STATUTORY INSTRUMENTS

1971 No. 872

MERCHANT SHIPPING

The Merchant Shipping (Registration of South Australian Government Ships) Order 1971

Made - - - -	*25th May* 1971
Laid before Parliament	*1st June* 1971
Coming into Operation	*2nd June* 1971

At the Court at Buckingham Palace, the 25th day of May 1971

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers vested in Her by section 738 of the Merchant Shipping Act 1894(**a**) (hereinafter referred to as "the principal Act") and by section 80 of the Merchant Shipping Act 1906(**b**) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, that the following Regulations shall have effect as regards any ship that is a South Australian Government ship as defined in this Order.

1. In this Order—

the term "Government of South Australia" includes the Governor of South Australia and any Minister of the Crown and any Department of the Government of South Australia and any Crown corporation or instrumentality and any corporation or instrumentality representing the Crown;

the term "Merchant Shipping Acts" means and includes any of the Merchant Shipping Acts, any provision of which is by virtue of the Merchant Shipping Act 1906 and this Order applicable to Government ships;

the term "Permanent Head of a Department" includes the chief executive officer of a corporation or instrumentality of the State of South Australia;

the term "South Australian Government ship" means a ship—

(*a*) which belongs to Her Majesty in right of the State of South Australia; or

(*b*) the beneficial interest in which is vested in Her Majesty in right aforesaid; or

(*c*) which is for the time being demised or sub-demised to or in the exclusive possession of Her Majesty in right aforesaid.

(a) 1894 c. 60. (b) 1906 c. 48.

2. An application for registry of a South Australian Government ship shall be made in writing under the hand of the Minister or Permanent Head of a Department. Such application shall contain the following particulars:—

(*a*) a statement of the name and description of the ship;

(*b*) a statement of the time when and place where the ship was built, or, if the ship was foreign built and the time and place of building are unknown, a statement to that effect and of her foreign name;

(*c*) a statement of the nature of the title to the said ship, whether by original construction by or for the Government of South Australia or by purchase, capture, condemnation, or otherwise, and a list of the documents of title, if any, in case she was not originally constructed by or for the Government of South Australia;

(*d*) a statement of the name of the master.

3. The Registrar of British Ships (hereinafter referred to as "the Registrar") shall enter in the register book the following particulars—

(*a*) a record of the ship as belonging to the Government of South Australia represented by (giving the name of the Department, corporation, or instrumentality, as the case may be);

(*b*) the name of the port to which the ship belongs;

(*c*) the particulars stated in the application for registry;

(*d*) the details comprised in the surveyor's certificate.

4. On the registry of a South Australian Government ship the Registrar shall retain in his possession the surveyor's certificate and the application for registry and any documents of title mentioned in such application.

5. Upon the transfer of a registered South Australian Government ship by Bill of Sale the Minister or Permanent Head of a Department for the time being shall be the transferor, and the Bill of Sale shall be in Form A in the proper form prescribed under the principal Act omitting the covenant contained in that form.

6. The application for a certificate of sale referred to in sections 39 to 42 and sections 44 to 46 of the principal Act may be made in respect of a South Australian Government ship by the Minister or Permanent Head of a Department.

7. The person to whom the management of any South Australian Government ship is entrusted by the South Australian Government shall be deemed to be the managing owner of the ship within the meaning of section 59 of the principal Act and shall be registered as provided by subsection (1) of that section.

8. Where any provision of the Merchant Shipping Acts which, by virtue of the Merchant Shipping Act 1906 and this Order, is applicable to South Australian Government ships, imposes any duty or liability or confers any right or power upon or contemplates any act being performed by the owner of a ship, such duty, liability, right or power shall, subject always to the other provisions of this Order, be carried out, borne or exercised by the Permanent Head of the Department in respect of which the ship is registered.

9. The powers conferred by sections 530 and 532 to 534 of the principal Act shall not be exercised in the case of a South Australian Government ship—

(*a*) by any authority in South Australia without the consent of the Government of South Australia;

(*b*) by any authority outside South Australia without the consent of the Government of South Australia except in regard to lights, buoys and other matters or things necessary for the immediate protection of traffic.

10. No provision in the Merchant Shipping Acts providing for the forfeiture or detention of a ship by reason of non-compliance with an enactment therein contained shall have any application to a South Australian Government ship.

11. Notwithstanding anything contained in the Merchant Shipping Acts and this Order the master of a South Australian Government ship shall not be liable for any penalty, debt or damage under any provision of the Merchant Shipping Acts in respect of anything done or omitted in pursuance of an Order of the Government of South Australia.

12. The following sections of the Merchant Shipping Acts shall not apply to South Australian Government ships registered in pursuance of this Order namely:—

(i) the principal Act, sections 1, 2, 8 to 12, 16, 23, 27 to 38, 39 to 42 (so far as relating to mortgages), 43, 44 to 46 (so far as relating to mortgages), 48, 49, 50, 52, 54 to 58, 59(2) and (3), 62, 68 to 72, 74, 76, 84, 85, 87, 92 to 463, 468, 472, 492 to 501, 520(*b*), 567, 568, 634 to 665, 667 to 679, 689(2), (3) and (4), 692, 693, and 729(1)(*d*) and (3) (so far as relating to any papers or documents belonging to or in the possession of the Crown).

(ii) The Merchant Shipping Act 1897(**a**)—the whole Act.

(iii) The Merchant Shipping (Mercantile Marine Fund) Act 1898(**b**)—the whole Act.

(iv) The Merchant Shipping Act 1906—sections 9, 13 to 27, 35, 38(2), so much thereof as is subsequent to the word "master" where it occurs, (3), 51 to 53, 57, 76 and 77.

(v) The Merchant Shipping (Seaman's Allotment) Act 1911(**c**)—the whole Act.

(vi) Any sections of the said Acts that are inconsistent with the laws of the Parliament of the Commonwealth of Australia, including any regulations or other instruments whatsoever made under those laws, in so far as they apply to South Australian Government ships:

Provided always that no provision of the Merchant Shipping Acts which, according to reasonable construction, would not apply in the case of South Australian Government ships shall be deemed to apply to such ships by reason only that its application is not hereby expressly excluded.

13. The powers conferred by Part VI of the principal Act shall not be exercised in the case of a South Australian Government ship or the master other officers, or crew thereof, without the consent of the Government of South Australia.

14. Any instrument for use in a port of registry outside South Australia may be signed on behalf of a Minister or Permanent Head of a Department by a person authorised in that behalf by the Government of South Australia.

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

16. This Order shall come into operation on 2nd June 1971 and may be cited as the Merchant Shipping (Registration of South Australian Government Ships) Order 1971.

N. E. Leigh.

(**a**) 1897 c. 59. (**b**) 1898 c. 44. (**c**) 1911 c. 8. (**d**) 1889 c. 63.

EXPLANATORY NOTE

(*This Note is not part of the Order.*)

This Order makes provision for the registration of South Australian Government ships as British ships for the purposes of the Merchant Shipping Acts.