regulations, apply for registration of suspension or deletion of the ship's nationality. The Ship Registration Administration at the port of registry shall seal up the original Certificate of Ship's Nationality and issue a certificate of suspension or deletion of the ship's nationality. Under some special circumstances, the Ship Registration Administration may issue a certificate to the effect that the ship's nationality will be suspended or deleted immediately at such time as the ship is registered anew.

Article 43 Upon the expiration of a bareboat charter party or the termination thereof, the shipowner shall, within 15 days after the date of such expiration or termination, apply to the Ship Registration Administration at the port of registry for registration of deletion of the bareboat charter by submitting the Certificate of Registration of Ship's Ownership and the bareboat charter party or the document evidencing such termination.

If the ship is bareboat chartered overseas, the shipowner shall, in addition, submit a certificate issued by the ship registration authority at the charterer's place of business to the effect that the ship's nationality has been deleted or that the ship's nationality will be deleted immediately at such time as the ship is registered anew.

The Ship Registration Administration at the port of registry, having approved of the application, shall delete the registration of bareboat charter in the Certificate of Registration of Ship's Ownership and the Register of Ships, and return to the shipowner the original Certificate of Ship's Nationality.

Article 44 In case a ship is bareboat chartered, the charterer shall, within 15 days after the expiration or termination of the bareboat charter, apply to the Ship

Registration Administration at the port of registry for registration of deletion by submitting the bareboat charter party or the document evidencing such termination.

If the ship is bareboat chartered from overseas, the Provisional Certificate of Nationality shall be submitted as well.

The Ship Registration Administration at the port of registry, having approved of the application, shall delete the ship's registration of bareboat charter in the Register of Ship, withdraw the Provisional Certificate of Nationality, and issue a certificate of deletion of the bareboat charter and a certificate of deletion of the Provisional Certificate of the Ship's Nationality.

Chapter VIII Renewal and Re-issue of Certificate of Registration of Ship's Ownership and Certificate of Ship's Nationality

Article 45 The shipowner of a ship shall, within 1 year prior to the expiration of the Certificate of Ship's Nationality, apply to the Ship Registration Administration at the port of registry for the renewal of the certificate by submitting the Certificate of Ship's Nationality and the valid technical certificates.

Article 46 In case the Certificate of Registration of Ship's Ownership or the Certificate of Ship's Nationality of a ship is fouled, damaged or rendered useless, the shipowner shall apply to the Ship Registration Administration at the port of registry for the re-issue of the certificate.

Article 47 In case the Certificate of Registration of Ship's Ownership or the Certificate of Ship's Nationality of a ship is lost, the shipowner shall apply to the Ship Registration Administration at the port of registry for the re-issue of the certificate by stating the reasons in writing and submitting the appropriate document as evidence.

The Ship Registration Administration at the port of registry shall make an announcement in the local newspaper that the lost certificate is null and void.

Article 48 In case the Certificate of Ship's Nationality is found lost, fouled or damaged in a foreign country, the shipowner shall apply to the local Embassy or Consulate of the People's Republic of China for a Provisional Certificate of Ship's Nationality, but shall, as soon as the ship arrives at the first Chinese port, apply to the Ship Registration Administration at the port of registry for the re-issue of the Certificate of Ship's Nationality.

Chapter IX Legal Liability

Article 49 A ship that forges the nationality of the People's Republic of China and illegally flies the flag of the People's Republic of China during navigation shall be confiscated by the Ship Registration Administration according to relevant laws.

The provisions of the above paragraph shall be applicable to a Chinese ship that forges a foreign nationality and illegally flies the flag of a foreign country during navigation.

Article 50 In case a ship conceals its registration made at home or overseas which results in dual nationality, the Ship Registration Administration at the port of registry shall delete the Certificate of Ship's Nationality and impose the following penalties varying from deferent case:

(1) A fine of RMB 2000.00 up to RMB 10000.00 yuan for a ship of 500 tons gross tonnage or below;

(2) A fine of RMB 10000.00 up to RMB 50000.00 yuan for a ship of 501—1000 tons gross tonnage;

(3) A fine of RMB 50000.00 up to 200000.00 yuan for a ship of 10001 tons gross tonnage or above.

Article 51 The Ship Registration Administration at the port of registry shall, according to the seriousness of the case, punish any of the following violations against

these Regulations by giving a warning, and imposing a fine of 50% of the amounts specified for ships of different gross tonnage as set out in Article 50, or withdrawing the ship's registration certificates:

- (1) Concealing the real facts and providing false information for registration;
- (2) Concealing the fact of registration and resulting in dual registration;
- (3) Forging or making alteration to certificates of ship's registration.

Article 52 The Ship Registration Administration shall order those who fail to apply for the alteration or deletion of registration under these Regulations or those who use expired certificates of nationality and provisional certificate of nationality to go through the formalities for the registration concerned, and if the case is serious, may impose a fine of 10% of the amounts specified for ships of different tonnage as set out in Article 50 of these Regulations.

Article 53 The Ship Registration Administration at the port of registry shall order those who violate these Regulations by employing foreign seafarers without authorization or using a funnel mark or company flag already registered by others to rectify, and shall impose a fine of 10% of the amounts specified for ships of different gross tonnage as set out in Article 50 of these Regulations against those who refuse to rectify, and, if the case is serious, shall withdraw the Certificate of Ship's Nationality or the Provisional Certificate of Ship's Nationality.

Article 54 Any of those working in the Ship Registration Administration who abuses his power, practises graft, ignores his duty, or grossly neglects his responsibilities shall be punished by the Administration; if the case is so serious that a crime is committed, the criminal liability shall be inflicted upon the offender in accordance with the law.

Article 55 A person or party concerned who refuses to accept the actions

taken by the Ship Registration Administration may apply for a review of the case or bring the case before the court in accordance with the provisions of relevant laws or administrative regulations.

Chapter X Supplementary Provisions

Article 56 For the purpose of these Regulations:

(1) "Ship" means any self-propelled or non-self-propelled vessel and any other mobile unit on water with the exception of life boats and life rafts equipped on board ships and boats or rafts of less than 5 meters in length;

(2) "Fishery ship" means any vessel engaged in fishing or any vessel belonging to the fishing industry and serving the purpose of fishery;

(3) "Service ship" means any vessel serving the administrative purposes of the Government.

Article 57 With the exception of service ships, ship registration fees shall be levied by the Ship Registration Administration in accordance with the relevant rules. The fee levels and management rules concerning the levy of ship registration fees shall be formulated by the financial department and the department in charge of commodity prices under the State Council in consultation with the competent authority of transport and communications under the State Council.

Article 58 The forms of the Register of Ships, the Certificate of Ship's Nationality, the Provisional Certificate of Ship's Nationality, the Certificate of Registration of Ship's Ownership, the Certificate of Registration of Ship's Mortgage, the Certificate of Registration of Bareboat Charter, the applications and other certificates shall be solely formulated by the Harbour Superintendency Administration of the People's Republic of China.

Article 59 These Regulations shall enter into force on January 1, 1995.

ภาคผนวก จ**Shipping Registration Act 1981 (as amended on 2006)****Part II Registration of Ships****Division 1 Registration****12 Obligation to register Australian-owned ships**

- (1) Subject to this Part, every Australian-owned ship shall be registered under this Act.
- (2) Where an Australian-owned ship is operated by a foreign resident under a demise charter, the Authority may, by instrument in writing, exempt the ship during the term of the charter from the requirement to be registered.
- (3) Where a ship required to be registered is not registered, the owner of the ship is, in respect of each day on which the ship remains unregistered (including the day of a conviction for an offence against this subsection or any subsequent day), guilty of an offence, and, whether or not proceedings are instituted for such an offence, the ship may be detained until registration is effected.
- (3A) An offence under subsection (3) is an offence of strict liability.
Note: For *strict liability*, see section 6.1 of the *Criminal Code*.
- (4) It is not a defence to a prosecution under subsection (3) that the ship required to be registered is registered under the law of a foreign country.

13 Exemptions from registration

Ships less than 24 metres in tonnage length, Government ships, fishing vessels and pleasure craft are exempt from the requirement to be registered under section 12.

14 Ships permitted to be registered

Where application is made as provided by this Act, the following ships shall be registered:

- (a) Australian-owned ships referred to in section 13;
- (b) small craft wholly owned by residents of Australia or by residents of Australia and Australian nationals;
- (c) small craft operated solely by residents of Australia or Australian nationals or both;
- (d) ships on demise charter to Australian-based operators.

15 Application for registration

Subject to this Part, an application for the registration of a ship shall be made in accordance with the regulations.

16 Tonnage measurement of ship before registration

- (1) A ship shall not be registered unless and until a certificate relating to the tonnage measurement of the ship issued under, or otherwise having effect by virtue of, the *Navigation Act 1912* has been lodged with the Registrar.
- (2) Subsection (1) does not apply to a prescribed ship, or ships included in a prescribed class of ships.

17 Foreign-registered ships not registrable under this Act

- (1) The Registrar shall not register a ship under this Act if it is registered under the law of a foreign country.
- (2) Where, in relation to a ship that has, at any time, been registered under the law of a foreign country, application is made for the registration of the ship under this Act, the application shall be accompanied by such evidence as the Registrar requires to establish:
 - (a) that the ship is no longer registered under the law of that country; or

- (b) that steps have been taken, or are proposed to be taken, to close the registration of the ship under the law of that country on or before the registration of the ship under this Act.

18 Entry of particulars in Register

The Registrar shall register a ship by entering in the Register such particulars relating to the ship as are prescribed.

Division 2—Registration certificates

19 Grant of registration certificate

Upon the registration of a ship under section 18, the Registrar shall grant a registration certificate in respect of the ship, in the prescribed form, containing the particulars entered in the Register relating to the ship and such other matters as are prescribed.

20 Custody of registration certificate

- (1) The registration certificate of a ship shall not be used except for the purpose of the lawful navigation of the ship, and shall not be subject to detention by reason of a claim by an owner, mortgagee, charterer, operator or any other person to any title to, lien or charge on, or interest in, the ship.
- (2) A person having possession or control of a registration certificate shall not fail to deliver the certificate on demand to the person entitled to the custody of it for the purposes of the lawful navigation of the ship, or to the Registrar, a Deputy Registrar, a proper officer or any other person entitled by law to require its delivery.
- (2A) Subsection (2) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2A) (see subsection 13.3(3) of the *Criminal Code*).

- (2B) An offence based on subsection (2) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- (3) If, in any proceedings in respect of an offence against this section in relation to a registration certificate, the court is of the opinion that the certificate is lost, the court shall make an order to that effect and cause an office copy of the order to be served on the Registrar.
- (4) In this section, *registration certificate* includes a provisional registration certificate.

21 New certificates and provisional certificates

- (1) Where:
- (a) a registration certificate is mislaid, lost or destroyed; or
 - (b) a registration certificate is lodged with the Registrar;
- the Registrar shall, upon application made in the manner prescribed, grant a new certificate in substitution for that certificate.
- (2) If:
- (a) an event referred to in paragraph (1)(a) occurs while the ship concerned is at a foreign port at which there is a proper officer; or
 - (b) such an event occurs while the ship concerned is at sea or at a foreign port at which there is no proper officer and, subsequently, but before arriving at an Australian port, the ship arrives at a foreign port at which there is a proper officer;
- the Registrar or the proper officer at that port shall, upon application made to him or her, subject to the regulations, grant a provisional registration certificate in respect of the ship in accordance with the prescribed form.
- (3) Subject to subsection (5), a provisional registration certificate granted in respect of a ship under subsection (2) has the same effect as a registration certificate until:
- (a) the ship arrives at an Australian port; or

- (b) the expiration of a period of 6 months commencing on the date on which the certificate was granted;
- whichever first happens.
- (4) Where a proper officer grants a provisional registration certificate under this section, he or she shall forward a copy of the certificate to the Registrar.
- (5) If, while a provisional registration certificate granted in respect of a ship under subsection (2) is in effect, application is made in the manner prescribed, the Registrar may, by notice in writing served on the applicant, extend, in relation to the certificate, the period referred to in paragraph (3)(b) and, in that event, the reference in that paragraph to a period of 6 months shall be read as a reference to that period as so extended.
- (6) The person who has possession of a provisional registration certificate granted under subsection (2) shall, within 10 days after the ship first arrives at an Australian port after the grant, lodge the certificate with the Registrar.
- (7) Upon lodgment of a provisional registration certificate under subsection (6), the Registrar shall, in his or her discretion:
- (a) grant a further provisional registration certificate in respect of the ship; or
 - (b) grant a new registration certificate in respect of the ship.
- (8) A provisional registration certificate granted under paragraph (7)(a) has the same effect as a registration certificate for such period after the date on which the certificate was granted as the Registrar specifies in the certificate.

22 Provisional certificates for ships becoming entitled to be registered when abroad

- (1) If:
- (a) while a ship is at a foreign port at which there is a proper officer, it becomes a ship entitled to be registered; or
 - (b) while a ship is at sea or at a foreign port at which there is no proper officer, it becomes a ship entitled to be registered and, subsequently,

but before arriving at an Australian port, it arrives at a foreign port at which there is a proper officer;

the proper officer at that port may, subject to the regulations, grant a provisional registration certificate in respect of the ship in accordance with the prescribed form.

- (2) Subject to subsection (4), a provisional registration certificate granted in respect of a ship under this section has the same effect as a registration certificate, and, for the purposes of this Act and of the lawful navigation of the ship, the ship shall be deemed to be registered, until:
 - (a) the ship arrives at an Australian port; or
 - (b) the expiration of a period of 6 months commencing on the date on which the certificate was granted;whichever first happens.
- (3) Where a proper officer grants a provisional registration certificate under this section, he or she shall forward a copy of the certificate to the Registrar.
- (4) If, while a provisional registration certificate granted in respect of a ship under subsection (1) is in effect, application is made in the manner prescribed, the Registrar may, by notice in writing served on the applicant, extend, in relation to the certificate, the period referred to in paragraph (2)(b) and, in that event, the reference in that paragraph to a period of 6 months shall be read as a reference to that period as so extended.
- (5) The person who has possession of a provisional registration certificate granted in respect of a ship under subsection (1) shall, within 10 days after the ship first arrives at an Australian port after the grant, lodge the certificate with the Registrar.
- (6) Upon lodgment of a provisional registration certificate under subsection (5), the Registrar may grant a further provisional registration certificate in respect of the ship.

- (7) A provisional registration certificate granted in respect of a ship under subsection (6) has the same effect as a registration certificate for such period after the date on which the certificate was granted as the Registrar specifies in the certificate and, for the purposes of this Act and of the lawful navigation of the ship, the ship shall be deemed to be registered during that period.

22A Provisional certificates granted by the Registrar

- (1) If, while a ship is at sea or at a foreign port, it becomes a ship entitled to be registered, the Registrar may, subject to the regulations, grant a provisional registration certificate in respect of the ship in accordance with the prescribed form.
- (2) If, while a ship is at an Australian port, it is or becomes entitled to be registered, the Registrar may, subject to the regulations, after he or she is satisfied that it is the intention of the owner of the ship that the ship will depart from that port to a place outside Australia, grant a provisional registration certificate in respect of the ship in accordance with the prescribed form.
- (3) Subject to subsection (4), a provisional registration certificate granted in respect of a ship under this section has the same effect as a registration certificate and, for the purposes of this Act and of the lawful navigation of the ship, the ship shall be deemed to be registered until:
- (a) in the case of a ship in respect of which the certificate was granted under subsection (1):
 - (i) the ship arrives at an Australian port; or
 - (ii) the expiration of a period of 6 months commencing on the date on which the certificate was granted;
- whichever first happens; or

(b) in the case of a ship in respect of which a certificate was granted under subsection (2):

(i) the ship first returns from a place outside Australia to an Australian port after the grant; or

(ii) the expiration of a period of 6 months commencing on the date on which the certificate was granted;

whichever first happens.

(4) If, while a provisional registration certificate granted in respect of a ship under subsection (1) or (2) is in effect, application is made in the manner prescribed, the Registrar may, by notice in writing served on the applicant, extend, in relation to the certificate, the period referred to in subparagraph (paragraph (3)(a)(ii) or (3)(b)(ii), as the case requires, and, in that event, the reference in that subparagraph to the period of 6 months shall be read as a reference to that period as so extended.

(5) The person who has possession of a provisional registration certificate granted in respect of a ship under subsection (1) or (2) shall:

(a) in a case where the certificate was granted under subsection (1)—within 10 days after the ship first arrives at an Australian port after the grant; or

(b) in a case where the certificate was granted under subsection (2)—within 10 days after the ship first returns from a place outside Australia to an Australian port after the grant;

lodge the certificate with the Registrar.

(6) Upon lodgment of a provisional registration certificate under subsection (5), the Registrar may grant a further provisional registration certificate in respect of a ship.

(7) A provisional registration certificate granted in respect of a ship under subsection (6) has the same effect as a registration certificate for such period after the date on which the certificate was granted as the Registrar

specifies in the certificate and, for the purposes of this Act and of the lawful navigation of the ship, the ship shall be deemed to be registered during that period.

22B Provisional registration certificates not to be issued in certain circumstances

A provisional registration certificate shall not be granted by a proper officer under subsection 22(1), or by the Registrar under subsection 22A(1) or (2), in respect of a ship unless the person granting the certificate is satisfied that, at the time of his or her so granting the certificate, an application for registration of the ship under section 15 has been lodged with the Registrar and that that application has yet to be determined.

23 Temporary passes

- (1) Where the Authority is satisfied that, by reason of special circumstances, permission should be granted for an unregistered ship to travel:
 - (a) from an Australian port to a foreign port; or
 - (b) from a foreign port to another foreign port or to an Australian port;it may direct the Registrar to grant a temporary pass in respect of that ship, specifying the voyage which the ship is authorized to make and the time during which the pass remains valid, and the Registrar shall grant the pass accordingly.
- (2) A temporary pass shall be in the prescribed form.
- (3) A temporary pass granted in respect of a ship has, subject to the matters specified in the pass, the same effect as a registration certificate and, for the purposes of this Act and of the lawful navigation of the ship on the voyage specified in the pass, the ship shall be deemed to be registered.

25 Use of improper certificate

A person who, in relation to a ship, whether or not it is a registered ship, uses, or permits the use of, a registration certificate, provisional registration

certificate or temporary pass not legally granted and in force under this Act in respect of the ship is guilty of an offence.

Division 3—Identification

26 Marking of ship

- (1) A ship shall not be registered until it has been marked in accordance with the regulations with marks directed by the Registrar by notice in writing served on the owner or one of the owners and evidence of a kind specified in the regulations of the ship's having been so marked has been lodged with the Registrar.
- (2) Subject to subsection (4), if the markings placed on a registered ship in accordance with the requirements of subsection (1) are not maintained, the owner and master of the ship are each, in respect of each day during which the markings are not maintained (including the day of a conviction under this subsection or any subsequent day), guilty of an offence punishable upon conviction:
 - (a) if the offender is a natural person—by a fine not exceeding \$1,000; or
 - (b) if the offender is a body corporate—by a fine not exceeding \$2,000.
- (2A) An offence under subsection (2) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.
- (3) A person must not engage in conduct that results in the concealment, removal, alteration, defacing or obliteration of any marking that is on a registered ship in accordance with the requirements of subsection (1).
- (3A) Strict liability applies to the element of an offence against subsection (3) that the ship be marked in accordance with a requirement in subsection (1).

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.
- (4) Subsections (2) and (3) do not apply in relation to anything done as authorized by the regulations or done for the purpose of escaping capture by an enemy.

(5) In this section:

engage in conduct means:

- (a) do an act; or
- (b) omit to perform an act.

27 Name of registered ship and change of name

(1) A person shall not describe a registered ship by any name other than the name by which the ship is for the time being registered.

(2) Subject to this Act, application may be made to the Registrar, in the manner prescribed, for a change in the name of a registered ship.

(3) If:

(a) the name proposed for a ship in an application for the registration of the ship; or

(b) the new name proposed for a registered ship in an application under subsection (2),

is a prescribed name, or a name included in a prescribed class of names, the Registrar shall disallow the name.

(4) Where the Registrar grants an application under subsection (2):

(a) he or she shall cause the new name to be entered in the Register and endorsed on the ship's registration certificate; and

(b) section 26 applies in relation to the marking of the new name on the ship as if the ship had been registered by that name.

28 Power of Minister to disallow name proposed for ship

The Minister may, by notice in writing given to the Registrar, disallow:

- (a) the name proposed for a ship in an application for the registration of the ship; or

- (b) the new name proposed for a registered ship in an application under subsection 27(2);
- if the Minister is of the opinion that the description of the ship by that name is likely to prejudice the international relations of the Commonwealth.

Division 4—Nationality and national Colours

29 Certain ships to have Australian nationality

- (1) The following ships shall, for all purposes, be taken to be Australian ships and to have Australian nationality:
 - (a) registered ships;
 - (b) unregistered ships (other than ships required to be registered), being:
 - (i) Australian-owned ships referred to in section 13;
 - (ii) ships wholly owned by residents of Australia or by residents of Australia and Australian nationals; or
 - (iii) ships operated solely by residents of Australia or Australian nationals or both.
- (2) Nothing in subsection (1) shall be taken to alter the character of a ship as an article of personal property.
- (3) In this section, *unregistered ship* means a ship that is not registered under this Act or under the law of a foreign country.

30 National colours and other flags

- (1) It is hereby declared that the national colours for Australian ships are:
 - (a) in the case of ships registered by virtue of section 12 or ships (other than ships referred to in section 13) registered by virtue of paragraph 14(d)—the red ensign; and
 - (b) in any other case—the national flag and the red ensign.
- (2) When in waters outside Australian waters:

- (a) a ship to which paragraph (1)(a) applies may at any time, and shall as and when required by the regulations, fly the red ensign;
- (b) a registered ship, other than a ship to which paragraph (1)(a) applies, may at any time, and shall as and when required by the regulations, fly the national flag or the red ensign; and
- (c) a ship to which paragraph 29(1)(b) applies may at any time fly the national flag or the red ensign.

(2A) An offence based on subsection (2) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- (3) Subject to subsections (4) and (5), when in Australian waters, a registered ship shall, as and when required by the regulations, fly the national flag or the red ensign.

(3A) An offence based on subsection (3) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

(4) If:

- (a) a ship is required by subsection (3) to fly the national flag or the red ensign at a particular time (in this subsection referred to as the *relevant time*);
- (b) there was in force, immediately before the commencement of this Act, a warrant from Her Majesty or the Admiralty under section 73 of the Imperial Act known as the Merchant Shipping Act, 1894, as amended by any other Imperial Act, authorizing the use by the ship of the British Blue Ensign (with or without defacement);
- (c) that section is in force at the relevant time as part of the law of the United Kingdom; and
- (d) the flying of that Ensign by the ship at the relevant time is authorized by the warrant;

it is sufficient compliance with subsection (3) for the ship to fly that Ensign at the relevant time in lieu of the national flag or the red ensign.

(5) If:

(a) a ship is required by subsection (3) to fly the national flag or the red ensign at a particular time; and

(b) the ship is, at that time:

(i) entitled to fly a particular flag by virtue of an authority under section 6 of the *Flags Act 1953*; or

(ii) entitled to fly a particular flag of a State or Territory;

it is sufficient compliance with subsection (3) for the ship to fly that particular flag at that time in lieu of the national flag or the red ensign.

(6) A person shall not, in relation to a ship, use, or permit the use, at any one time, of 2 or more of the flags referred to in the preceding provisions of this section.

(7) When an Australian ship is in waters outside Australian waters, a person shall not, in relation to that ship:

(a) except as provided in subsection (2), use, or permit the use of, a flag referred to in, or appointed under, the *Flags Act 1953*; or

(b) use, or permit the use of, a flag of a State or Territory or a flag to which a warrant referred to in subsection (4) relates.

(8) A person shall not, in relation to a ship required to be registered that is not registered, use, or permit the use of, the national flag or the red ensign.

(8A) An offence based on subsection (6), (7) or (8) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

(9) Where, in relation to a ship, there is a contravention of, or failure to comply with, a provision of this section, the master and owner of the ship are each guilty of an offence.

(10) Upon application made in the manner prescribed by the owner or operator of a ship to which paragraph 29(1)(b) applies, the Registrar shall grant to the applicant a certificate stating that the ship is entitled to fly the national flag and the red ensign in accordance with this section.

(11) A certificate granted under subsection (10) is, for all purposes, *prima facie* evidence of the facts stated therein.

(12) In this section:

Australian waters means the territorial sea of Australia and any marine or tidal waters that are on the landward side of any part of that sea.

flag includes an ensign.

31 Declaration of ship's nationality before clearance

- (1) A Collector of Customs shall not grant a Certificate of Clearance in respect of a ship about to depart from an Australian port to a place outside Australia until the master of the ship has declared to the Collector the nationality of the ship.
- (2) A declaration made under subsection (1) shall be recorded on the Certificate of Clearance.

32 Improperly assuming Australian nationality

- (1) If the master or owner of a ship that is not an Australian ship does anything, or permits anything to be done, that results in a ship appearing to be an Australian ship, the ship is subject to forfeiture under this Act, and the Master and owner are each guilty of an offence.
- (2) Subsection (1) does not apply if the master or owner of the ship does the thing for the purpose of escaping capture by an enemy.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2) (see subsection 13.3(3) of the *Criminal Code*).

- (3) An offence based on subsection (1) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

33 Concealing Australian nationality

- (1) If the master or owner of an Australian ship does anything, or permits anything to be done that results in:
 - (a) concealing the nationality of the ship from any person entitled by a law of the Commonwealth or of a State or Territory to inquire into the nationality of the ship; or
 - (b) deceiving any such person; or

(c) the ship appearing not to be an Australian ship;

the ship is subject to forfeiture under this Act, and the master and owner are each guilty of an offence.

(2) Subsection (1) does not apply if the master or owner of the ship does the thing to escape capture by an enemy.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2) (see subsection 13.3(3) of the *Criminal Code*).

(3) An offence based on subsection (1) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.