STATUTORY INSTRUMENTS

1963 No. 617

MERCHANT SHIPPING

MASTERS AND SEAMEN

The Merchant Shipping (Foreign Deserters) (Spanish State) Order 1963

Made - - - -	*26th March* 1963
Laid before Parliament	1*st April* 1963
Coming into Operation	12*th April* 1963

At the Court of Saint James, the 26th day of March 1963

Present,

Her Majesty Queen Elizabeth The Queen Mother
His Royal Highness The Duke of Gloucester

Lord President — **Mr. Boyd-Carpenter**
Chancellor of the Duchy of Lancaster — **Mr. Deedes.**

Whereas Her Majesty, in pursuance of the Regency Acts 1937 to 1953, was pleased, by Letters Patent dated the twenty-second day of January, 1963, to delegate to the following Counsellors of State (subject to the exceptions hereinafter mentioned) or any two or more of them, that is to say, His Royal Highness The Prince Philip, Duke of Edinburgh, Her Majesty Queen Elizabeth The Queen Mother, Her Royal Highness The Princess Margaret, Countess of Snowdon, His Royal Highness The Duke of Gloucester, His Royal Highness Prince William of Gloucester and His Royal Highness The Duke of Kent, full power and authority during the period of Her Majesty's absence from the United Kingdom to summon and hold on Her Majesty's behalf Her Privy Council and to signify thereat Her Majesty's approval for anything for which Her Majesty's approval in Council is required:

And whereas Her Majesty was further pleased to except from the number of the said Counsellors of State His Royal Highness The Prince Philip, Duke of Edinburgh, Her Royal Highness The Princess Margaret, Countess of Snowdon, His Royal Highness The Duke of Gloucester, His Royal Highness Prince William of Gloucester and His Royal Highness The Duke of Kent while absent from the United Kingdom:

And whereas it appears to Her Majesty Queen Elizabeth The Queen Mother and to His Royal Highness The Duke of Gloucester that due facilities will be given by the Government of the Spanish State for recovering and apprehending seamen who desert from British merchant ships in that country;

Now, therefore, Her Majesty Queen Elizabeth The Queen Mother and His Royal Highness The Duke of Gloucester being authorized thereto by the said Letters Patent and in pursuance of the powers conferred by sections 238 and 738 of the Merchant Shipping Act 1894(a) and of all other powers in that behalf, do hereby, by and with the advice of Her Majesty's Privy Council, on Her Majesty's behalf order, and it is hereby ordered as follows:—

(a) 57 & 58 Vict. c. 60.

1.—(1) This Order may be cited as the Merchant Shipping (Foreign Deserters) (Spanish State) Order 1963 and shall come into operation on the 12th April 1963.

(2) In this Order:—

(*a*) the expressions "Colony" and "British protected person" have respectively the same meanings as they have in or for the purposes of the British Nationality Act 1948(**a**);

(*b*) the expression "a national" means—

(i) a citizen of the United Kingdom and Colonies;

(ii) a citizen of the Federation of Rhodesia and Nyasaland;

(iii) a citizen of the State of Singapore;

(iv) a citizen of the Irish Republic who has made a claim to retain the status of a British subject under section 2 of the British Nationality Act 1948;

(v) a person who under section 13 (1) of the British Nationality Act 1948 is a British subject without citizenship; or

(vi) a British protected person; and

(*c*) the expression "the Spanish State" means the national territory of Spain.

(3) The Interpretation Act 1889(**b**) shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

(4) Any reference in this Order to any enactment shall, unless the context otherwise requires, be construed as a reference to that enactment as amended by or under any subsequent enactment.

2. The provisions of the Order in Council relating to seamen who desert from merchant ships belonging to subjects of Her late Majesty the Queen of Spain, made on the 23rd January 1860(**c**) by virtue of the powers vested in Her late Majesty Queen Victoria by the Foreign Deserters Act 1852(**d**) and published in the London Gazette on the 24th January 1860 to the extent to which those provisions relate to seamen who when within the United Kingdom, any of the Channel Islands, the Isle of Man or any Colony desert from merchant ships belonging to subjects of the Spanish State are hereby revoked.

3. Section 238 of the Merchant Shipping Act 1894 shall apply in the case of the Spanish State subject to the following limitations, conditions and qualifications, namely,

(*a*) the said section shall apply only as respects seamen and apprentices who desert from ships registered at any port in the Spanish State and when those ships are within the United Kingdom, any of the Channel Islands, the Isle of Man, the State of Singapore or any Colony; and

(*b*) nothing in the said section shall be taken to confer any power or impose any duty or obligation on any court, justice or officer in relation to the apprehension, or conveyance on board his ship, of any deserter who is:—

(i) a national within the meaning of Article 1 (2) of this Order; or

(ii) a person in respect of whom there is reasonable ground for believing that his life or liberty will be endangered for reasons

(**a**) 11 & 12 Geo. 6. c. 56. (**b**) 52 & 53 Vict. c. 63. (**c**) Rev. XIV, p. 155.
(**d**) 15 & 16 Vict. c. 26.

of race, nationality, political opinion or religion, in any country to which his ship is likely to go; or

(iii) a person who is accused or has been convicted of an offence (other than the desertion) cognisable under the law of the territory in which he is, until such time as he has been tried and, if convicted, has undergone any punishment which may have been awarded to him in respect of that offence.

W. G. Agnew.

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

This Order provides with certain exceptions for the apprehension and return to their ship of deserters from Spanish merchant ships at ports in the United Kingdom, the Channel Islands, the Isle of Man, the State of Singapore, or any Colony, and gives effect to provisions contained in the Consular Convention between the United Kingdom and the Spanish State signed at Madrid on the 30th May 1961.