

MERCANTILE MARINE ACT 1955

LONG TITLE

An Act to provide for the national character, ownership and registry of Irish ships, for the mortgage, sale, transfer and measurement of tonnage of such ships, and to provide for other matters connected with the matters aforesaid. [22nd December 1955.]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:—

PART I - PRELIMINARY AND GENERAL §§T

1 Short title.

SECT 1.—This Act may be cited as the Mercantile Marine Act, 1955.

2 Interpretation.

SECT 2.—(1) In this Act— "the Act of 1894" means the Merchant Shipping Act, 1894, and, save where the context otherwise requires, shall be construed as referring to that Act as amended or extended by subsequent enactments; "chief officer of customs and excise" includes the collector, or other chief officer of customs and excise at each port; "consular officer" includes any consular officer, whether he is or is not in the Civil Service of the State and also includes a person nominated whether individually or by reference to a class by the Minister for External Affairs, after consultation with the Minister, to exercise consular functions for the purposes of this Act or of any specified sections thereof; "diplomatic officer" means a person in the Civil Service of the State who is an ambassador extraordinary and plenipotentiary, an envoy extraordinary and minister plenipotentiary, a chargé d'affaires, a counsellor of embassy or legation, a secretary of embassy or legation or an attaché; "the General Register and Record Office" means the office to be maintained in accordance with section 96 of this Act; "Irish body corporate" means a body corporate established under and subject to the law of the State and having its principal place of business in the State; "master" includes every person (except a pilot) having command or charge of any ship; "the Minister" means the Minister for Industry and Commerce; "prescribed" means prescribed by a fees order under section 4 of this Act; "qualified person" means a person qualified under this Act to own a registered ship or a share therein; "reciprocating state" means a state declared by an order under section 19 of this Act for the time being in force to be a reciprocating state; "registered ship" means a ship registered under this Act; "ship" includes every description of vessel used in navigation not propelled by oars; "State-owned ship" means a ship wholly owned by the Government or a Minister of State; "surveyor of ships" means a person appointed to be a surveyor of ships for the purposes of the Act of 1894 and "surveyor" shall be construed accordingly. (2) References in any enactment to the Act of 1894 shall, unless the context otherwise requires, be construed as including a reference to this Act. (3) References in any enactment to Part I of the Act of 1894 shall, unless the context otherwise requires, be construed as a reference to this Act.

3 Non-application of this Act.

SECT 3.—This Act shall not apply to ships of the Naval Service of the Defence Forces which are wholly manned by personnel of that Service

4 Power to Minister to prescribe fees.

SECT 4.—(1) The Minister may, with the consent of the Minister for Finance, prescribe by order (in this Act referred to as a fees order) the fees to be charged for inspections made and certificates issued under this Act. (2) The Minister may, with the consent of the Minister for Finance, at any time by order revoke or amend a fees order or an order made under this subsection.

5 Collection and disposal of fees.

SECT 5.—(1) All fees payable under a fees order shall be collected and taken in such manner as the Minister for Finance shall from time to time direct and shall be paid into or disposed of for the benefit of the Exchequer in accordance with the directions of the said Minister. (2) The Public Offices Fees Act, 1879, shall not apply in respect of any fees payable under a fees order.

6 Laying of orders, rules and regulations before Houses of the Oireachtas.

SECT 6.—Every order, rule and regulation made by virtue of this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution is passed by either House within the next twenty-one days upon which that House has sat after such instrument has been laid before it annulling the instrument, the instrument shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.

7 Expenses.

SECT 7.—The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

8 Repeals.

SECT 8.—(1) The enactments mentioned in the First Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule. (2) Notwithstanding the repeal of the enactments mentioned in the First Schedule to this Act, then, unless the contrary otherwise appears, (a) any order, licence, certificate, bye-law, rule or regulation made or granted under any such enactment shall continue in force as if it had been made or granted under this Act; (b) any officer appointed, any body elected or constituted and any office established under any enactment hereby repealed shall continue and be deemed to have been appointed, elected, constituted, or established, as the case may be, under this Act; (c) any document referring to any Act or enactment hereby repealed shall be construed to refer to this Act or to the corresponding enactment of this Act.

IRISH SHIPS, NATIONAL COLOURS AND CHARACTER

9 Irish ships.

SECT 9.—The following ships shall be known as Irish ships and shall, subject to subsection (3) of section 18 of this Act, be entitled to wear the proper national colours and assume national character— (a) State-owned ships; (b) ships which are wholly owned by persons being citizens of Ireland (hereinafter referred to as Irish citizens) or Irish bodies corporate and are not registered under the law of another country; (c) other ships registered or deemed to be registered under this Act.

10 National colours for Irish ships.

SECT 10.—(1) The proper national colours to be worn by Irish ships shall be the national flag or that flag with a white border except that— (a) in the case of State-owned ships for which a special flag is prescribed under subsection (2) of this section, the proper national colours shall be the flag so prescribed, and (b) in the case of ships in respect of which a special flag is authorised by flag warrant under subsection (3) of this section, the proper national colours shall be the flag so authorised. (2) The Minister may prescribe a flag to be worn in lieu of the national flag by State-owned ships or by specified classes of such ships. (3) The Minister may, by flag warrant issued to any body of persons, authorise the members of the body to use a flag in lieu of the national flag on specified Irish ships, and may by any such warrant impose conditions and restrictions on the exercise of the authority thereby conferred and may revoke any such warrant.

11 Prohibition on hoisting colours other than national colours.

SECT 11.—(1) No flag distinctive of nationality shall be hoisted on an Irish ship other than the proper national colours. (2) The flying of a flag by way of courtesy only, in accordance with accepted international usage, shall not be a contravention of this section. (3) Where there is a contravention of this section, the master of the ship concerned shall be guilty of an offence and shall be liable on summary conviction thereof to a fine not exceeding one hundred pounds. (4) Any officer on full pay holding commissioned naval rank in the Defence Forces, or a member of the Garda Síochána not below the rank of Inspector, or any officer of customs and excise, or any diplomatic or consular officer may board any ship or boat on which any colours or pendant are hoisted contrary to this Act, and take away the colours or pendant which shall thereupon be forfeited to the State.

12 Obligation to hoist national colours.

SECT 12.—(1) The proper national colours shall be hoisted on an Irish ship— (a) on a signal being made to her by a ship of the Naval Service of the Defence Forces under the command of a commissioned officer of that Service, and (b) on entering or leaving a port outside the State, and (c) if the ship is of fifty tons gross tonnage or upwards, on entering or leaving a port in the State. (2) Subsection (1) of this section shall not apply to a fishing boat duly entered in the fishing boat register and lettered and numbered in accordance with Part IV of the Act of 1894. (3) Where there is a contravention of this section the master of the ship concerned shall be guilty of an offence and shall be liable, on summary conviction thereof, to a fine not exceeding one hundred pounds.

13 Penalty for unduly assuming Irish character.

SECT 13.—(1) If a person uses the proper national colours or assume Irish national character on board a ship which is not an Irish ship, for the purpose of making the ship appear to be an Irish ship, the ship shall be subject to forfeiture under this Act, unless the assumption 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. (2) In proceedings to enforce the forfeiture, the burden of proving title to use the proper national colours and assume Irish national character shall be upon the person using or assuming them.

14 Penalty for concealment of Irish or assumption of foreign character.

SECT 14.—If the master or owner of an Irish ship does anything or permits anything to be done, or carries or permits to be carried any papers or documents, with intent— (a) to conceal the Irish national character of the ship from any person entitled by law to enquire into the ship's national character, or (b) to deceive any such person, or (c) to assume a foreign character, the ship shall be subject to forfeiture under this Act, and the master, if he commits or is privy to the commission of the offence shall in respect of each offence be guilty of a misdemeanour.

15 National character of ship to be declared before clearance.

SECT 15.—(1) An officer of customs and excise shall not grant a clearance or transire for a ship until the master has stated the nationality of the ship to the officer, and the officer shall thereupon inscribe that nationality on the clearance or transire. (2) A ship which attempts to proceed to sea without having the clearance or transire inscribed under subsection (1) of this section, may be detained until the statement of nationality is made.

QUALIFICATION FOR OWNERSHIP AND OBLIGATION TO REGISTER.

16 Persons qualified to own registered ships.

SECT 16.—Subject to section 19 of this Act respecting reciprocating states, the following shall alone be qualified to own a registered ship or a share therein— (a) the Government; (b) a Minister of State; (c) an Irish citizen; (d) an Irish body corporate.

17 Registry of State-owned ships.

SECT 17.—(1) The Government may, by order, provide for the registry of State-owned ships under this Act, and, subject to any exceptions and modifications which may be made by the Government by order, either generally or as respects any special class of State-owned ships, the Act of 1894 and this Act shall apply to ships registered in accordance with any such order as if they were registered in the manner provided by this Act. (2) The Government may revoke or amend an order under this section.

18 Obligation to register ships owned by Irish citizens and Irish bodies corporate.

SECT 18.—(1) Every ship which is wholly owned by an Irish citizen or an Irish body corporate shall be registered under this Act, unless she is a ship exempt under subsection (2) of this section from the obligation to register under this Act. (2) The following ships shall be exempt from the obligation to register under this Act but may be so registered:— (a) ships not exceeding fifteen net register tons burden employed solely in navigation on the rivers, canals, lakes or coasts of Ireland, Great Britain, the Channel Islands and the Isle of Man; (b) ships acquired before the date of the passing of this Act; (c) ships in respect of which the Minister has, under section 21 of this Act, consented to registry under the law of another country; (d) ships owned by Irish citizens not ordinarily resident in the State. (3) If a ship required by subsection (1) of this section to be registered is not registered under this Act, she shall not be entitled to any benefits, privileges, advantages or protection usually enjoyed by an Irish ship or to use the proper national colours or assume Irish national character, but so far as regards the payment of dues, the liability to fines and forfeiture and the punishment of offences committed on board such ship or by any persons belonging to her, such ship shall be dealt with in the same manner as if she were an Irish ship. (4) A ship required by this Act to be registered may be detained until the master of the ship, if so required, produces the certificate of the registry of the ship.

19 Reciprocating states.

SECT 19.—(1) The Government may by order declare a particular state to be a reciprocating state if they are of opinion that it would be in the national interest so to do, and if they are satisfied that Irish citizens and Irish bodies corporate are entitled, under the laws of that state, to own a ship or a share in a ship having the nationality of that state. (2) So long as an order under subsection (1) of this section is in force in respect of a particular state, the following persons— (a) citizens, subjects or national of that state, entitled under the laws thereof to own a ship having nationality of that state, and (b) bodies corporate established under and subject to the laws of that state, and having their principal place of business therein, shall be qualified to own a registered ship or a share therein, and any ship wholly owned by one or more of such persons may be registered under this Act. (3) The Government may revoke an order under subsection (1) of this section.

20 Prohibition of registry and saver for certain ships.

SECT 20.—(1) subject to subsection (2) of this section a ship which is not wholly owned by one or more qualified persons shall not be registered under this Act. (2) Notwithstanding section 16 of this Act, a ship, whether owned by qualified persons or not, whose name is entered before the date of the passing of this Act, in a register book at a port in the State shall be deemed to be duly registered under this Act.

21 Registry under the law of another country.

SECT 21.—The Minister may, in his absolute discretion, on the application of a qualified person to register a ship under the law of another country, consent to such registry by that person.

22 Penalty for unqualified person acquiring ownership of Irish ship.

SECT 22.—If a person who is not a qualified person acquires as owner, otherwise than by transmission as hereinafter provided for, any interest, legal or beneficial, in an Irish ship, the interest so acquired shall be subject to forfeiture under this Act.

PROCEDURE FOR REGISTRATION.

23 Registrars.

SECT 23.—(1) The chief officer of customs and excise at any port of registry and any other officer of customs and excise appointed for the purpose by the Revenue Commissioners shall be registrars of ships for the purposes of this Act. (2) A registrar shall not be liable to damages or otherwise for any loss accruing to any person by reason of any act done or default made by him in his character of registrar, unless the same has happened through his neglect or wilful act.

24 Register book.

SECT 24.—Every registrar shall keep a book to be called the register book, and entries in that book shall be made in accordance with the following provisions and such other provisions as the Minister may direct: (a) the property in a ship shall be divided into sixty-four shares; (b) subject to the provisions of this Act with respect to joint owners or owners by transmission, not more than sixty-four individuals shall be entitled to be registered at the same time as owners of any one ship, but this rule shall not affect the beneficial title of any number of persons or of any company represented by or claiming under or through any registered owner or joint owner; (c) a person shall not be entitled to be registered as owner of a fractional part of a share in a ship, but any number of persons, not exceeding five, may be registered as joint owners of a ship or of any share or shares therein; (d) joint owners shall be considered as constituting one person only as regards the persons entitled to be registered, and shall not be entitled to dispose in severalty of any interest in a ship or in any share therein in respect of which they are registered.

25 Survey and measurement of ship.

SECT 25.—(1) Every ship shall, before registry under this Act, be surveyed by a surveyor of ships and her tonnage ascertained in accordance with the tonnage regulations of this Act, and the surveyor shall grant his certificate specifying the ship's tonnage and build, and such other particulars descriptive of the identity of the ship as may for the time being be required by the Minister, and the certificate shall be delivered to the registrar before registry. (2) If the Minister is satisfied that, in another country, the rule for the measurement of the tonnage and build of ships are similar to the tonnage regulations of this Act, he may recognise certificates of measurement and build issued by the appropriate authority in that country, and such certificates shall be deemed to have been granted under subsection (1) of this section.

26 Marking of ship.

SECT 26.—(1) Every ship shall, before registry under this Act, be marked permanently and conspicuously to the satisfaction of the Minister in the following manner:— (a) the ship's name shall be marked on each of her bows, and her name and the name of her port of registry shall be marked on her stern, on a dark ground in white or yellow letters, or on a light ground in black letters, and the letters shall be not less than four inches in length and of proportionate breadth; (b) the ship's official number and the number denoting her registered tonnage shall be cut on her main beam; (c) a scale of feet denoting the ship's draught of water shall be marked on each side of her stem and of her stern post in Roman capital letters or in figures not less than six inches in length, the lower line of such letters or figures to coincide with the draught line denoted thereby, and those lines or figures shall be marked by being cut in and painted white or yellow on a dark ground, or in such other way as the Minister approves. (2) The Minister may exempt any class of ships from all or any of the requirements of this section, and a fishing boat entered in the

fishing boat register and lettered and numbered in pursuance of Part IV of the Act of 1894 need not have her name and port of registry marked under this section. (3) If the scale of feet showing the ship's draught of water is in any respect inaccurate so as to be likely to mislead, the owner of the ship shall be guilty of an offence and shall be liable, on summary conviction thereof, to a fine not exceeding one hundred pounds. (4) The marks required by this section shall be permanently continued, and no alteration shall be made therein except in the event of any of the particulars thereby denoted being altered in the manner provided by this Act. (5) If an owner or master of a ship neglects to cause his ship to be marked as required by this section, or to keep her so marked, or if any person conceals, removes, alters, defaces or obliterates, or suffers any person under his control to conceal, remove, alter, deface or obliterate any of the said marks, except in the event aforesaid or except for the purpose of escaping capture by an enemy, that owner, master or person shall be guilty of all offence and shall be liable, on summary conviction thereof, to a fine not exceeding one hundred pounds. (6) On a certificate from a surveyor of ships or inspector under the Act of 1894 that a ship is insufficiently or inaccurately marked the ship may be detained until the insufficiency or inaccuracy has been remedied.

27 Application for registry.

SECT 27.—An application for registry of a ship shall be made, in the case of individuals, by the person requiring to be registered as the owner, or by some one or more of the persons so requiring if more than one, or by his or their agent, and in the case of bodies corporate by their agent, and the authority of the agent shall be, testified by writing, if appointed by individuals, under the hands of the appointers, and, if appointed by a body corporate, under the seal of that body corporate.

28 Declaration of ownership on registry.

SECT 28.—A person shall not be entitled to be registered as owner of a ship or a share therein until he, or in the case of a body corporate the person authorised by section 83 of this Act to make declarations on behalf of the body corporate, has made and signed a declaration of ownership, referring to the ship as described in the certificate of the surveyor, and containing such particulars as the Minister may require.

29 Evidence on first registry.

SECT 29.—(1) On the first registry of a ship the following evidence shall be produced in addition to the declaration of ownership:— (a) in the case of a ship built in the State, a builder's certificate, that is to say a certificate signed by the builder of the ship and containing a true account of the proper denomination and of the tonnage of the ship, as estimated by him, and of the time when and the place where she was built, and of the name of the person (if any) on whose account the ship was built and, if there has been any sale, the bill of sale under which the ship, or a share therein, has become vested in the applicant for registry; (b) in the case of a ship built outside the State, the same evidence as in the case of a ship built in the State unless the declarant who makes the declaration of ownership declares that the time and place of her building are unknown to him, or that the builder's certificate cannot be procured, in which case there shall be required only the bill of sale under which the ship, or a share therein, became vested in the applicant for registry; (c) in the case of a ship condemned by any competent court, an official copy of the condemnation. (2) The builder shall grant the certificate required by this section, and any such person as the Revenue Commissioners recognise as carrying on the business of the builder of a ship shall be included, for the purposes of this section, in the expression "builder of the ship". (3) If the person granting a builder's certificate under this section wilfully makes a false statement in that certificate he shall be guilty of an offence and shall be liable, on summary conviction thereof, to a fine not exceeding one hundred pound.

30 Entry of particulars in register book.

SECT 30.—As soon as the requirements of this Act preliminary to registry have been complied with the registrar shall enter in the register book the following particulars respecting the ship:— (a) the name of the ship and her port of registry; (b) the details comprised in the surveyor's certificate; (c) the particulars respecting her origin stated in the declaration of ownership; and (d) the name and description

of her registered owner or owners, and if there are more owners than one, the proportions in which they are interested in her.

31 Documents to be retained by registrar.

SECT 31.—On the registry ship the registrar shall retain in his possession the following documents, namely, the surveyor's certificate, the builder's certificate, any bill of sale of the ship previously made, the copy of the condemnation (if any) and all declarations of ownership.

32 Ports of registry.

SECT 32.—(1) The several ports mentioned in the Second Schedule to this Act (being the ports of registry in the State at the passing of this Act) shall be ports of registry for the purposes of this Act. (2) The Minister may by order, after consultation with the Revenue Commissioners, amend the list of ports mentioned in the said Schedule. (3) The port at which a ship is registered for the time being shall be deemed her port of registry.

CERTIFICATE OF REGISTRY.

33 Certificate of registry.

SECT 33.—On completion of the registry of a ship, the registrar shall grant a certificate of registry comprising the particulars respecting her entered in the register book, with the name of her master.

34 Custody of certificate.

SECT 34.—(1) The certificate of registry shall be used only for the lawful navigation of the ship, and shall not be subject to detention by reason of any title, lien, charge or interest whatever had or claimed by any owner, mortgagee or other person to, on or in the ship. (2) If any person, whether interested in the ship or not, refuses on request to deliver up the certificate of registry when in his possession or under his control to the person entitled to the custody thereof for the purposes of the lawful navigation of the ship, or to any registrar, officer of customs and excise or other person entitled by law to require such delivery, any court capable of taking cognizance of the matter may summon the person so refusing to appear before the court, and to be examined touching such refusal, and unless it is proved to the satisfaction of the court that there was reasonable cause for such refusal, such person shall be guilty of an offence and shall be liable, on summary conviction thereof, to a fine not exceeding one hundred pounds, but if it is shown to the court that the certificate is lost the person summoned shall be discharged and the court shall certify that the certificate of registry is lost. (3) If the person so refusing is proved to have absconded so that the process of a court cannot be served on him, or if he persists in not delivering up the certificate, the court shall certify the fact, and the same proceedings may then be taken as in the case of a certificate mislaid, lost or destroyed, or a, near thereto as circumstances permit.

35 Penalty for use of improper certificate.

SECT 35.—If the master or owner of a ship uses or attempts to use for her navigation a certificate of registry not legally granted in respect of the ship, he shall be guilty of a misdemeanour and the ship shall be subject to forfeiture under this Act.

36 Power to grant new certificate.

SECT 36.—The registrar of the port of a ship may, with the approval of the Revenue Commissioners, on the delivery up to him of the certificate of registry of a ship and on the payment by the registered owners of the prescribed fee (if any) grant a new certificate in lieu thereof.

37 Provision for loss of certificate.

SECT 37.—(1) In the event of the certificate of registry of a ship being mislaid, lost or destroyed, the registrar of her port of registry shall, on the payment by the registered owners of the prescribed fee (if any), grant a new certificate of registry in lieu of her original certificate. (2) If the port (having a diplomatic or consular officer) at which the ship is at the time of the event or first arrives after the event is outside the State then, the master of the ship, or some other person having knowledge of the facts of the case, shall make a declaration stating the facts of the case and the names and descriptions of the registered owners of such ship to the best of the declarant's knowledge and belief, and the diplomatic or consular officer shall thereupon grant a provisional certificate containing a statement of the circumstances under which it is granted. (3) The provisional certificate shall, within ten days of the first subsequent arrival of the ship at a port in the State, be delivered up to the registrar of her port of registry and the registrar shall, upon the payment by the registered owners of the prescribed fee, (if any), grant the new certificate of registry, and if the master, without reasonable cause, fails to deliver up the provisional certificate within the ten days aforesaid, he shall be guilty of an offence and shall be liable on summary conviction thereof, to a fine not exceeding fifty pounds.

38 Endorsement of change of master on certificate.

SECT 38.—Where the master of registered ship is changed, each of the following persons, namely— (a) if the change is made in consequence of the removal of the master by a court under the Act of 1894, the proper officer of that court; and (b) if the change occurs from any other cause, the registrar, or if there is none the diplomatic or consular officer, at the port where the change occurs, shall, on the payment of the prescribed fee (if any), endorse and sign on the certificate of registry a memorandum of the change, and shall forthwith report the change to the person for the time being in charge of the General Register and Record Office, and any officer of customs and excise at any port in the State may refuse to admit any person to do any act there as master of a registered ship unless his name is inserted in or endorsed on her certificate of registry as her last appointed master.

39 Endorsement of change of ownership on certificate.

SECT 39.—(1) Whenever a change occurs in the registered ownership of a ship, the change of ownership shall be endorsed on her certificate of registry either by the registrar of the ship's port of registry, or by the registrar of any port in the State at which the ship arrives who has been advised of the change by the registrar of the ship's port of registry. (2) The master shall, for the purpose of such endorsement by the registrar of the ship's port of registry, deliver the certificate of registry to the registrar, forthwith after the change, if the change occurs when the ship is at her port of registry, and if it occurs during her absence from that port and the endorsement under this section is not made before her return, then upon her first return to that port. (3) The registrar of any port, not being the ship's port of registry, who is required to make an endorsement under this section may for that purpose require the master of the ship to deliver to him the ship's certificate of registry, so that the ship be not thereby detained, and the master shall deliver the same accordingly. (4) If the master fails to deliver to the registrar the certificate of registry as required by this section he shall be guilty of an offence and shall be liable, on summary conviction thereof, to a fine not exceeding one hundred pounds.

40 Delivery up of certificate of ship lost or ceasing to be owned by qualified persons.

SECT 40.—(1) In the event of a ship being either actually or constructively lost, taken by the enemy, burnt, or broken up, or ceasing by reason of a transfer to persons who are not qualified persons or otherwise, to be a registered ship, every owner of the ship or of any share in the ship shall, immediately on obtaining knowledge of the event, if no notice thereof has already been given to the registrar, give notice thereof to the registrar at her port of registry, and that registrar shall make an entry thereof in the register book, and provided the Minister has given his approval where such approval is necessary under regulations made under section 76 of this Act, the registry of the ship in that book shall be considered as closed except so far as relates to any unsatisfied mortgages or existing certificates of mortgage entered

therein. (2) In any such case, except where the ship's certificate of registry is lost or destroyed, the master of the ship shall, if the event occurs in port, immediately, but if it occurs elsewhere, then within ten days after his arrival in port, deliver the certificate to the registrar, or, if there is none, to the diplomatic or consular officer there, and the registrar, if he is not himself the registrar of her port of registry, or the diplomatic or consular officer, shall forthwith forward the certificate delivered to him to the registrar of her port of registry. (3) If any such owner or master fails without reasonable cause, to comply with this section, he shall be guilty of an offence and shall be liable, on summary conviction thereof, to a fine not exceeding one hundred pounds.

41 Temporary certificate for ships becoming owned by qualified persons abroad.

SECT 41.—(1) If, at a port outside the State, a ship becomes the property of qualified persons, the diplomatic or consular officer there may, subject to the approval of the Minister, grant to the master, on his application, a temporary certificate and shall forward a copy of the certificate at the first convenient opportunity to the General Register and Record Office. (2) A temporary certificate granted under this section shall contain such particulars as may be directed by the Minister and shall have the effect of a certificate of registry until the expiration of six months from its date or until the ship's arrival at a port in the State where there is a registrar (whichever first happens) and, on either of those events happening, shall cease to have effect.

42 Temporary passes in lieu of certificates of registry.

SECT 42.—Where it appears to the Revenue Commissioners that by reason of special circumstances it would be desirable that permission should be given to a ship which is wholly owned by one or more qualified persons to pass without being previously registered— (a) from any port in the State to another port in the State, or (b) from any port in the State to a port outside the State when the voyage is not primarily for trading purposes, the Revenue Commissioners may grant a pass accordingly, and that pass shall, for the time and within the limits therein mentioned, have the same effect as a certificate of registry.

TRANSFERS AND TRANSMISSIONS.

43 Transfer of ship or share.

SECT 43.—(1) A registered ship or a therein (when disposed of to a qualified person) shall be transferred by bill of sale. (2) The bill of sale shall contain such description of the ship as is contained in the surveyor's certificate, or the certificate of an authority recognised by the Minister and shall be in such form as the Revenue Commissioners may with the consent of the Minister from time to time direct or as near thereto as circumstances permit, and shall be executed by the transferor in the presence of, and be attested by, a witness or witnesses.

44 Declaration of transfer.

SECT 44.—Where a registered ship or a share therein is transferred, the transferee shall not be entitled to be registered as owner thereof until he, or, in the case of a body corporate, the person authorised by section 83 of this Act to make declarations on behalf of that body, has made and signed a declaration (in this Act called a declaration of transfer) referring to the ship, and containing— (a) a statement of the qualification of the transferee to own a registered ship, or, if the transferee is a body corporate, of such circumstances of the constitution and business thereof as prove it to be qualified to own a registered ship; and (b) a declaration that, to the best of his knowledge and belief, no person or body of persons who are not qualified persons is entitled as owner to any legal or beneficial interest in the ship or any share therein.

45 Registry of transfer.

SECT 45.—(1) Every bill of sale for the transfer of a registered ship or of a share therein, when duly executed, shall be produced to the registrar of her port of registry, with the declaration of transfer, and the

registrar shall thereupon enter in the register book the name of the transferee as owner of the ship or share, and shall endorse on the bill of sale the fact of that entry having been made, with the day and hour thereof. (2) Bills of sale of a ship or of a share therein shall be entered in the register book in the order of their production to the registrar.

46 Transmission of property in ship on death, bankruptcy, etc.

SECT 46.—(1) Where the property in a registered ship or in a share therein is transmitted to a qualified person on the death or bankruptcy of any registered owner, or by any lawful means other than by a transfer under this Act— (a) that person shall authenticate the transmission by making and signing a declaration (in this Act called a declaration of transmission) identifying the ship and containing the several statements herein before required to be contained in a declaration of transfer, or as near thereto as circumstances admit, and also a statement of the manner in which and the person to whom the property has been transmitted; (b) if the transmission is consequent on bankruptcy, the declaration of transmission shall be evidence as is for the time being receivable in courts of justice as proof of the title of persons claiming under a bankruptcy; (c) if the transmission is consequent on death, the declaration of transmission shall be accompanied by the instrument of representation, or an official extract therefrom. (2) The registrar, on receipt of the declaration of transmission so accompanied, shall enter in the register book the name of the person entitled under the transmission as owner of the ship or share the property in which has been transmitted, and where there is more than one such person, shall enter the names of all those persons, but those persons, however numerous, shall, for the purpose of the provision of this Act with respect to the number of persons entitled to be registered as owners, be considered as one person.

47 Order for sale on transmission to unqualified person.

SECT 47.—(1) Where the property in a registered ship or in a share therein is transmitted on death, bankruptcy or otherwise to a person who is not a qualified person, then the High Court may, on application by or on behalf of such person, order a sale of the property so transmitted and direct that the proceeds of the sale, after deducting the expenses thereof, be paid to the person entitled under such transmission or otherwise as the court direct. (2) The court may require any evidence in support of the application they think requisite and may make the order on any terms and conditions they think just, or may refuse to make the order and generally may act in case as the justice of the case requires. (3) Every such application for sale shall be made within four weeks after the occurrence of the event on which the transmission has taken place or within such further time (not exceeding in the whole one year) as the court allow. (4) If application is not made in accordance with this section or if the court refuse an order for sale, the ship or share transmitted shall thereupon be subject to forfeiture under this Act.

48 Transfer of ship on sale by order of the court.

SECT 48.—Where any court, whether under the proceeding sections of this Act or otherwise, order the sale of any ship or share therein, the order of the court shall contain a declaration vesting in some person named by the court the right to transfer that ship or share, and that person shall thereupon be entitled to transfer the ship or share in the same manner and to the same extent as if he were the registered owner thereof, and every registrar shall obey the requisition of the person so named were the registered owner thereof, and every registrar shall obey the requisition of the person so named in respect of any such transfer to the same extent as if such person were the registered owner.

49 Power of Court to prohibit transfer.

SECT 49.—The High Court may, if they think fit (without prejudice to the exercise of any other power of the court), on the application of any interested person make an order prohibiting for a timespecified any dealing with a ship or any share therein, and the court may make the order on any terms or conditions they think just, or may refuse to make the order, or may discharge the order when made, with or without costs, and generally may act in the case of justice of the case requires, and every registrar, without being made a party to the proceeding, shall, on being served with the order or an official copy thereof obey the same. MORTGAGES

50 Mortgage of ship or share.

SECT 50.—(1) A registered ship or a share therein may be made a security for a loan or other valuable consideration, and the instrument creating the security (in this Act called a mortgage) shall be in such form as the Revenue Commissioners with the consent of the Minister may from time to time direct or as near thereto as circumstances permit, and on the production of such instrument the registrar of the ships port of registry shall record it in the register book. (2) Mortgages shall be recorded by the registrar in the order in time in which they are produced to him for that purpose, and the registrar shall by memorandum under his hand notify on each mortgage that it has been recorded by him, stating the day and hour of that record.

51 Entry of discharge of mortgage.

SECT 51.—Where a registered mortgage is discharged, the registrar shall, on the production of the mortgage deed, with a receipt for the mortgage money endorsed thereon, duly signed and attested, make an entry in the register book to the effect that the mortgage has been discharged, and on that entry being made the estate (if any) which passed to the mortgagee shall vest in the person in whom (having regard to intervening acts and circumstances, if any) it would have vested if the mortgage had not been made.

52 Priority of mortgages.

SECT 52.—If there are more mortgages than one registered in respect of the same ship or share, the mortgagees shall, notwithstanding any express, implied or constructive notice, be entitled in priority, one over the other, according to the date at which each mortgage is recorded in the register book, and not according to the date of each mortgage itself.

53 Mortgagee not treated as owner.

SECT 53.—Except as far as may be necessary for making a mortgaged ship or share available as a security for the mortgage debt, the mortgagee shall not by reason of the mortgage be deemed the owner of the ship or share, nor shall the mortgagor be deemed to have ceased to be owner thereof.

54 Mortgagee to have power of sale.

SECT 54.—Every registered mortgagee shall have power absolutely to dispose of the ship or share in respect of which he is registered, and to give effectual receipts for the purchase money, but where there are more persons than one registered as mortgagees of the same ship or share, a subsequent mortgagee shall not, except under the order of a court of competent jurisdiction, sell the ship or share, without the concurrence of every prior mortgagee.

55 Mortgage not affected by bankruptcy.

SECT 55.—A registered mortgage of a ship or share shall not be affected by any act of bankruptcy committed by the mortgagor after the date of the record of the mortgage, notwithstanding that the mortgagor at the commencement of his bankruptcy had the ship or share in his possession, order, or disposition, or was reputed owner thereof, and the mortgage shall be preferred to any right, claim, or interest therein of the other creditors of the bankrupt or any trustee or assignee on their behalf.

56 Transfer of mortgages.

SECT 56.—A registered mortgage of a ship or share may subject to section 62 of this Act be transferred to any person, and the instrument effecting the transfer shall be in such form as the Revenue Commissioners may with the consent of the Minister from time to time direct or as near thereto as circumstances permit, and on the production of such instrument the registrar shall record it by entering in the register book the name of the transferee as mortgagee of the ship or share, and shall by memorandum

under his hand notify on the instrument of transfer that it has been recorded by him, stating the day and hour of the record.

57 Transmission of interest in mortgage on death, bankruptcy, etc.

SECT 57.—(1) Where the interest of a mortgagee in a ship or share is transmitted on death, or bankruptcy, or by any lawful means, other than by a transfer under this Act, the transmission shall be authenticated by a declaration of the person to whom the interest is transmitted, containing a statement of the manner in which and the person to whom the property has been transmitted, and shall be accompanied by the like evidence as is by this Act required in case of a corresponding transmission of the ownership of a ship or share. (2) The registrar on the receipt of the declaration, and the production of the evidence aforesaid, shall enter the name of the person entitled under the transmission in the register book as mortgagee of the ship or share.

CERTIFICATES OF MORTGAGE AND SALE.

58 Powers of mortgage and sale may be conferred by certificate.

SECT 58.—A registered owner, if desirous of disposing by way of mortgage or sale of the ship or share in respect of which he is registered at any place out of the State, may apply to the registrar, and the registrar shall thereupon enable him to do so by granting a certificate of mortgage or a certificate of sale.

59 Requisites for certificates of mortgage and sale.

SECT 59.—Before a certificate of mortgage or sale is granted, the applicant shall state to the registrar, and the registrar shall enter in the register book, the following particulars:— (a) the name of the person by whom the power mentioned in the certificate is to be exercised, and in the case of a mortgage the maximum amount of charge to be created, if it is intended to fix any such maximum, and in the case of a sale the minimum price at which a sale is to be made, if it is intended to fix any such minimum; (b) the place where the power is to be exercised, or if no place is specified, a declaration that it may be exercised anywhere, subject to the provisions of this Act; (c) the limit of time within which the power may be exercised.

60 Restrictions on certificates of mortgage and sale.

SECT 60.—A certificate of mortgage or sale shall not be granted so as to authorise any mortgage or sale to be made at any place in the State or by any person not named in the certificate.

61 Contents of certificates of mortgage and sale.

SECT 61.—A certificate of mortgage and a certificate of sale shall contain a statement of the several particulars by this Act directed to be entered in the register book on the application for the certificate, and in addition thereto an enumeration of any registered mortgages or certificates of mortgage or sale affecting the ship or share in respect of which the certificate is given.

62 Restriction on transfer or mortgage.

SECT 62.—(1) A person shall not transfer or mortgage, or transfer any mortgage of, any Irish ship or any share in an Irish ship unless— (a) the transaction is approved of by the Minister, or (b) the transaction is a transaction declared by regulations under subsection (3) of this section to be an excepted transaction for the purposes of this section. (2) If an instrument is executed which purports to be a transfer, mortgage or transfer of a mortgage of an Irish ship or of a share therein and the transaction to which the instrument relates is neither approved of by the Minister nor a transaction declared by regulation under subsection (3) of this section to be all excepted transaction for the purposes of this section, the instrument shall be void.

(3) The Minister may by regulations declare that a transaction which— (a) is a transfer, mortgage or transfer of a mortgage in which both the transferor or mortgagor and the transferee or mortgagee is one or more than one of the following:— (i) a person ordinarily resident in the State, (ii) an Irish body corporate, or (b) is a transfer, mortgage or transfer of a mortgage of a ship of a specified class or of any share therein, shall be an excepted transaction for the purposes of this section.

63 Rules as to certificates of mortgage.

SECT 63.—The following rules shall be observed as to certificates of mortgage:— (1) The power shall be exercised in conformity with the directions contained in the certificate. (2) Every mortgage made thereunder shall be registered by the endorsement of a record thereof on the certificate by a registrar or diplomatic or consular officer. (3) A mortgage made in good faith thereunder shall not be impeached by reason of the person by whom the power was given dying before the making of the mortgage. (4) Whenever the certificate contains a specification of the place at which, and a limit of time not exceeding twelve months within which, the power is to be exercised, a mortgage made in good faith to a mortgagee without notice shall not be impeached by reason of the bankruptcy of the person by whom the power was given. (5) Every mortgage which is so registered as aforesaid on the certificate shall have priority over all mortgages of the same ship or share created subsequently to the date of the entry of the certificate in the register book; and, if there are more mortgages than one so registered, the respective mortgagees claiming thereunder shall, notwithstanding any express, implied, or constructive notice, be entitled one before the other according to the date at which each mortgage is registered on the certificate, and not according to the date of the mortgage. (6) Subject to the foregoing rules, every mortgagee whose mortgage is registered on the certificate shall have the same rights and powers and be subject to the same liabilities as he would have had and been subject to if his mortgage had been registered in the register book instead of on the certificate. (7) The discharge of any mortgage so registered on the certificate may be endorsed on the certificate by any registrar or diplomatic or consular officer, on the production of such evidence as is by this Act required to be produced to the registrar on the entry of the discharge of a mortgage in the register book; and on that endorsement being made, the interest, if any, which passed to the mortgagee shall vest in the same person or persons in whom it would (having regard to intervening acts and circumstances, if any) have vested, if the mortgage had not been made. (8) On the delivery of any certificate of mortgage to the registrar by whom it was granted he shall, after recording in the register book, in such manner as to preserve its priority, any unsatisfied mortgage registered thereon, cancel the certificate, and enter the fact of the cancellation in the register book; and every certificate so cancelled shall be void to all intents.

64 Rules as to certificates of sale.

SECT 64.—The following rules shall be observed as to certificates of sale:— (1) A certificate of sale shall not be granted except for the sale of an entire ship. (2) The power shall be exercised in conformity with the directions contained in the certificate. (3) A sale made in good faith thereunder to a purchaser for valuable consideration shall not be impeached by reason of the person by whom the power was given dying before the making of such sale. (4) Whenever the certificate contains a specification of the place at which, and a limit of time not exceeding twelve months within which, the power is to be exercised, a sale made in good faith to a purchaser for valuable consideration without notice shall not be impeached by reason of the bankruptcy of the person by whom the power was given. (5) A transfer made to a qualified person shall be by a bill of sale in accordance with this Act. (6) If the ship is sold to a qualified person the ship shall be registered anew, but notice of all mortgages enumerated on the certificate of sale shall be entered in the register book. (7) Before registry anew there shall be produced to the registrar required to make the same the bill of sale by which the ship is transferred, the certificate of sale, and the certificate of registry of such ship. (8) The last—mentioned registrar shall retain the certificates of sale and registry, and after having endorsed on both of those instruments an entry of the fact of a sale having taken place, shall forward them to the registrar of the port appearing thereon to be the former port of registry of the ship, and the last-mentioned registrar shall thereupon make a memorandum of the sale in his register book, and the registry of the ship in that book shall be considered as closed, except as far as relates to any unsatisfied mortgages or existing certificates of mortgage entered therein. (9) On such registry anew the description of the ship contained in her original certificate of registry may be transferred to the new

register book, without her being re-surveyed, and the declaration to be made by the purchaser shall be the same as would be required to be made by an ordinary transferee. (10) If the ship is sold to a person who is not a qualified person the bill of sale, if any, by which the ship is transferred, the certificate of sale and the certificate of registry shall be produced to a registrar or diplomatic or consular officer, and that registrar or officer shall retain the certificates of sale and registry, and, having endorsed thereon the fact of that ship having been sold to a person who is not a qualified person, shall forward the certificates to the registrar of the port appearing on the certificate of registry to be the port of registry of that ship; and that registrar shall thereupon make a memorandum of the sale in his register book, and provided the Minister has given his approval where such approval is necessary under regulations made under section 76 of this Act the registry of the ship in that book shall be considered as closed, except so far as relates to any unsatisfied mortgages or existing certificates of mortgage entered therein. (11) If, on a sale being made to a person who is not a qualified person, default is made in the production of such certificates as are mentioned in the last rule, that person shall be considered by the law of the State as having acquired no title to or interest in the ship; and further, the person upon whose application the certificate of sale was granted, and the person exercising the power, shall each be liable to a fine not exceeding one hundred pounds. (12) If no sale is made in conformity with the certificate of sale, that certificate shall be delivered to the registrar by whom the same was granted; and he shall thereupon cancel it and enter the fact of the cancellation in the register book, and every certificate so cancelled shall be void for all intents and purposes. (13) It is hereby declared that where the registry of a ship is considered as closed under subsection (10) of this section, or under subsection (1) of section 40 of this Act, on account of a transfer to persons who are not qualified persons, any unsatisfied registered mortgage (including mortgages made under a certificate of mortgage) may, if the ship comes within the jurisdiction of any court in the State which has jurisdiction to enforce the mortgage, or would have had such jurisdiction if the transfer had not been made, be enforced by that court notwithstanding the transfer, without prejudice, in cases where the ship has been sold under a judgment of a court, to the effect of that judgment.

65 Power of Revenue Commissioners in case of loss of certificate of mortgage or sale.

SECT 65.—On proof at any time to the satisfaction of the Revenue Commissioners that a certificate of mortgage or sale is lost or destroyed, or so obliterated as to be useless, and that the powers thereby given have never been exercised, or if they have been exercised, then on proof of the several matters and things that have been done thereunder, the registrar may, with the sanction of the Commissioners, as circumstances require, either issue a new certificate, or direct such entries to be made in the register books or such other things to be done, as might have been made or done if the loss, destruction, or obliteration had not taken place.

66 Revocation of certificates of mortgage and sale.

SECT 66.—(1) The registered owner of any ship or share therein in respect of which a certificate of mortgage or sale has been granted, specifying the places where the power thereby given is to be exercised, may, by an instrument under his hand, authorise the registrar by whom the certificate was granted to give notice to the diplomatic or consular officer at every such place that the certificate is revoked. (2) Notice shall thereupon be given accordingly and shall be recorded by the diplomatic or consular officer receiving it, and after it is recorded the certificate shall be deemed to be revoked and of no effect so far as respects any mortgage or sale to be thereafter made at that place. (3) The notice after it has been recorded shall be exhibited to every person applying for the purpose of effecting or obtaining a mortgage or transfer under the certificate. (4) A diplomatic or consular officer on recording any such notice shall state to the registrar by whom the certificate was granted whether any previous exercise of the power to which such certificate refers has taken place.

NAME OF SHIP.

67 Rules as to name of ship.

SECT 67.—(1) A ship shall not be described by any name other than that by which she is for the time being registered. (2) A change shall not be made in the name of a ship without the previous written

permission of the Minister. (3) Application for that permission shall be in writing, and if the Minister is of opinion that the application is reasonable he may entertain it, and thereupon require notice thereof to be published in such form and manner as he thinks fit. (4) On permission being granted to change the name, the ship's name shall forthwith be altered in the register book, in the ship's certificate of registry and on her bows and stern. (5) If it is shown to the satisfaction of the Minister that the name of any ship has been changed without his permission he shall direct that her name be altered into that which she bore before the change, and the name shall be altered in the register book, in the ship's certificate of registry and on her bows and stern accordingly. (6) Where a ship having once been registered has ceased to be so registered no person, unless ignorant of the previous registry (proof whereof shall lie on him) shall apply to register, and no registrar shall knowingly register, the ship, except by the name by which she was previously registered, unless with the previous written permission of the Minister. (7) In the case of a foreign ship which was not at any previous time registered under this Act, no person shall apply to register, and no registrar shall knowingly register, such ship under this Act except by the name she bears as a foreign ship, unless with the previous written permission of the Minister. (8) If any person acts, or suffers any person under his control to act, in contravention of this section, or omits to do, or suffers any person under his control to omit to do, anything required by this section, he shall be guilty of an offence and shall be liable, on summary conviction thereof, to a fine not exceeding one hundred pounds, and (except in the case of a ship mentioned in subsection (7) of this section) the ship may be detained until this section is complied with.

68 Power to refuse registry under particular name.

SECT 68.—(1) The Minister, after consultation with the Revenue Commissioners, may make regulations enabling the Minister to refuse the registry of any ship by the name by which it is proposed to register that ship if it is already the name of a registered ship or of a ship registered in a reciprocating state or a name so similar as to be calculated to deceive, and may require notice to be given in such manner as may be directed by the regulations before the name of the ship is marked on the ship, or before the name of the ship is entered on the register. (2) If the registry of a ship by the name by which it is proposed to register that ship is refused by the Minister, or if any requirements of the regulations are not complied with in the case of any ship which it is proposed to register, that ship shall not be registered under the name proposed or until the regulations are complied with as the case may be.

REGISTRY OF ALTERATIONS, REGISTRY ANEW AND TRANSFER OF REGISTRY.

69 Registry of alterations.

SECT 69.—(1) When a registered ship is so altered as not to correspond with the particulars relating to her tonnage or description contained in the register book then, as soon as may be after such alteration has been made, the registered owner of the ship shall make application to the registrar at the port of registry of the ship and the registrar shall, on receipt of a certificate from a surveyor stating the particulars of the alteration, either cause the alteration to be registered or direct that the ship be registered anew. (2) If default is made in registering anew a ship, or in registering an alteration of a ship so altered as aforesaid, the owner of the ship shall be guilty of an offence and shall be liable, on summary conviction thereof, to a fine not exceeding one hundred pounds and, in addition, to a fine not exceeding five pounds for every day during which the offence continues after conviction.

70 Regulations for registry of alteration.

SECT 70.—(1) For the purpose of the registry of an alteration in the ship, the ship's certificate of registry shall be produced to the registrar, and the registrar shall, in his discretion, either retain the certificate of registry and grant a new certificate of registry containing a description of the ship as altered or endorse and sign on the existing certificate a memorandum of the alteration. (2) The particulars of the alteration so made, and the fact of the new certificate having been granted, or endorsement having been made, shall be entered by the registrar in his register book.

71 Power to inquire into the title of a registered ship to be registered.

SECT 71.—(1) Where it appears to the Revenue Commissioners that there is any doubt as to the title of any registered ship to be registered under this Act, they may direct the registrar of the port of registry of the ship to require evidence to be given to his satisfaction that the ship is entitled to be registered under this Act (2) If within such time, not less than thirty days, as the Revenue Commissioners fix, satisfactory evidence of the title of the ship to be registered is not so given, the ship shall be subject to forfeiture under this Act.

72 Registry anew on change of ownership.

SECT 72.—Where the ownership of any ship is changed, the registrar of the port at which the ship is registered may, on the application of the owners of the ship, register the ship anew, although registration anew is not required under this Act.

73 Procedure for registry anew.

SECT 73.—(1) Where a ship is to be registered anew, the registrar shall proceed as in the case of first registry, and on the delivery up to him of the existing certificate of registry, and on the other requisites of registry, or in the case of a change of ownership such of them as he thinks material, being duly complied with, shall make such registry anew, and grant a certificate thereof. (2) When a ship is registered anew, her former register shall be considered as closed, except so far as relates to any unsatisfied mortgage or existing certificates of sale or mortgage entered thereon, but the names of all persons appearing on the former register to be interested in the ship as owners or mortgagees shall be entered on the new register, and the registry anew shall not in any way affect the rights of any of those persons.

Transfer of registry.

SECT 74.—(1) The registry of any ship may be transferred from one port of registry to another port of registry in the State on the application to the registrar of the existing port of registry of the ship made by declaration in writing of all persons appearing on the register to be interested therein as owners or mortgagees, but that transfer shall not in any way affect the rights of those persons or any of them, and those rights shall in all respects continue in the same manner as if no such transfer had been effected. (2) On any such application the registrar shall transmit notice thereof to the registrar of the intended port of registry with a copy of all particulars relating to the ship, and the names of all persons appearing on the register to be interested therein as owners or mortgagees. (3) The ship's certificate of registry shall be delivered up to the registrar either of the existing or intended port of registry, and, if delivered up to the former, shall be transmitted to the registrar of the intended port of registry. (4) On the receipt of the above documents the registrar of the intended port of registry shall enter in his register book all the particulars and names so transmitted as aforesaid, and grant a fresh certificate of registry, and thenceforth such ship shall be considered as registered at the new port of registry, and the name of the ship's new port of registry shall be substituted for the name of her former port of registry on the ship's stern.

75 Restrictions on re-registration of abandoned ships.

SECT 75.—Where a ship has ceased to be registered under this Act by reason or having been wrecked or abandoned, or for any reason other than capture by the enemy or transfer to a person who is not a qualified person, the ship shall not be re-registered until she has, at the expense of the applicant for registration, been surveyed by a surveyor of ships and certified by him or by or on behalf of an authority recognised by the Minister or by a body recognised by such authority, to be seaworthy.

76 Regulations restricting closing or transfer of registry.

SECT 76.—(1) The Minister may provide by regulations that the registry in the State of a specified ship or of any ship of a specified class shall not be closed or transferred to a port outside the State save with the approval of the Minister. (2) The registry in the State of a ship to which regulations under this section relate shall not be closed or transferred to a port outside the State save with the approval of the Minister.

INCAPACITATED PERSONS.

77 Provision for cases of infancy or other incapacity.

SECT 77.—(1) Where by reason of infancy, lunacy or any other cause any person interested in any ship, or in any share therein, is incapable of making any declaration or doing anything required or permitted by this Act to be made or done in connection with the registry of the ship or share, the guardian or committee, if any, of that person, or, if there is none, any person appointed on application made on behalf of the incapable person, or of any other person interested, by any court or judge having jurisdiction in respect of the property of incapable persons, may make such declaration, or a declaration as nearly corresponding thereto as circumstances permit, and do such act or thing in the name and on behalf of the incapable person; and all acts done by the substitute shall be as effectual as if done by the person for whom he is substituted. (2) The Trustee Act, 1850, and the Acts amending the same, shall, so far as regards the court exercising jurisdiction in lunacy, apply to shares in ships registered under this Act as if they were stock as defined by that Act. TRUSTS AND EQUITABLE RIGHTS.

78 Notice of trusts not received.

SECT 78.—No notice of any trust, express, implied or constructive, shall be entered in the register book or be receivable by the registrar, and, subject to any rights and powers appearing by the register book to be vested in any other person, the registered owner of a ship or of a share therein shall have power absolutely to dispose in manner in this Act provided of the ship or share, and to give effectual receipts for any money paid or advanced by way of consideration.

79 Equities not excluded by Act.

SECT 79.—The expression "beneficial interest", where used in this Act, includes interests arising under contract and other equitable interests; and the intention of this Act is that without prejudice to the provisions of this Act for preventing notice of trusts from being entered in the register book or received by the registrar and without prejudice to the powers of disposition and of giving receipts conferred by this Act on registered owners and mortgagees, and without prejudice to the provisions of this Act relating to the exclusion of persons who are not qualified persons from the registry of ships under this Act, interests arising under contract or other equitable interests may be enforced by or against owners and mortgagees of ships in respect of their interest therein in the same manner as in respect of any other personal property.

LIABILITY OF BENEFICIAL OWNER.

80 Liability of owners.

SECT 80.—Where any person is beneficially interested, otherwise than by way of mortgage, 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 subject to all pecuniary penalties imposed by this or any other Act on the owners of ships or shares therein, so nevertheless that proceedings may be taken for the enforcement of any such penalties against both or either of the aforesaid parties, with or without joining the other of them.

MANAGING OWNER.

81 Ship's managing owner or manager to be registered.

SECT 81.—(1) The name and address of the managing owner for the time being of every registered ship shall be registered at the custom house of her port of registry. (2) Where there is not a managing owner

there shall be so registered the name of the person to whom the management of the ship is entrusted by or on behalf of the owner, and any person whose name is so registered shall, for the purposes of this Act, be under the same obligations and subject to the same liabilities as if he were the managing owner. (3) If default is made in complying with this section the owner shall be guilty of an offence and shall be liable, or if there are more owners than one each owner shall be guilty of an offence and shall be liable in proportion to his interest in the ship, on summary conviction, to a fine not exceeding in the whole one hundred pounds each time the ship leaves any port in the State.

DECLARATIONS AND INSPECTION OF REGISTER.

82 Power of registrar to dispense with declarations and other evidence.

SECT 82.—When, under this Act, any person is required to make a declaration on behalf of himself or of any body corporate, or any evidence is required to be produced to the registrar, and it is shown to the satisfaction of the registrar that from any reasonable cause that person is unable to make the declaration, or that the evidence cannot be produced, the registrar may, with the approval of the Revenue Commissioners and on the production of such other evidence, and subject to such terms as they may think fit, dispense with the declaration or evidence.

83 Mode of making declarations.

SECT 83.—(1) Declarations required by this Act shall be made before a registrar or a peace commissioner or a commissioner for oaths, or a diplomatic or consular officer. (2) Declarations required by this Act may be made on behalf of a body corporate by the secretary or any other officer of such body authorised by them for the purpose.

84 Inspection of register book.

SECT 84.—A person, on payment of the prescribed fee (if any) may, on application to the registrar at a reasonable time during the hours of his official attendance, inspect any register book.

85 Document admissible in evidence.

SECT 85.—(1) The following documents shall be admissible in evidence in manner provided by the Act of 1894 namely:— (a) any register book under this Act on its production from the custody of the registrar or other person having the lawful custody thereof, (b) a certificate of registry under this Act purporting to be signed by the registrar or other proper officer, (c) an endorsement on a certificate of registry purporting to be signed by the registrar or other proper officer, (d) every declaration made in pursuance of this Act in respect of a registered ship, and (e) such other documents made in pursuance of this Act as may be directed by the Minister. (2) A copy or transcript of the register of Irish ships kept in the General Register and Record Office under the direction of the Minister shall be admissible in evidence in manner provided by the Act of 1894, and have the same effect to all intents as the original register of which it is a copy or transcript. (3) In this section "proper officer" means a diplomatic or consular officer of the State or of a reciprocating state.

86 Forms of documents and instructions as to registry.

SECT 86.—(1) The several instruments and documents specified in the Third Schedule to this Act shall be in such form as may be directed by the Revenue Commissioners, with the consent of the Minister, or as near thereto as circumstances permit, and the Revenue Commissioners may, with the consent of the Minister, make such alterations in the forms so directed as they may deem requisite. (2) A registrar shall not be required without the special direction of the Revenue Commissioners to receive and enter in the register book any bill of sale, mortgage, or other instrument for the disposal or transfer of any ship or share, or any interest therein, which is made in any form other than that for the time being required under this Act, or which contains any particulars other than those contained in such form. (3) The Revenue

Commissioners shall cause the said forms to be supplied to all registrars under this Act for distribution to persons requiring to use the same, either free of charge, or at such moderate prices as they may direct.

87 Instructions by Revenue Commissioners as to duties of their officers under this Act.

SECT 87.—The Revenue Commissioners, with the consent of the Minister, may, for carrying into effect this Act, give such instructions to their officers as to the manner of making entries in the register book, as to the execution and attestation of powers of attorney, as to any evidence required for identifying any person, as to the referring to themselves of any question involving doubt or difficulty, and generally as to any act or thing to be done in pursuance of this Act, as they think fit.

FORGERY AND FALSE DECLARATIONS.

88 Forgery of documents.

SECT 88.—If any person forges, or fraudulently alters, or assists in forging or fraudulently altering, or procures to be forged or fraudulently altered, any of the following documents, namely, any register book, builder's certificate, surveyor's certificate, certificate of registry, declaration, bill of sale, instrument of mortgage, or certificate of mortgage or sale under this Act, or any entry or endorsement required by this Act to be made in or on any of those documents, that person shall be guilty of a misdemeanour.

89 False declarations concerning ownership, etc, of ships.

SECT 89.—(1) Every person who, in relation to any declaration made or any document or other evidence produced under this Act— (a) wilfully makes, or assists in making, or procures to be made any false statement concerning the title to or ownership of, or the interest existing in any ship, or any share in a ship, or (b) utters, produces or makes use of any declaration or document containing any such false statement knowing it to be false, shall be guilty of a misdemeanour. (2) Every person who wilfully makes a false declaration in relation to the qualification of himself or of any other person or of any body corporate to own a registered ship or any share therein, shall be guilty of a misdemeanour. (3) Every ship or share in a ship in respect of which any false declaration is made within the foregoing subsection of this section, shall be subject to forfeiture to the extent of the interest therein of the declarant, and also of any person or body corporate on behalf of whom such declaration was made unless such person or body proves that such declaration was made without his or their authority.

FORFEITURE OF SHIP.

90 Proceedings on forfeiture of ship.

SECT 90.—(1) Where any ship has either wholly or as to any share therein become subject to forfeiture under this Act, (a) a member of the *Gárda Síochána* not below the rank of Inspector or (b) an officer of customs and excise or (c) such other person as may be authorised by the Minister for the purpose, may seize and detain the ship and bring her for adjudication before the High Court, and the Court may thereupon adjudge the ship with her tackle, apparel and furniture to be forfeited to the State and make such order in the case as to the Court seems just. (2) Any officer or person mentioned in subsection (1) of this section shall not be responsible either civilly or criminally to any person whomsoever in respect of any such seizure or detention as aforesaid, notwithstanding that the ship has not been brought in for adjudication, or if so brought in is declared not liable to forfeiture, if it is shown to the satisfaction of the Court before whom any trial relating to such ship or such seizure or detention is held that there were reasonable grounds for such seizure or detention; but if no such grounds are shown the Court may award costs and damages to any party aggrieved, and make such other order in the premises as the Court think just.

MEASUREMENT OF SHIP AND TONNAGE.

91 Ascertainment of tonnage of ships to be registered.

SECT 91.—(1) The tonnage of every ship to be registered under this Act, with the exception mentioned in subsection (2) of section 25 of this Act shall, previously to her being registered, be ascertained in accordance with regulations made by the Minister (in this Act referred to as the tonnage regulations of this Act) and such regulations may make different provisions for different classes of such ships. (2) The tonnage regulations of this Act may provide for such allowances and deductions as the Minister thinks fit.

92 Tonnage once ascertained to be the tonnage of ship.

SECT 92.—Whenever the tonnage of any ship has been ascertained and registered in accordance with the tonnage regulations of this Act, the same shall thenceforth be deemed to be the tonnage of the ship, and shall be repeated in every subsequent registry thereof, unless any alteration is made in the form or capacity of the ship, or unless it is discovered that the tonnage of the ship has been erroneously computed; and in either of those cases the ship shall be remeasured, and her tonnage ascertained and registered according to the tonnage regulations of this Act.

93 Space occupied by deck cargo to be liable to dues.

SECT 93.—(1) If any ship carries as deck cargo, that is to say, in any uncovered space upon deck, or in any covered space not included in the cubical contents forming the ship's registered tonnage, timber, stores or other goods, all dues payable on the ship's tonnage shall be payable as if there were added to the ship's registered tonnage the tonnage of the space occupied by those goods at the time at which the dues become payable. (2) The space so occupied shall be deemed to be the space limited by the area occupied by the goods and by straight lines enclosing a rectangular space sufficient to include the goods. (3) The tonnage of the space shall be ascertained by a surveyor of ships or an officer of customs and excise in accordance with the tonnage regulations of this Act, and when so ascertained shall be entered by such surveyor or officer in the ship's official log-book, and also in a memorandum which such surveyor or officer shall deliver to the master, and the master shall, when the said dues are demanded, produce that memorandum in like manner as if it were the certificate of registry, or, in the case of a ship which is not a registered ship or a ship registered in a reciprocating state, the document equivalent to a certificate of registry, and in default shall be liable to the same penalty as if he had failed to produce the said certificate or document. (4) (a) This section shall not apply to a ship employed in trading or going within the following geographical limits, namely, Ireland, Great Britain, the Channel Islands and the Isle of Man and the continent of Europe between the river Elbe and Brest or within such limits as varied by an order under paragraph (b) of this subsection and for the time being in force. (b) The Minister may, if he so thinks fit, by order vary the limits set out in paragraph (a) of this subsection and may amend or revoke any order made under this paragraph.

94 Surveyors and directions for measurement of ships.

SECT 94.—All duties in relation to the survey and measurement of ships shall be performed, in accordance with the directions of the Minister, by surveyors of ships or by any person authorised by the Minister for the purpose.

95 Tonnage of ships of other countries.

SECT 95.—(1) Where the Minister is satisfied that the rules in force for the measurement of tonnage of ships applied by another country are similar to the tonnage regulations of this Act, the Minister may direct that the ships of that country shall, without being remeasured in the State, be deemed to be of the tonnage denoted in their certificates of registry or other national papers, in the same manner, to the same extent and for the same purposes as the tonnage denoted in the certificate of registry of a registered ship is deemed to be the tonnage of that ship, and any space shown by the certificate of registry or other national papers of any such ship as deducted from tonnage on account of being occupied by seamen or apprentices, and appropriated to their use, shall be deemed to have been certified under this Act and to comply with the provisions of this Act which apply to such a space in the case of registered ships, unless a surveyor of ships certifies to the Minister that the construction and the equipment of the ship as respects that space do not come up to the standard required under this Act in the case of a registered ship, and if any question arises whether the construction and the equipment of the ship so come up to the required standard a surveyor of ships may inspect the ship for the purpose of determining whether such a certificate should be given by him or not. (2) The Minister may limit the time during which the direction is to remain in operation, and make the direction subject to such conditions and qualifications (if any) as the Minister may deem expedient, and the operation of the direction shall be limited and modified accordingly. (3) If it is made to appear to the Minister that the tonnage of a ship, as measured by the rules of the country to which she belongs, materially differs from that which would be her tonnage if measured under this Act, the Minister may direct that, notwithstanding any direction for the time being in force under this section, any of the ships of that country may, for all or any of the purposes of this Act, be remeasured in accordance with this Act.

REGISTER OFFICE.

96 Establishment of register office.

SECT 96.—There shall be maintained, under the control of the Minister, a general register and record office of shipping and seamen which shall be known as An Phríomh-Oifig Chláraithe agus Taifeadta Loingis agus Mairnéalach.

97 Register of seamen.

SECT 97.—The person for the time being in charge of the General Register and Record Office shall, by means of documents transmitted to him and by any other means in his power, keep at his office a register of all persons who serve in ships subject to this Act.

PROSECUTION OF OFFENCES.

98 Misdemeanour.

SECT 98.—An offence under this Act declared to be a misdemeanour shall be punishable upon conviction on indictment by a fine not exceeding five hundred pounds or by imprisonment for a term not exceeding two years or by both such fine and imprisonment but may, instead of being prosecuted on indictment, be prosecuted summarily in the District Court and shall be punishable upon summary conviction by a fine not exceeding one hundred pounds or by imprisonment for a term not exceeding twelve months or by both such fine and imprisonment. Section 8.

FIRST SCHEDULE ENACTMENTS REPEALED.

Short Title.

Extent of Repeal.

Merchant Shipping Act, 1894.

Part I, and sections 251 and 252.

Merchant Shipping Act, 1906.

Sections 50, 51, 52, 53, 54, 55 and 80.

Merchant Shipping Act, 1907.

The whole Act.No. 46 of 1947.

Merchant Shipping Act, 1947.

Sections 2, 3, 4, 8, 9 and 10. Section 32.

SECOND SCHEDULE PORTS OF REGISTRY.

Cork, Drogheda, Dublin, Dundalk, Galway, Limerick, Skibbereen, Sligo Tralee, Waterford, Westport and Wexford. Section 86.

THIRD SCHEDULE

DOCUMENTS OF WHICH THE FORMS ARE TO BE DIRECTED BY THE REVENUE COMMISSIONERS AND CONSENTED TO BY THE MINISTER.

Bill of Sale. Certificate of surveyor. Declaration of ownership by individual owner. Declaration of ownership on behalf of a body corporate as owner. Certificate of registry. Temporary certificate. Declaration of ownership by individual transferee. Declaration of ownership on behalf of a body corporate as transferee. Declaration of owner taking by transmission. Mortgage. Transfer of Mortgage. Declaration of mortgagee taking by transmission. Certificate of mortgage. Certificate of sale. Revocation of certificate of sale or mortgage. 1955: Private Act 1