

Transfers and Transmissions

Transfer of ships or shares.

24. (1) Any transfer of –

- (a) a registered ship, or
- (b) a share in any such ship,

shall be effected by a bill of sale, unless the transfer will result in a majority interest in the ship no longer being owned by persons qualified to be owners of Cayman Islands ships.

(2) The bill of sale shall contain such description of the ship as is contained in the surveyor's certificate, or some other description sufficient to identify the ship to the satisfaction of the Registrar of Shipping, and shall be executed by the transferor in the presence of, and be attested by, a witness or witnesses.

Declaration of transfer.

25. Where a registered ship or a share therein is transferred in accordance with section 24(1) of this Act, the transferee shall not be entitled to be registered as owner thereof until he, or, in the case of a corporation, the person authorised by this Act to make declarations on behalf of the corporation, 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 Cayman Islands ship, or if the transferee is a corporation, of such circumstances of the constitution and business thereof as prove it to be qualified to own a Cayman Islands ship; and
- (b) a declaration that, to the best of his knowledge and belief, a majority interest in the ship is owned by persons qualified to be owners of Cayman Islands ships, and the ship is otherwise entitled to be registered.

In the application of this section to a ship which is not wholly owned by persons qualified to be owners of Cayman Islands ships, paragraph (a) above shall have effect only in relation to persons who are so qualified.

Registry of transfer.

26. (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 Shipping, with the declaration of transfer, and the Registrar shall thereupon enter in the register 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 in the order of their production to the Registrar of Shipping.

CAYMAN ISLANDS



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**THE MERCHANT SHIPPING ACT 1988 (AMENDMENT) LAW
(LAW 16 OF 1992)**

person appearing on the register to be interested as a mortgagee under the mortgage in question has consented to the entry ceasing to have effect.

Provisional certificate for ship becoming entitled to be registered while abroad.

22. (1) If a ship becomes entitled to be registered while at a port in a country outside the Cayman Islands, then (subject to the following provisions of this section) the appropriate person (as defined by section 18(4) of this Act) may, on the application of the master of the ship, grant to him a provisional certificate stating the matters specified in subsection (2) of this section, and shall forward a copy of the certificate at the first convenient opportunity to the Registrar of Shipping.

(2) Those matters are

- (a) the name of the ship;
- (b) the time and place of the purchase of the ship and the names of the purchasers; and
- (c) the best particulars respecting the tonnage, build and description of the ship which the person granting the certificate is able to obtain.

(3) No provisional certificate shall be granted by any person under this section unless he is satisfied that an application under section 8 of this Act for registry of the ship has been made or is intended.

(4) A provisional certificate shall have the effect of a certificate of registry until

- (a) the expiration of three months from its date, or
- (b) the ship's arrival at Georgetown,

whichever happens first, and shall then cease to be of any effect.

(5) Where a provisional certificate has been granted for a ship under this section, no further provisional certificate shall be so granted for the ship within one year from the date of that certificate except with the consent of the Governor in Council.

Temporary passes in lieu of certificates of registry.

23. Where it appears to the Governor in Council that by reason of special circumstances it would be desirable that permission should be granted to any Cayman Islands ship to pass, without being previously registered, from any port in Her Majesty's dominions to any other port within Her Majesty's dominions, the Governor 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.

destroyed, the master of the ship shall, as soon as practicable after the event, deliver up the certificate –

- (a) to the Registrar of Shipping, or
- (b) if the port where the ship is at the time of the event (or, as the case may be, where it first arrives thereafter) a port in a country outside the Cayman Islands, to the appropriate person (as defined by section 18(4) of this Act);

and any person receiving a certificate in pursuance of paragraph (b) above shall forthwith forward it to the Registrar of Shipping.

(4) The registry of a registered ship shall also terminate if –

- (a) the owner of the ship gives notice to the Registrar of Shipping that he desires to terminate the ship's registry, and
- (b) the Registrar records the giving of that notice in the register.

(5) Where the registry of a ship terminates by reason of –

- (a) any notice given in pursuance of subsection (4) of this section, or
- (b) any direction given by the Governor in Council under section 7(5) of the Merchant Shipping Act 1988 (power to direct removal from register in certain cases),

subsections (2) and (3) of this section shall have effect in relation to the delivering up and forwarding of the ship's certificate of registry as if the giving of that notice or direction were the event referred to in subsection (2).

(6) Where the registry of a ship terminates –

- (a) under subsection (1) or (4) of this section, or
- (b) as mentioned in subsection (5)(b) of this section,

the termination of its registry shall not affect any entry made in the register so far as relating to any undischarged registered mortgage, or any existing certificate of mortgage, of that ship or of any share in it.

(7) Subsection (6) of this section shall not apply to an entry in the register in a case where the Registrar of Shipping is satisfied that every

CAYMAN ISLANDS

Law 16 of 1992

I Assent

MICHAEL GORE
Governor

22nd September, 1992

A LAW RELATING TO THE APPLICATION OF THE MERCHANT SHIPPING ACT 1988 TO THE CAYMAN ISLANDS

ENACTED by the Legislature of the Cayman Islands.

Short title and
commencement.

1. This Law may be cited as the Merchant Shipping Act 1988 (Amendment) Law and shall come into force on such day as the Governor may by order appoint; and any such order may appoint different days for different provisions of this Law.

Interpretation.

2. In this Law, "Merchant Shipping Act 1988" means that Act in the form in which it was extended to and is part of the law of the Cayman Islands.

Amendments to the
Merchant Shipping Act
1988.

3. (1) Section 1 of the Merchant Shipping Act 1988 is amended by –

(a) in subsection (1) and 3, substituting "in this Law" for "in this Part";

(b) substituting for subsection (2) the following –

"(2) Unless the context otherwise requires in this Law–

"country" includes territory;

"length" in relation to a ship has the same meaning as in the tonnage regulations of the 1894 Act;

"Merchant Shipping Acts" means the Merchant Shipping Acts 1894 to 1988 as they extend to the Cayman Islands and as amended by the Merchant Shipping Law;

"Merchant Shipping Laws" means this Law, the Merchant Shipping (Registration) Law and the Merchant Shipping Law;

"owner", in relation to a registered ship, means registered owner;

"registered" and "registration" mean respectively registered and registration under Part 1 of the 1894 Act in the Cayman Islands;

"relevant overseas territory" means –

- (a) the Isle of Man,
- (b) any of the Channel Islands, or
- (c) any other colony of the United Kingdom;

"representative person" means a person appointed (or treated as appointed) as such under section 5;

"statutory provisions" means any provision contained in or having effect under any enactment;

"the 1894 Act" means the Merchant Shipping Act 1894 as it extends to the Cayman Islands as amended by the Merchant Shipping Laws."

(2) Section 3 of the Merchant Shipping Act 1988 is amended in subsection (1) by –

- (a) deleting sub-paragraphs (f) and (g); and
- (b) inserting sub-paragraphs (f), (g) and (h) as follows:

"(f) bodies corporate incorporated in the United Kingdom or in the Cayman Islands or in any relevant overseas territory and having their principal place of business in the United Kingdom or in the Cayman Islands or in any such territory;

(4) In this section "the appropriate person", in relation to a port in a country outside the Cayman Islands, means –

- (a) any British consular officer within whose consular district the port lies, or
- (b) where Her Majesty's Government in the United Kingdom is represented in that country by a High commissioner, any member of the High Commissioner's official staff nominated by him for the purposes of this Part of this Act, or
- (c) where that country is a colony, the Governor of the colony or any person appointed by him for those purposes,

and in this subsection "High Commissioner" includes an acting High Commissioner and "Governor" includes an acting Governor.

Endorsement of change of ownership.

20. (1) Whenever a change occurs in the registered ownership of a ship, the change of ownership shall be endorsed on her certificate of registry by the Registrar of Shipping.

(2) The master shall, for the purpose of such endorsement by the Registrar of Shipping, deliver the certificate of registry to the Registrar forthwith after the change.

(4) If the master fails to deliver to the Registrar of Shipping the certificate of registry as required by this section he shall, for each offence, be liable to a fine not exceeding one thousand dollars.

Delivery up of certificate of ship lost or ceasing to be Cayman Islands owned.

21. (1) In the event of a registered ship being either actually or constructively lost, taken by the enemy, burnt, or broken up, or –

- (a) ceasing to be entitled to be registered (whether because a majority interest in the ship is no longer owned by persons qualified to be owners of ships or for any other reason), or
- (b) becoming registered, otherwise than under this Part of this Act, in the Cayman Islands,

every registered owner of the ship or any share in the ship shall, immediately on obtaining knowledge of the event, if no notice thereof has already been given to the Registrar of Shipping give notice thereof to the Registrar of Shipping, and he shall make an entry thereof in the register and the registry of the ship shall terminate forthwith.

(2) Except where the ship's certificate of registering is lost or

justice or court shall certify that the certificate of registry is lost.

(3) If the person so refusing is proved to have absconded so that the warrant of a justice or process of a court cannot be served on him, or if he persists in not delivering up the certificate, the justice or 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 as near thereto as circumstances permit.

Penalty for use of improper certificate.

16. 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, in respect of each offence, be guilty of a misdemeanor, and the ship shall be subject to forfeiture under this Act.

Power to grant new certificate.

17. The Registrar of Shipping may, with the approval of the Governor in Council, and on the delivery up to him of the certificate of registry of a ship, grant a new certificate in lieu thereof.

Provision for loss of certificate.

18. (1) In the event of the certificate of registry of ship being mislaid, lost, or destroyed, the Registrar of Shipping shall grant a new certificate of registry in lieu of her original certificate.

(2) If –

- (a) the port where the ship is at the time of the event (or, as the case may be, where it first arrives thereafter) is a port in a country outside the Cayman Islands, and
- (b) the master of the ship, or some other person having knowledge of the facts of the case, makes a declaration before the appropriate person stating –
 - (i) the facts of the case, and
 - (ii) the names and descriptions of the registered owners of the ship to the best of the declarant's knowledge and belief,

the appropriate person may thereupon grant a provisional certificate containing a statement of the circumstances under which it is granted.

(3) The provisional certificate shall within ten days after the first subsequent arrival of the ship at Georgetown be delivered up to the Registrar of Shipping, and the Registrar of Shipping shall thereupon 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 liable to a fine not exceeding one thousand dollars.

- (g) persons who are nationals of a Member State of the European Community other than the United Kingdom; and
- (h) bodies corporate incorporated in a Member State of the European Community other than the United Kingdom and having their place of business in any part of the European Community."

(3) Section 4 of the Merchant Shipping Act 1988 is amended by –

- (a) in subsection (2), substituting "3(1)(a), (b), (e), (f), (g) or (h)" for "3(1)(a), (b), (e) or (f)";
- (b) in subsection (4), substituting "3(1)(c) or (d)" for "3(1)(c), (d); or (g)";
- (c) in subsection (5), substituting "3(1)(a), (e), (f), (g) or (h)" for "3(1)(a), (b), (e) or (f)" and "3(1)(c) or (d)" for "3(1)(c), (d) or (g)";
- (d) re-numbering subsection (7) as subsection (6).

(4) Section 5 of the Merchant Shipping Act 1988 is amended by –

- (a) in subsection (5), inserting "or under the Merchant Shipping Laws, or under any instrument in force under those Laws," after "those Acts,";
- (b) in subsections (5) and (6), substituting "(3)" for "(4)";
- (c) re-numbering subsections (4), (5) and (6) as subsections (3), (4) and (5), respectively.

(5) Section 7 of the Merchant Shipping Act 1988 is amended in subsection (3)(b) by adding "or of the Merchant Shipping Laws, or of any instrument in force under those Laws," after "those Acts,".

(6) Section 54 of the Merchant Shipping Act 1988 is amended by –

- (a) in subsections (1), (2) and (3), substituting "this Law" for "Part I";
- (b) in subsection (3), substituting "this Law" for "that Part";

(7) For the purpose of the re-enactment of sections 1 to 8, 51 and 54 of the Merchant Shipping Act 1988 as amended by this Law provided for in section 4(1) –

- (a) "Law" is substituted for "Act" in section 51 of the Merchant Shipping Act 1988; and
- (b) sections 51 and 54 of the Merchant Act 1988 are re-numbered as sections 9 and 10.

Re-enactment of provisions of the Merchant Shipping Act 1988 and Part I of the Merchant Shipping Act 1894.

4. (1) Sections 1 to 8, 51 and 54 of the Merchant Shipping Act 1988 as amended by this Law are set out in Part I of the Schedule to this Law and are by this Law enacted in the form there set out.
- (2) Part I of the Merchant Shipping Act 1894 and Part II of the First Schedule thereto as in force in the Cayman Islands are set out in Part II of the Schedule to this Law and are by this Law enacted in the form there set out.
5. In section 34(2)(b) of the Merchant Shipping Act 1988 "modifications" includes additions, omissions and alterations.

Interpretation of section 34 of the Merchant Shipping Act 1988.

SCHEDULE
PART I

Sections 1 to 8, 51 and 54 of the Merchant Shipping
Act 1988 as amended and enacted by this Law

Preliminary

1. (1) In this Law –
- (a) sections 2 and 3 have effect in place of section 1 of the Merchant Shipping Act 1894 (qualifications for owning British ships); and
 - (b) sections 4 to 8 have effect in place of sections 2 and 3 of that Act (obligation to register British ships and exemption from registry) and for otherwise regulating the registration of ships under Part I of that Act in the Cayman Islands.
- (2) Unless the context otherwise requires in this Law –
- "country" includes territory;

Entry of particulars in register.

11. As soon as the requirements of this Act preliminary registry have been compiled with the Registrar of Shipping shall enter in the register the following particulars respecting the ship –

- (a) The name of the ship and the name of the port to which she belongs:
- (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, and if there are more owners than one, the proportions in which they are interested in her.

Documents to be retained by Registrar of Shipping.

12. On the registry of a ship the Registrar of Shipping 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.

Port of registry.

13. The port of Georgetown shall be deemed the port of registry of a ship so registered and the port to which she belongs.

Certificate of Registry

Certificate of registry.

14. On completion of the registry of a ship, the Registrar of Shipping shall grant a certificate of registry comprising the particulars respecting her entered in the register in pursuance of section 11 of this Act.

Custody of certificate.

15. (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 the Registrar of Shipping, any officer of customs, or other person entitled by law to require such delivery, any justice by warrant under his hand and seal, or any court capable of taking cognizance of the matter, may summon the person so refusing to appear before such justice or court, and to be examined touching such refusal, and unless it is proved to the satisfaction of such justice or court that there was reasonable cause for such refusal, the offender shall be liable to a fine not exceeding one thousand dollars, but if it is shown to such justice or court that the certificate is lost, the person summoned shall be discharged, and the

title to which is vested in him or (as the case may be) the corporation, whether alone or jointly with any other person or persons:

- (v) A declaration that, to the best of his knowledge and belief, a majority interest in the ship is owned by persons qualified to be owners of Cayman Islands ships, and the ship is otherwise entitled to be registered:

In the application of this section to a ship which is not wholly owned by persons qualified to be owners of Cayman Islands ships, paragraph (i) above shall have effect only in relation to persons who are so qualified.

10. (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 British-built ship 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 foreign-built ship, the same evidence as in the case of a British-built ship, 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 such person as the Governor in Council recognises as carrying on the business of the builder of a ship, shall be included, for the purpose 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 for each offence be liable to a fine not exceeding two thousand, five hundred dollars.

"length" in relation to a ship has the same meaning as in the tonnage regulations of the 1894 Act;

"Merchant Shipping Acts" means the Merchant Shipping Acts 1894 to 1988 as they extend to the Cayman Islands and as amended by the Merchant Shipping Laws;

"Merchant Shipping Laws" means this Law, the Merchant Shipping (Registration) Law and the Merchant Shipping Law;

"owner", in relation to a registered ship, means registered owner;

"registered" and "registration" mean respectively registered and registration under Part I of the 1894 Act in the Cayman Islands;

"relevant overseas territory" means –

- (a) the Isle of Man,
- (b) any of the Channel Islands; or
- (c) any other colony of the United Kingdom;

"representative person" means a person appointed (or treated as appointed) as such under section 5;

"statutory provision" means any provision contained in or having effect under any enactment;

"the 1894 Act" means the Merchant Shipping Act 1894 as it extends to the Cayman Islands as amended by the Merchant Shipping Laws."

(3) References in this Law to a ship being entitled to be registered shall be construed in accordance with section 4.

2. (1) A ship shall be a Cayman Islands ship for the purpose of the Merchant Shipping Acts if the ship is registered in the Cayman Islands under Part I of the 1894 Act.

3. (1) For the purpose of Part I of the 1894 Act the following are persons qualified to be owners of Cayman Islands ships, namely

- (a) British citizens;
- (b) British Dependent Territories citizens;
- (c) British Overseas citizens;

- (d) persons who under the British Nationality Act 1981 are British subjects;
- (e) persons who under the Hong Kong (British Nationality) Order 1986 are British Nationals (Overseas);
- (f) bodies corporate incorporated in the United Kingdom or in the Cayman Islands or in any relevant overseas territory and having their principal place of business in the United Kingdom or in the Cayman Islands or in any such territory;
- (g) persons who are nationals of a Member State of the European Community other than the United Kingdom; and
- (h) bodies corporate incorporated in a Member State of European Community other than the United Kingdom and having their principal place of business in any part of the European Community.

(2) References (however phrased) in any statutory provision to persons who are, for the purposes of Part I of the 1894 Act, qualified to be owners of Cayman Islands ships shall be construed in accordance with subsection (1) above.

(3) It is hereby declared that a person who is not qualified under subsection (1) above to be an owner of a Cayman Islands ship may nevertheless be one of the owners of such a ship if –

- (a) a majority interest in the ship (within the meaning of section 4 below) is owned by persons who are qualified to be owners of Cayman Islands ships; and
- (b) the ship is registered, in accordance with the provisions of that section, under Part I of the 1894 Act.

Registration under Part I of 1894 Act

4. (1) Subject to sections 6 and 7 below, this section has effect for the purpose of determining whether a ship is entitled to be registered under Part I of the 1894 Act in the Cayman Islands.

(2) Subject to subsection (3) a ship shall be entitled to be registered if a majority interest in the ship is owned by one or more persons qualified to be owners of Cayman Islands ships by virtue of section 3(1)(a),(b),(e),(f),(g) or (h) above.

(3) Where –

inaccurate, so as to be likely to mislead, the owner of the ship shall be liable to a fine not exceeding one thousand dollars.

(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 registered ship neglects to keep his ship marked as required by this section, 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 for each offence be liable to a fine not exceeding one thousand dollars, and on a certificate from a surveyor of ships that a ship is insufficiently or inaccurately marked the ship may be detained until the insufficiency or inaccuracy has been remedied.

Application for registry.

8. An application for registry of a ship shall be made in the case of individuals by the person requiring to be registered as 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 corporations by their agent, and the authority of the agent shall be testified by writing, if appointed by individuals, under the hands of the appointors, and, if appointed by a corporation, under the common seal if that corporation.

Declaration of ownership on registry.

9. A person shall not be entitled to be registered as owner of a ship or of a share therein until he, or in the case of a corporation the person authorised by this Act to make declarations on behalf of the corporation, has made and signed a declaration of ownership, referring to the ship as described in the certificate of the surveyor, and containing the following particulars –

- (i) A statement of his qualification to own a Cayman Islands ship, or in the case of a corporation, of such circumstances of the constitution and business thereof as prove it to be qualified to own a Cayman Islands ship;
- (ii) A statement of the time when and the place where the ship was built, or if the ship is foreign built, and the time and place of building unknown, a statement that she is foreign built, and that the declarant does not know the time or place of her building; and, in addition thereto, in the case of a foreign ship, a statement of her foreign name, or in the case of a ship condemned, a statement of the time place and court at and by which she was condemned;
- (iv) A statement of the number of shares in the ship the legal

required by the Governor in Council and such certificate shall be delivered to the Registrar of Shipping before registry.

Marking of ship.

7. (1) Every ship shall before registry be marked permanently and conspicuously to the satisfaction of the Governor in Council as follows –

- (a) Her name shall be marked on each of her bows, and her name and the name of her port of registry must be marked on her stern, on a dark ground in white or yellow letters, or on a light ground in black letters, such letters to be of a length not less than one decimeter, and of proportionate breadth:
- (c) In the case of every such ship registered before the 1st day of May 1988 a scale of feet denoting her 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 letters and figures must be marked by being cut in and painted white or yellow on a dark ground, or in such other way as the Governor in Council approves.

PROVIDED that any such ship registered before the 1st day of May 1988, but after the 1st day of January 1974, may be marked in accordance with paragraph (d) of this subsection;

- (c) In the case of every such ship registered on or after that date, a scale of decimetres, or of metres and decimetres, denoting a draught of water shall be marked on each side of her stem and her stern post –

- (i) in figures at two-decimetre intervals and at intervening two-decimetre intervals, if the scale is in metres and decimetres,

the capital letter "M" being placed after each metre figure; the top figure of the scale showing both the metre and (except where it marks a full metre interval) the decimetre figure; the lower line of the figures, or figures and letters (as the case may be), coinciding with the draught line denoted thereby; the figures and letters being not less than one decimeter in length and being marked by being cut in and painted white or yellow on a dark ground, or in such other way as the Governor in Council approves.

(2) The Governor in Council may exempt any class of ships from all or any of the requirements of this section.

(3) If the scale showing the ship's draught of water is in any respect

- (a) a ship falling with subsection (2) is 24 metres or more in length, and
- (b) the person, or (as the case may be) each of the persons, by whom the majority interest is owned is not resident in the Cayman Islands,

the ship shall only be entitled to be registered if a representative person is appointed in relation to the ship.

(4) Where a majority interest is owned by one or more persons qualified to be owners of Cayman Islands ships by virtue of section 3(1)(c) or (d) above, the ship shall be entitled to be registered –

- (a) if that person, or (as the case may be) any of those persons is resident in the Cayman Islands, or
- (b) (where that condition is not satisfied) if the Governor in Council furnishes him or them with a declaration that he consents to the ship being registered, and, in addition, a representative person is appointed in relation to the ship.

(5) Where a majority interest in the ship is owned by the following persons, namely –

- (a) one or more persons qualified to be owners of Cayman Islands ships by virtue of section 3 (1)(a), (b), (e), (f), (g) or (h), and
- (b) one or more persons so qualified by virtue of section 3(1)(c) or (d),

the ship shall be entitled to be registered –

- (i) if any of those persons is resident in the Cayman Islands, or
- (ii) (where that condition is not satisfied) if a representative person is appointed in relation to the ship.

(6) For the purposes of this section –

- (a) one or more persons shall be treated as owning a majority interest in a ship if there is vested in that person or in those persons, taken together, the legal title to 33 or more of the 64 shares into which the property in the ship is divided, for the purpose of registration in accordance with section 5 of the 1894 Act (there being left out of account for this purpose any share in which any beneficial interest is

owned by a person who is not qualified to be an owner of a Cayman Islands ship); and

- (b) a body corporate shall be treated as resident in the Cayman Islands if it is incorporated in the Cayman Islands and has its principal place of business there.

5. (1) Where the entitlement of a ship to be registered is, by virtue of any provision of section 4, conditional on the appointment of a representative person in relation to the ship, the owner of the ship shall

- (a) before applying for the ship to be registered, appoint an individual or body corporate satisfying the prescribed requirements to be the representative person in relation to the ship, and
- (b) secure that so long as the ship remains registered, an individual or body corporate satisfying those requirements is so appointed.

(2) For the purposes of subsection (1) the prescribed requirement are –

- (a) that the representative person is either
 - (i) an individual resident in the Cayman Islands, or
 - (ii) a body corporate incorporated in the Cayman Islands and having its principal place of business there; and
- (b) such other requirements as the Governor in Council may by regulation prescribe.

(3) The owner of a ship in relation to which any representative person is for the time being appointed shall –

- (a) on applying for the ship to be registered, notify the Registrar of Shipping of the name and address of the representative person; and
- (b) in the event of any change of identify, in the address, of the representative person so appointed, notify the Registrar of Shipping of the name and address of the new representative person, or (as the case may be) of the new address, as soon as practicable after the change occurs;

and the Registrar of Shipping shall record any particulars notified to him in pursuance of this section in the register kept by him under Part I of the 1894 Act.

PART II

**Part I of the Merchant Shipping Act 1894 and
Part II of the First Schedule thereto as amended
and extended to the Cayman Islands, as enacted by this Law**

Procedure for Registration

Registrar of Shipping.

4. (1) The Registrar of Shipping of the Cayman Islands shall be such person as may from time to time be appointed for the purpose by the Governor in Council.

(3) The Registrar of Shipping 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.

Register.

5. The Registrar of Shipping shall keep a register of ships (referred to in this Part of this Act as "the register"), and entries in the register shall be made in accordance with the following provisions –

- (i) The property in a ship shall be divided into sixty-four shares:
- (ii) 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:
- (iii) 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:
- (iv) 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:
- (v) A corporation may be registered as owner by its corporate name.

Survey and measurement
of ship.

6. Every ship shall before registry 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

neglect on the part of, a director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

10. (1) Any notice required or authorised to be served by the Governor in Council under this Law may be served by post.

(2) Any notice required or authorised by the Governor in Council under this Law on the registered owner of any registered ship shall, where there are two or more registered owners, be treated as duly served on any one of the registered owners.

(3) For the purposes of section 52 of the Interpretation Law (service of documents by post) a letter containing –

- (a) a notice to be served on any person in pursuance of subsection (2) above, or
- (b) a notice required or authorised to be served under this Law on a representative person within the meaning of this Law,

shall be deemed to be properly addressed if it is addressed to that person at the address for the time being recorded in relation to him in the register, and a letter containing any other notice to which subsection (1) above applies shall be deemed to be properly addressed if it is addressed to the last-known address of the person to be served (whether of his residence or of a place where he carries on business).

(4) In this section –

"registered ship" means a ship registered under Part I of the 1894 Act;

"registered owner" means an owner registered under Part I of the 1894 Act.

(4) Any document required or authorised, by virtue of any statutory provision, to be served for the purpose of the institution of, or otherwise in connection with, proceedings for an offence under the Merchant Shipping Acts, or under any instruments in force under those Acts, or under the Merchant Shipping Laws, or under any instrument in force under those Laws, shall, where the person to be served is the owner of a registered ship, be treated as duly served on him if –

- (a) delivered to any representative person for the time being appointed in relation to the ship, or
- (b) sent to any such person by post at the address notified (or, as the case may be, last notified) to the Registrar of Shipping under subsection (3) in relation to that person, or
- (c) left for any such person at that address.

(5) Any person who contravenes subsection (1) (b) or (3) (b) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding one thousand dollars.

6. (1) If for any reason it appears to the Governor in Council that a ship in respect of which an application for registration has been made may not be entitled to be registered, he may by notice served on –

- (a) the applicant, or
- (b) any representative person for the time being appointed in relation to the ship,

require that person to furnish him such information as he thinks necessary for the purpose of determining whether the ship is entitled to be registered.

(2) Where the Governor in Council has served a notice under subsection (1) with respect to any ship, then, unless he has become satisfied that the ship is entitled to be registered, he shall as soon as practicable after the end of the period of 30 days beginning with the date of service of that notice give to the Registrar of Shipping a direction requiring him not to register the ship.

(3) Notwithstanding that any ship in respect of which an application for registration has been made is entitled to be registered, the Governor in Council may give to the Registrar of Shipping a direction requiring him not to register a ship if he is satisfied that having regard to –

- (a) the condition of the ship so far as is relevant to safety or to any risk of pollution, or

- (b) to the safety, health and welfare of persons employed or engaged in any capacity on board the ship,

it would be inappropriate for the ship to be registered.

7. (1) If for any reason it appears to the Governor in Council that a registered ship may no longer be entitled to be registered, he may by notice served on –

- (a) the owner of the ship, or
- (b) any representative person for the time being appointed in relation to the ship,

require that person to furnish him with such information as he thinks necessary for the purpose of determining whether the ship is entitled to be registered.

(2) Where the Governor in Council has served a notice under subsection (1) with respect to any ship, then, unless he has become satisfied that the ship is entitled to be registered, he shall, as soon as practicable after the end of the period of 30 days beginning with the date of service of that notice, serve a notice under subsection (4) on the owner or on any representative person for the time being appointed in relation to the ship.

(3) Where the Governor in Council is satisfied –

- (a) that, having regard to the matters mentioned in paragraph (a) or (b) of section 6(3), it would be inappropriate for a registered ship to continue to be registered, or
- (b) that any penalty imposed on the owner of a registered ship in respect of a contravention of the Merchant Shipping Acts, or of any instrument in force under those Acts, or of the Merchant Laws, or of any instrument in force under those Laws, has remain unpaid for period of more than three months (and no appeal against the penalty is pending), or
- (c) that any summons for any such contravention has been duly served on the owner of a registered ship and the owner has failed to appear at the time and place appointed for the trial of the information or complaint in question and a period of not less than three months has elapsed since that time,

the Governor in Council shall serve a notice under subsection (4) either on the owner or on any representative person for the time being

appointed in relation to the ship.

(4) A notice under this subsection is a notice stating –

- (a) that the Governor in Council is not satisfied that the ship is entitled to be registered or (as the case may be) that he is satisfied as mentioned paragraph (a), (b) or (c) of subsection (3); and
- (b) that he intends, after the end of the period of 30 days beginning with the date of the service of the notice, to direct that the ship in question cease to be registered unless he is satisfied that it would be inappropriate to do so by any representation made to him by or on behalf of the owner within that period.

(5) As soon as practicable after the end of that period the Governor in Council shall accordingly direct the Registrar of Shipping to terminate the ship's registration unless he is satisfied that it would be inappropriate to do so by any such representations.

(6) Where the registration of a ship has terminated by virtue of this section, the Governor in Council may subsequently, if he is satisfied that it would be appropriate to do so, direct the Registrar of Shipping to restore the ship's registration.

8. (1) Any person who

- (a) in purported compliance with the requirements of a notice under section 6(1) or 7(1), or
- (b) in connection with the making of any representations in pursuance of section 7(4)(b),

knowingly or recklessly furnishes information which is false in a material particular shall be guilty of an offence and liable –

- (i) on summary conviction, to a fine not exceeding five thousand dollars;
- (ii) on conviction on indictment to a fine.

(2) It shall be the duty of any person to whom the Governor in Council gives a direction under the above provisions to give effect to that direction.

9. (1) Where a body corporate is guilty of an offence under this Law or any regulations made under it, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any

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

27. (1) Where the property in a registered ship or share therein is transmitted to any person by any lawful means other than a transfer under section 24 of this Act and a majority interest in the ship remains in the ownership of persons qualified to be owners of Cayman Islands ships –

- (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.
- (c) If the transmission is consequent on bankruptcy, the declaration of transmission shall be accompanied by such evidence as is for the time being receivable in courts of justice as proof of the title of persons claiming under a bankruptcy.
- (d) 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 of Shipping, on receipt of the declaration of transmission so accompanied, shall enter in the register 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.

Order for sale on
transmission to
unqualified person.

28. (1) Where the property in a registered ship or share therein is transmitted to any person by any lawful means other than a transfer under section 24 of this Act, but as a result a majority interest in the ship no longer remains in the ownership of persons qualified to be owners of Cayman Islands ships, then the Grand Court may, on an application by or on behalf of that person, order a sale of the property so transmitted and direct that the proceeds of sale, after deducting the expenses of the sale, shall be paid to that person 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 the case as the justice of the case requires.

(3) Every such application for sale must 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 from the date of the occurrence) as the court allow.

(4) If such an application is not made within the time aforesaid, or if the court refuse an order for sale, the ship or share transmitted shall thereupon be subject to forfeiture under this Act.

Transfer of ship or sale
by order of court.

29. Where any court, whether under the preceding 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 the Registrar of Shipping shall obey the requisition of the person so named in respect of any transfer to the same extent as if such person were the registered owner.

Power of court to
prohibit transfer.

30. The Grand Court may, if the Court 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 time specified 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 as the justice of the case requires and the Registrar of Shipping without being made a party to the proceeding, shall on being served with the order or an official copy obey the same.

Mortgage of ship or
share.

31. (1) A registered ship, or a share in any such ship, may be made a security for the repayment of a loan or the discharge of any other obligation; and on production of the instrument creating any such security (referred to in this Act as a mortgage) the Registrar of Shipping shall record it in the register.

(2) Mortgages shall be recorded by the Registrar of Shipping 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.

Entry of discharge of
mortgage.

32. Where a registered mortgage is discharged, the Registrar of Shipping 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 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.

- Declaration of ownership by individual owner.
- Declaration of ownership on behalf of a corporation as owner.
- Certificate of registry.
- Declaration of ownership by individual transferee.
- Declaration of ownership on behalf of a corporation as transferee.
- Provisional certificate.
- Declaration of owner taking by transmission.
- Declaration by mortgagee taking by transmission.
- Bill of Sale.
- Mortgage.
- Transfer of mortgage.

Passed by the Legislative Assembly the 2nd day of September, 1992.

Georgette Myrie
Clerk of the Legislative Assembly

may seize and detain the ship and bring her for adjudication before the Grand Court, and the Court may thereupon adjudge the ship with her tackle, apparel, and furniture to be forfeited to Her Majesty, and make such order in the case as to the Court seems just, and may award to the officer or other person bringing in the ship for adjudication such portion of the proceeds of the sale of the ship, or any share therein, as the Court think fit.

(2) Any such officer or other person as is 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 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 thinks just.

82. 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 re-measured, and her tonnage determined and registered according to the tonnage regulations of this Act.

83. Such fees as the Governor in Council determines shall be paid in respect of the measurement of a ship's tonnage.

86. All duties in relation to the survey and measurement of ships shall be performed by surveyors of ships under this Act in accordance with regulations made by the Governor in Council.

FIRST SCHEDULE

Section 65

PART II

Documents of which the forms are to be prescribed by the Governor in Council.

Certificate of survey.

Tonnage once ascertained to be the tonnage of ship.

Fees for measurement.

Surveyors and Regulations for measurement of ships.

Priority of mortgages.

Mortgagee not to be treated as owner.

Mortgagee to have power of sale.

Mortgage not affected by bankruptcy.

Transfer of mortgages.

Transmission of interest in mortgage by death, bankruptcy, etc.

33. 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 and not according to the date of each mortgage itself.

34. 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.

35. 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.

36. 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.

37. A registered mortgage of a ship or share may be transferred to any person and on production of the instrument effecting the transfer the Registrar of Shipping shall record it by entering in the register 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.

38. (1) Where the interest 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 of Shipping 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 as mortgagee of the ship or share.

Name of Ship

Rules as to name of ship.

- 47 (1) A ship shall not be described by any name other than that 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 Governor in Council.
- (3) Application for that permission shall be in writing and if the Governor in Council 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, in the ship's certificate of registry, and on her bows and stern.
- (5) If it is shown to the satisfaction of the Governor in Council 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, 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 to him) shall apply to register, and the Registrar of Shipping shall not knowingly register, the ship, except by the name by which she was previously registered, unless with the previous written permission of the Governor in Council.
- (7) Where a foreign ship, not having at any previous time been registered as a Cayman Islands ship, becomes a Cayman Islands ship, no person shall apply to register, and the Registrar of Shipping shall not knowingly register, the ship, except by the name which she bore as a foreign ship immediately before becoming a Cayman Islands ship, unless with the previous written permission of the Governor in Council.
- (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 for each offence be liable to a fine not exceeding one thousand dollars, and (except in the case of an application being made under the section with respect to a foreign ship which not having at any previous time been registered as a Cayman Islands ship has become a Cayman Islands ship) the ship may be detained until this section is complied with.

Penalty on ship not showing colours.

Saving for Admiralty.

Proceedings on forfeiture of ship.

allowed to wear any other national colours in pursuance of a warrant from Her Majesty or from the Admiralty.

- (2) If any distinctive national colours, except such red ensign or except the Union Jack with a white border or if any colours usually worn by Her Majesty's ships or resembling those of Her Majesty, or if the pendant usually carried by Her Majesty's ships or any pendant resembling that pendant, are or is hoisted on board any Cayman Islands ship without warrant from Her Majesty or from the Admiralty, the master of the ship, or the owner thereof, if on board the same and every other person hoisting the colours or pendant, shall for each offence be liable on conviction on indictment to a fine or on summary conviction to a fine not exceeding five thousand dollars.
- (3) Any commissioned officer on full pay in the military or naval service of Her Majesty, or any officer of customs in Her Majesty's dominions, or any British consular officer, may board any Cayman Islands ship on which any colours or pendants are hoisted contrary to this Act, and seize and take away the colours or pendant, and the colours or pendant shall be forfeited to Her Majesty.
74. (1) A Cayman Islands ship shall hoist the proper national colours
- (a) on a signal being made to her by one of Her Majesty's ships (including any vessel under the command of an officer of Her Majesty's navy on full pay), and
 - (b) on entering or leaving any foreign port, and
 - (c) if of fifty tons gross tonnage or upwards, on entering or leaving a port in the Cayman Islands.
- (2) If default is made on board any such ship complying with this section, the master of the ship shall for each offence be liable to a fine not exceeding one thousand dollars.
75. The provisions of this Act with respect to colours worn by merchant ships shall not affect any other power of the Admiralty in relation thereto.
- Forfeiture of Ship**
76. (1) Where any ship has either wholly or as to any share therein become subject to forfeiture under this Part of this Act,
- (a) any commissioned officer on full pay in the military or naval service of Her Majesty; or
 - (b) any person appointed by the Governor in Council for the purposes of this section;

Penalty for concealing
Cayman Islands'
character of a ship.

70. If the master or owner of a Cayman Islands ship does anything, or permits anything to be done, for the purpose of –

- (a) concealing the nationality of the ship from any person entitled under the law of the Cayman Islands to inquire into the nationality of the ship, or
- (b) deceiving such a person, or
- (c) causing the ship to appear not to be a Cayman Islands ship,

the ship shall be subject to forfeiture under this Act; and the master and the owner of the ship shall each be guilty of an offence and liable on summary conviction to a fine not exceeding five thousand dollars.

Liabilities of
unregistered ships.

72. (1) Where a ship –

- (a) is 24 metres or more in length, and
- (b) is wholly owned by one or more persons qualified to be owners of Cayman Islands ships, but
- (c) is neither registered under this Part of this Act nor registered under the Law of any country outside the Cayman Islands,

then (notwithstanding that the ship is not entitled to any benefits, privileges, advantages or protection usually enjoyed by a Cayman Islands ship) the ship shall, for the purposes mentioned in subsection (2) of this section, be dealt with in the same manner in all respects as if the ship were a Cayman Islands ship.

(2) Those purposes are –

- (a) the payment of dues, fees or other charges;
- (b) liability to fines and forfeiture; and
- (c) the punishment of offences committed on board the ship, or by any persons belonging to the ship.

(3) In this section "length", in relation to a ship, has the same meaning as in the tonnage regulations of this Act.

73. (1) The red ensign bearing the Cayman Islands coat of arms usually worn by merchant ships, is hereby declared to be the proper national colours for all Cayman Islands ships except in the case of Her Majesty's ships, or in the case of any other ship for the time being

National colours for
ships, and penalty on
carrying improper
colours.

Registry of Alterations, Registry Anew, and Transfer of Registry

Registry of alterations.

48. (1) When a registered ship is so altered as not to correspond with her particulars relating to her tonnage or description contained in the register, then the Registrar of Shipping shall, on application being made to him, and on receipt of a certificate from the proper 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 liable on summary conviction to a fine not exceeding one thousand dollars and, in addition, to a fine not exceeding one hundred dollars for every day during which the offence continues after conviction.

Regulations for registry
of alteration.

49. (1) For the purpose of the registry of an alteration in a ship, the ship's certificate of registry shall be produced to the Registrar of Shipping, 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 of Shipping in the register.

Registry anew on change
of ownership.

51. Where the ownership of any ship is changed, the Registrar of Shipping may, on the application of the owners of the ship register the ship anew, although registration anew is not required under this Act.

Procedure for registry
anew.

52. (1) Where a ship is to be registered anew, the Registrar of Shipping 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 to 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 of 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.

53A. (1) Subject to subsection (2) of this section, the registration of a ship under this Part of this Act may be transferred from Georgetown to a port in the United Kingdom or in a relevant overseas territory on the

application to the Registrar of Shipping made by declaration in writing of all persons appearing on the register to be interested in the ship 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.

(1A) On any such application the Registrar of Shipping 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 in the ship as owners or mortgagees.

(1B) The ship's certificate of registry shall be delivered up to either the Registrar of Shipping or the register of the ship's intended port of registry, and if delivered up to the former, shall be transmitted to the registrar of the intended port of registry.

(2) Where an application is made under this section for the transfer of a ship's registration to a port in the United Kingdom or in a relevant overseas territory, the Registrar of Shipping shall not proceed to deal with the application unless he is satisfied that registration of the ship under this Part of this Act at the intended port of registry is not precluded by –

- (a) any Order in Council in force under section 11 of the Merchant Shipping Act 1988, or
- (b) any provision of the law in force in the United Kingdom or in the territory in question as the case may be;

any certificate purporting to be signed by the registrar of the intended port of registry and stating that any such registration of the ship is not precluded by any such provision shall be conclusive evidence for the purposes of this subsection of the matters stated in it.

(3) Where the registrar of the intended port of registry grants a fresh certificate of registry in pursuance of any such application as is mentioned in subsection (2) of this section, the ship in question shall thenceforth be considered as registered at the new port of registry, and the name of Georgetown shall be removed from the ship's stern.

(4) The Registrar of Shipping shall, on being notified by the registrar of the new port of registry of the grant of the new certificate of registry, terminate the registration of the ship in the register.

- (5) In this section "relevant overseas territory" means –
- (a) the Isle of Man;

False declarations.

67. (1) If any person in the case of any declaration made in the presence of or produced to the Registrar of Shipping under this Part of this Act, or in any document or other evidence produced to that Registrar –

- (i) 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
- (ii) utters, produces, or makes use of any declaration or document containing any such false statement knowing the same to be false,

he shall in respect of each offence be guilty of a misdemeanor.

(2) If any person wilfully makes a false declaration touching the qualification of himself or of any other person or of any corporation to own a Cayman Islands ship or any share therein, or the entitlement of a ship to be registered, he shall for each offence be guilty of a misdemeanor, and that ship or share shall be subject to forfeiture under this Act, to the extent of the interest therein of the declarant, and also, unless it is proved that the declaration was made without authority, of any person or corporation on behalf of whom the declaration is made.

National Character and Flag

National character of ship to be declared before clearance.

68. (1) An officer of customs shall not grant clearance or transire for any ship until the master of such has declared to that officer the name of the nation to which he claims that she belongs, and that officer shall thereupon inscribe that name on the clearance or transire.

(2) If a ship attempts to proceed to sea without such clearance or transire, she may be detained until the declaration is made.

Penalty for unduly assuming Cayman Islands' character.

69. (1) If a person uses the British flag and assumes the Cayman Islands' national character on board a ship in which a majority interest is not owned by persons qualified to be owners of Cayman Islands ships for the purpose of making the ship appear to be a Cayman Islands 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 any proceeding for enforcing any such forfeiture the burden of proving a title to use the British flag and assume the Cayman Islands national character shall lie upon the person using and assuming the same.

(4) A person shall be entitled, on payment of the prescribed fee, to obtain such a certified copy of the information entered in the register on the registry of a ship, together with a statement certified by the Registrar of Shipping showing who is for the time being the owner of the ship.

(5) The provisions of subsection (3) of section 695 of this Act shall apply to any document supplied in pursuance of subsection (3) or (4) of this section as they apply to any document to which that section applies.

(6) In subsection (3) or (4) of this section "the prescribed fee" means such fees as the Governor in Council may prescribe for the purpose of that subsection by regulations.

Forms of documents and instructions as to registry.

65. (1) The several instruments and documents specified in the second part of the First Schedule to this Act shall be in the form prescribed by the Governor in Council or as near thereto as circumstances permit; the Governor in Council may make such alternations in the form so prescribed as he may deem requisite.

(2) The Registrar of Shipping shall not be required without the special direction of the Governor in Council to receive and enter in the register any bill of sale, mortgage, or other instrument of 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 Part of this Act, or which contains any particulars other than those contained in such form; but the Governor in Council shall, before altering the forms, give such public notice thereof as may be necessary in order to prevent inconvenience.

(4) The Governor in Council may also, for carrying into effect this Part of this Act, give such instructions to his officers as to the manner of making entries in the register, as to the execution and attestation of powers of attorney, as to any evidence required for identifying any person, as to the referring to himself of any question involving doubt of difficulty, and generally as to any act or thing to be done in pursuance of this Part of this Act, as he thinks fit.

Forgery and False Declarations

Forgery of documents.

66. 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, builder's certificate, surveyor's certificate, certificate of registry, declaration, bill of sale, instrument of mortgage, or certificate of mortgage or sale under this Part of this Act, or any entry or endorsement required by this Part of this Act to be made in or on any of those documents, that person shall be respect of each offence be guilty of felony.

(b) any of the Channel Islands; or

(c) any colony of the United Kingdom other than the Cayman Islands.

53B. (1) Where a ship is registered under this Part of this Act in the United Kingdom or in a relevant overseas territory (as defined by section 53A(5) of this Act), the registration of that ship may (subject to subsection (5) of this section) be transferred to Georgetown if –

(a) an application to the registrar of the existing port of registry has been made for the purpose by a declaration in writing by all the persons appearing on his register to be interested in the ship as owners or mortgagees, and

(b) the documents mentioned in subsection (2) of this section have been transmitted to the Registrar of Shipping.

(2) Those documents are –

(a) a notice of the application transmitted by the registrar of the existing port of registry;

(b) a copy transmitted by him of all the registered particulars of the ship and the names of all the persons appearing on his register to be interested in the ship as owners or mortgagees; and

(c) the ship's certificate of registry.

(3) On receipt of those documents the Registrar of Shipping shall subject to subsection (5) of this section) –

(a) enter in the register all the particulars and names so transmitted, and

(b) grant a fresh certificate of registry;

and thenceforth the ship in question shall be considered as registered at Georgetown, and the name of that port shall be substituted for the name of the former port of registry on the ship's stern.

(4) The Registrar of Shipping shall notify the registrar of the former port of registry of the grant of a new certificate of registry.

(5) Where the entitlement of a ship to be registered is by virtue of any provision of section 4 of the Merchant Shipping Act 1988 subject to any condition specified in that provision being satisfied, the registry of

the ship shall not be transferred to Georgetown under this section unless it appears to the Registrar of Shipping that that condition is satisfied.

(6) A transfer of registration under this section shall not affect the rights of any of the persons mentioned in subsection (1)(a) of this section.

Trusts and Equitable Rights

Notice of trusts not received.

56. No notice of any trust, express, implied, or constructive, shall be entered in the register or be receivable by the Registrar of Shipping, and, subject to any rights and powers appearing by the register 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.

Equities not excluded by Act.

57. The expression "beneficial interest", where used in this Part of 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 being entered in the register or received by the Registrar of Shipping, 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 unqualified persons from the ownership of Cayman Islands ships, 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

Liability of owners.

58. 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.

Declaration, Inspection of Register, and Fees

Power of Registrar of Shipping to dispense with declarations and other evidence.

60. When, under this Part of this Act, any person is required to make a declaration on behalf of himself or of any corporation, or any evidence is required to be produced to the Registrar of Shipping and it is shown to the satisfaction of the Registrar of Shipping 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 Governor in Council, and on the production of such other evidence, and subject to such terms as he may reasonably think fit, dispense with the declaration or evidence.

61. Declarations required by this Part of this Act may be made on behalf of a corporation by the secretary or any other officer of the corporation authorised by them for the purpose.

62. All fees authorised to be taken under this Part of this Act, shall, except where otherwise in this Act provided, be disposed of in such way as the Governor in Council directs.

Returns, Evidence, and Forms

Mode of making declarations.

Application of fees.

Returns to be made by Registrar of Shipping.

63. The Registrar of Shipping shall at such times as may be fixed by the Registrar-General of Shipping and Seamen of the United Kingdom, transmit to him a full return, in such form as the said Registrar-General may direct, of all registries, transfers, transmissions, mortgages, and other dealings with ships which have been registered by or communicated to him in his character of Registrar, and of the names of the persons concerned in the same, and of such other particulars as may be directed by the said Registrar-General.

Evidence of register, certificate of registry, and other documents.

64. (1) A person, on payment of a fee to be fixed by the Governor in Council, may, on application to the Registrar of Shipping at a reasonable time during the hours of his official attendance, inspect the register.

(2) The following documents shall be admissible in evidence in manner provided by this Act; namely –

- (b) A certificate of registry under this Act purporting to be signed by the Registrar of Shipping or other proper officer;
- (c) An endorsement on a certificate of registry purporting to be signed by the Registrar of Shipping or other proper officer;
- (d) Every declaration made in pursuance of this Part of this Act.

(3) A person shall be entitled, on payment of the prescribed fee, to obtain a copy, certified as a true copy by the Registrar of Shipping, of any information contained in an entry in the register, and any document purporting to be such a certified copy shall be evidence of the matters stated in the document.