

DOMINION OF CANADA

TREATY SERIES, 1931

No. 7

7.

BRITISH COMMONWEALTH  
MERCHANT SHIPPING AGREEMENT

Signed at London December 10, 1931



OTTAWA  
F. A. ACLAND  
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY  
1932

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# BRITISH COMMONWEALTH MERCHANT SHIPPING AGREEMENT

His Majesty's Governments in the United Kingdom of Great Britain and Northern Ireland, Canada, the Commonwealth of Australia, New Zealand, the Union of South Africa, the Irish Free State and Newfoundland, having considered the report of the Conference on the Operation of Dominion Legislation and Merchant Shipping Legislation, 1929, undertake to propose any necessary legislation and take such other steps as may be required for the purpose of giving full effect to the provisions of the present Agreement with regard to Merchant Shipping.

Part I.—Common Status.

Part II.—Standards of Safety.

Part III.—Extra-territorial Operation of Laws

Part IV.—Equal Treatment.

Part V.—Ships' Articles, Internal Discipline, and Engagement and Discharge of Seamen.

Part VI.—Certificates of Officers.

Part VII.—Shipping Enquiries.

Part VIII.—Relief and Repatriation of Seamen; Wages and Effects of deceased Seamen.

Part IX.—Offences on Board Ship.

Part X.—General.

Article 1.—In this agreement, unless the context otherwise requires, the following expression has the meaning hereby assigned to it, that is to say:—

“Part of the Commonwealth” means any Part of the British Commonwealth of Nations the Government of which is a party to this Agreement.

## PART I

### Common Status

#### *Common Qualifications*

Article 2.—(1) No ship shall be registered in any port within the British Commonwealth so as to acquire the status and recognition mentioned in paragraph (2) of this Article unless it is owned wholly by persons of the following description, namely:—

(a) Persons recognized by law throughout the British Commonwealth of Nations as having the status of natural born British subjects;

(b) Persons naturalized by or in pursuance of the law of some part of the British Commonwealth;

(c) Persons made denizens by letters of denization; and

(d) Bodies corporate established under and subject to the law of some part of the British Commonwealth and having their principal place of business within the British Commonwealth.

(2) Every ship so owned and duly registered within the British Commonwealth shall possess a common status for all purposes and shall be entitled to the recognition usually accorded to British ships.

### Registry

*Article 3.*—The laws, regulations, forms and procedure relating to the matters following, that is to say:—

Obligation to Register;  
 Certificate of Registry;  
 Transfer and Transmissions;  
 Mortgages;  
 Certificates of Mortgage and Sale;  
 Name of Ship;  
 Registry of Alterations, Registry Anew, and Transfer of Registry;  
 Incapacitated Persons;  
 Trusts and Equitable Rights;  
 Liability of Beneficial Owner;  
 Managing Owner;  
 Declarations, Inspection of Register and Fees;  
 Returns, Evidence and Forms;  
 Forgery and False Declarations;  
 Measurement of Ship and Tonnage;

shall be substantially the same throughout the British Commonwealth and so far as possible be based on Part I of the Merchant Shipping Act, 1894.

*Article 4.*—In order that there may be a complete list of ships registered in all parts of the British Commonwealth for statistical purposes, particulars (such as the name of the ship, the registered number, the port to which she belongs, the name of the registered owner, and the tonnage) relating to all ships registered at their ports, will be forwarded by the Administration of each Part of the Commonwealth at convenient intervals to the Registrar General of Shipping and Seamen in London. Copies of the complete list shall be forwarded annually to the Administration of each Part of the Commonwealth.

### National Colours

*Article 5.*—It being recognized that the proper national colours for all ships registered in any Part of the Commonwealth shall be such as may be determined by the Government of that Part, each Part of the Commonwealth undertakes to prohibit under penalty (a) the use by ships registered in that Part of any national colours other than those determined for those ships; (b) the hoisting on board any ship registered in that Part of colours proper to a ship of war or resembling any of those colours, without proper warrant.

## PART II

### Standards of Safety

*Article 6.*—While each Part of the Commonwealth will from time to time determine the standards with which its ships shall be required to comply in all matters relating to safety, every endeavour will be made to preserve uniformity and to maintain the standards at present in force.

*Article 7.*—Each Government which proposes to make an alteration of substance in these standards will give as long notice as practicable to the other Governments of the proposed alteration and of the reasons for it.

*Article 8.*—Subject to the provisions of Part IV, nothing in this Agreement affects the right of each Part to apply to any ship trading to its ports its regulations regarding the safety of ships, their crews and passengers, except in so far as the ship complies with regulations accepted by the Part as equivalent to its own regulations.

### PART III

#### Extra-Territorial Operation of Laws

*Article 9.*—Save as otherwise specially provided in this Agreement, the laws relating to merchant shipping in force in one Part of the Commonwealth shall not be made to apply with extra-territorial effect to ships registered in another Part unless the consent of that other Part of the Commonwealth has been previously obtained:—

Provided that nothing contained in this Article shall be deemed to restrict the power of each Part of the Commonwealth to regulate the coasting trade, sea fisheries and fishing industry of that Part.

### PART IV

#### Equal Treatment

*Article 10.*—Each Part of the British Commonwealth agrees to grant access to its ports to all ships registered in the British Commonwealth on equal terms and undertakes that no laws or regulations relating to seagoing ships at any time in force in that Part shall apply more favourably to ships registered in that Part, or to the ships of any foreign country, than they apply to any ship registered in any other Part of the Commonwealth.

*Article 11.*—While each Part of the British Commonwealth may regulate its own coasting trade, it is agreed that any laws or regulations from time to time in force for that purpose shall treat all ships registered in the British Commonwealth in exactly the same manner as ships registered in that Part, and not less favourably in any respect than ships of any foreign country.

*Article 12.*—Nothing in the present Agreement shall be deemed—

(i) to derogate from the right of every Part of the Commonwealth to impose customs tariff duties on ships built outside that Part; or

(ii) to restrict the right of the Government of each Part of the Commonwealth to give financial assistance to ships registered in that Part or its right to regulate the sea fisheries of that Part.

### PART V

#### Ships' Articles

*Internal Discipline and Engagement and Discharge of Seamen.*

*Article 13.*—The form and contents of ships' articles if first opened in a Part of the Commonwealth, shall be those prescribed by the law of that Part, and if first opened elsewhere than within the British Commonwealth, shall be those prescribed by the law of the Part in which the ship is registered.

*Article 14.*—The powers and duties with respect to discipline on board a ship registered within the British Commonwealth shall, in so far as they are not

derived from the ship's articles, be those made and provided by the laws and regulations in force in the Part of the Commonwealth in which the ship is registered.

Provided that if and so long as a ship, registered in one Part of the Commonwealth, is engaged wholly or mainly in the coasting trade of another Part, the powers and duties with respect to such discipline may be those made and provided by the laws and regulations in force in that other Part.

Provided also that in the case of a ship which is trading from a Part of the Commonwealth in which the principal place of business of her owners is situated, and not trading to the Part of the Commonwealth in which she is registered, the powers and duties with respect to such discipline may be those made and provided by the laws and regulations in force in the former Part.

*Article 15.*—Provision shall be made by law in each Part of the Commonwealth that whenever a seaman or apprentice deserts in that Part from a ship registered in another Part, any Court exercising summary jurisdiction in the Part in which the seaman or apprentice has deserted, and any Justice or Officer of such Court shall, on the application of the master of the ship, aid in apprehending the deserter, and, for that purpose may, on information given on oath, issue a warrant for his apprehension, and on proof of the desertion, order him to be conveyed on board his ship or delivered to the master or mate of his ship, or to the owner of the ship or his agent, to be so conveyed.

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## PART VI

### Certificates of Officers

*Article 16.*—The standards of qualification to be required of applicants for certificates of competency and of service shall so far as possible be equal and alike throughout the British Commonwealth, and shall not be lower than those at present established.

*Article 17.*—Subject to any special provisions that may be made by any Part of the Commonwealth as to the qualifications to be required of officers on ships engaged in its coasting trade, a valid certificate of competency or service granted by one Part of the Commonwealth will be recognised throughout the British Commonwealth as indicating that the holder is duly qualified accordingly when serving on board any ship registered in that Part.

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## PART VII

### Shipping Enquiries

*Article 18.*—The Government of each Part of the Commonwealth agrees to assist the Governments of the other Parts by providing for officers to hold preliminary enquiries (including the taking of depositions) into casualties to ships registered in such other Parts.

*Article 19.*—No Government of any Part of the Commonwealth will cause a formal investigation to be held into a casualty occurring to a ship registered in another Part save at the request or with the consent of the Government of that Part in which the ship is registered.

Provided that this restriction shall not apply when a casualty occurs on or near the coasts of a Part of the Commonwealth or whilst the ship is wholly engaged in the coasting trade of a Part of the Commonwealth.

**Article 20.**—In all Parts of the Commonwealth the laws and regulations relating to the matters following, namely:—

- Constitution of Courts having jurisdiction to hold formal investigations;
- Holding of such Courts with the assistance of Assessors;
- Classification of Assessors according to their qualifications;
- Selection of Assessors according to the nature of the questions to be raised;
- Notice of investigation and the service thereof;
- Opportunity to be given to any person whose conduct may be impugned of making a defence;
- Procedure on the hearing;
- Rehearings and Appeals;

shall be, so far as possible, alike, and shall be based upon the provisions relating to formal investigations contained in Part VI of the Merchant Shipping Act, 1894, and the Shipping Casualties and Appeals and Rehearings Rules, 1923, made pursuant thereto.

Provided that

(1) the Administration of that Part of the Commonwealth in which a formal investigation is held shall alone be competent to order a rehearing thereof;

(2) an appeal from a decision of a Court of formal investigation shall lie to a Court in the Part of the Commonwealth in which the formal investigation was held and that Court shall be similar in its constitution and jurisdiction to a Divisional Court of Admiralty in England;

(3) a Court of formal investigation shall be empowered to cancel or suspend a certificate of competency or service granted by the Administration of another Part of the Commonwealth so only as to effect its validity within the jurisdiction of the Part in which the investigation is held, but the Administration by which the certificate was granted may adopt such cancellation or suspension.

**Article 21.**—Provisions shall be in force in each Part of the Commonwealth similar, so far as possible, to those contained in Part VI of the Merchant Shipping Act, 1894, relating to the special enquiry that may be held when there is reason to believe that any master, mate, or certificated engineer is from incompetency or misconduct unfit to discharge his duties.

Provided that the power of a Court holding such enquiry to cancel or suspend a certificate of competency or service granted by a Part of the Commonwealth other than that in which the enquiry is held shall be similar to the power of a Court of formal investigation under the last preceding Article.

## PART VIII

### Relief and Repatriation of Seamen

#### Wages and Effects of Deceased Seamen

**Article 22.**—A scheme shall be drawn up to which each Part of the Commonwealth shall give legislative effect, under which provision shall be made:—

- (a) for the relief and repatriation of seamen belonging to any Part of the Commonwealth who may be found in distress or left behind in any other Part or in places abroad, and for defraying the expenses;

(b) for payment of the expenses of medical attendance, maintenance, burial and repatriation in case of injury or illness of seamen;

(c) for dealing with the effects and wages of seamen who are left behind or die in a port outside the Part of the Commonwealth to which they belong;

(d) for the recovery from the owner of the ship in proper cases of any expenses incurred by the Administration of any Part of the Commonwealth in the matters referred to in paragraphs (a) and (b).

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## PART IX

### Offences on Board Ship

*Article 23.*—Reciprocal arrangements shall be made for conferring jurisdiction on the lines of Section 686 of the Merchant Shipping Act, 1894, with respect to offences committed on board ships registered in any Part of the Commonwealth.

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## PART X

### General

*Article 24.*—The present Agreement shall come into operation on the tenth day of December, 1931, and shall continue in full force for a period of five years and thereafter until the Government of any Part of the Commonwealth gives notice of intention to withdraw therefrom or from any Article thereof. A notice of withdrawal, if sent to the Governments of every other Part of the Commonwealth, shall take effect as regards the Part giving the notice to the extent therein specified at the expiration of twelve months from the date of its despatch, but shall not otherwise affect the continuance in full force of the present Agreement.

*Article 25.*—The present Agreement may be varied at any time during the continuance thereof by common accord. Proposals for variation shall be sent by the Government of the Part proposing the variation, to the Government of the United Kingdom, to be circulated to the Governments of the other Parts of the Commonwealth, who will consider the proposals and endeavour to agree upon the acceptance of the variation with or without amendment. If a common accord is reached with respect to any proposed variation the present Agreement shall be varied accordingly.

*Article 26.*—A conference to consider any matter the subject of the present Agreement or any other matter relating to Merchant Shipping which the Government of any Part of the Commonwealth considers to be of common interest, may be called at any time at the instance of the Governments of any three Parts of the Commonwealth.

*Article 27.*—This Agreement shall apply to all territories administered under the authority of the Government of any Part of the Commonwealth and to ships registered there, or in any foreign port of registry, and fulfilling the requirements as to ownership set out in Article 2 (1).





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Signed at London this tenth day of December,  
1931.

On behalf of

His Majesty's Government in the United  
Kingdom of Great Britain and Northern  
Ireland—

J. H. THOMAS.

His Majesty's Government in Canada—

G. H. FERGUSON.

His Majesty's Government in the Common-  
wealth of Australia—

GRANVILLE RYRIE.

His Majesty's Government in New Zealand—

T. M. WILFORD.

His Majesty's Government in the Union of  
South Africa—

C. T. TE WATER.

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JOHN W. DULANTY.

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