

TREATIES OF WASHINGTON.

No. 4 of 1922.

An Act to enable effect to be given to two Treaties signed at Washington on behalf of His Majesty and certain other Powers.

[Assented to 30th August, 1922.]

Preamble.

WHEREAS at Washington on the sixth day of February, One thousand nine hundred and twenty-two, two treaties were signed on behalf of His Majesty, the one (being a Treaty for the Limitation of Naval Armament) containing, among other provisions, the provisions set out in the First Schedule to this Act, and the other (being a treaty to protect neutrals and non-combatants at sea in time of war and to prevent use in war of noxious gases and chemicals) containing among other provisions the provisions set forth in the Second Schedule to this Act:

And whereas it is expedient to give effect to the provisions so set forth in manner hereinafter appearing:

Be it therefore enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

Short title.

1. This Act may be cited as the *Treaties of Washington Act 1922*.

Commencement.

2. This Act shall commence on a date to be fixed by proclamation.

Application of Act to Territories.

3. This Act shall apply to the Territories under the authority of the Commonwealth.

Definition.

4. In this Act, unless the contrary intention appears—

“The Minister” means the Minister of State for Defence.

Prohibition of building, &c., vessel of war without licence.

5.—(1.) A person shall not, without licence from the Minister—

(a) build any vessel of war, or alter, arm, or equip any ship so as to adapt her for use as a vessel of war;

(b) despatch or deliver, or allow to be despatched or delivered, any ship which has been so built, altered, armed or equipped, either entirely within or partly within the King's Dominions:

Provided that a licence for any such purpose shall not be refused by the Minister unless it appears to the Minister necessary to do so for the purpose of securing the observance of the obligations imposed

by the first-mentioned Treaty, and where a licence is granted subject to conditions, the conditions shall be such only as appear to the Minister to be necessary for that purpose.

(2.) An application for a licence under this section shall be accompanied by such designs and particulars as the Minister specifies.

(3.) The Minister may, by warrant in writing under his hand, empower any person to enter any dockyard, shipyard or other place and to make inquiries respecting any ship being built, altered, armed or equipped therein, with a view to ascertaining whether any ship is being built, altered, armed or equipped in contravention of this Act, and to search the ship.

(4.) If any question arises as to whether a ship is a vessel of war, or whether any alteration, arming, or equipment of a ship is such as to adapt her for use as a vessel of war, the question shall be referred to and determined by the Minister, whose decision shall be final.

6.—(1.) If any person contravenes the foregoing provisions of this Act, or contravenes or fails to comply with any condition subject to which a licence under this Act is granted, he shall be guilty of an offence. Penalties.

Penalty: Five hundred pounds or imprisonment for two years, or both.

(2.) In addition, the ship in respect of which the offence is committed, and her equipment, shall be liable to forfeiture to the King.

(3.) Where the person guilty of the offence is a company or corporation, every director and manager of the company or corporation shall be guilty of the like offence and liable to the like penalties, unless he proves that the act or omission constituting the offence took place without his knowledge and consent.

(4.) Where an offence against this section has been committed by any person by reason whereof a ship or her equipment has become liable to forfeiture, proceedings may be instituted contemporaneously or not, as may be thought fit, against the offender in any court having jurisdiction of the offence, and against the ship, or ship and equipment, for the forfeiture in a court having jurisdiction in Admiralty; but it shall not be necessary to take proceedings against the offender because proceedings are instituted for the forfeiture, or to take proceedings for the forfeiture because proceedings are taken against the offender.

(5.) Where any ship has become liable to forfeiture under this Act—

(a) any commissioned officer on full pay in the Naval or Military Forces; or

(b) any officer of Customs,

may seize and detain the ship and bring her for adjudication before the High Court or the Supreme Court of a State or any Colonial Court of Admiralty, and the Court may thereupon adjudge the ship with her tackle, apparel and furniture to be forfeited to the King, and make such order in the case as to the Court seems just.

(6.) Any such officer shall not be responsible either civilly or criminally to any person whomsoever in respect of any such seizure or detention, notwithstanding that the ship has not been brought in for adjudication, or if so brought in is declared not liable to forfeiture, if it is shown to the satisfaction of the Court before which any trial relating to the ship or to the seizure or detention thereof is held that there were reasonable grounds for the 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.

(7.) If the Minister is satisfied that there is reasonable ground for believing that a ship has been or is being built, altered, armed or equipped in contravention of this Act, or is about to be despatched or delivered in contravention of this Act, the Minister shall have power to issue a warrant ordering any prescribed officer to seize and search the ship, and to detain the ship, and the officer may seize and search the ship and detain her until the Minister authorizes her release.

(8.) The provisions of sections four hundred and fourteen and four hundred and fifteen of the *Navigation Act* 1912-1920 shall apply in relation to any ship detained in pursuance of the last preceding subsection in like manner as if the ship were being detained under that Act, and the officer detaining the ship were an official performing a duty under that Act.

(9.) No proceedings shall be instituted in respect of any offence against this Act without the consent of the Minister.

7. Any person in the service of any Power who violates any of the rules contained in Article I. set forth in the Second Schedule to this Act whether or not that person is under a governmental superior shall be deemed to have violated the laws of war, and shall be liable to trial and punishment as if for an act of piracy, and, if found within the Commonwealth, may be brought to trial before any civil or military tribunal which would have had jurisdiction to deal with the case if the act had been an act of piracy.

Breaches of
Article I. of
Submarine and
Poison Gas
Treaty.

THE SCHEDULES.

THE FIRST SCHEDULE.

ARTICLES OF TREATY FOR THE LIMITATION OF NAVAL ARMAMENT.

CHAPTER I.—GENERAL PROVISIONS RELATING TO THE LIMITATION OF NAVAL ARMAMENT.

Article V.

No capital ship exceeding 35,000 tons (35,560 metric tons) standard displacement shall be acquired by, or constructed by, for, or within the jurisdiction of, any of the Contracting Powers.

Article VI.

No capital ship of any of the Contracting Powers shall carry a gun with a calibre in excess of 16 inches (406 millimetres).

Article IX.

No aircraft carrier exceeding 27,000 tons (27,432 metric tons) standard displacement shall be acquired by, or constructed by, for, or within the jurisdiction of, any of the Contracting Powers. * * * *

Article X.

No aircraft carrier of any of the Contracting Powers shall carry a gun with a calibre in excess of 8 inches (203 millimetres). Without prejudice to the provisions of Article IX., if the armament carried includes guns exceeding 6 inches (152 millimetres) in calibre the total number of guns carried, except anti-aircraft guns and guns not exceeding 5 inches (127 millimetres), shall not exceed ten. If alternatively the armament contains no guns exceeding 6 inches (152 millimetres) in calibre, the number of guns is not limited. In either case the number of anti-aircraft guns and of guns not exceeding 5 inches (127 millimetres) is not limited.

Article XI.

No vessel of war exceeding 10,000 tons (10,160 metric tons) standard displacement, other than a capital ship or aircraft carrier, shall be acquired by, or constructed by, for, or within the jurisdiction of, any of the Contracting Powers. Vessels not specifically built as fighting ships nor taken in time of peace under Government control for fighting purposes, which are employed on fleet duties or as troop transports or in some other way for the purpose of assisting in the prosecution of hostilities otherwise than as fighting ships, shall not be within the limitations of this Article.

Article XII.

No vessel of war of any of the Contracting Powers, hereafter laid down, other than a capital ship, shall carry a gun with a calibre in excess of 8 inches (203 millimetres).

Article XIV.

No preparations shall be made in merchant ships in time of peace for the installation of warlike armaments for the purpose of converting such ships into vessels of war, other than the necessary stiffening of decks for the mounting of guns not exceeding 6 inch (152 millimetres) calibre.

Article XV.

No vessel of war constructed within the jurisdiction of any of the Contracting Powers for a non-Contracting Power shall exceed the limitations as to displacement and armament prescribed by the present Treaty for vessels of a similar type which may be constructed by or for any of the Contracting Powers; provided, however, that the displacement for aircraft carriers constructed for a non-Contracting Power shall in no case exceed 27,000 tons (27,432 metric tons) standard displacement.

Article XVI.

If the construction of any vessel of war for a non-Contracting Power is undertaken within the jurisdiction of any of the Contracting Powers, such Power shall promptly inform the other Contracting Powers of the date of the signing of the contract and the date on which the keel of the ship is laid; and shall also communicate to them the particulars relating to the ship prescribed in Chapter II., Part 3, Section 1 (b), (4) and (5).

Article XVIII.

Each of the Contracting Powers undertakes not to dispose by gift, sale or any mode of transfer of any vessel of war in such a manner that such vessel may become a vessel of war in the Navy of any foreign Power.

CHAPTER II.—RULES RELATING TO THE EXECUTION OF THE TREATY.

PART 3.—REPLACEMENT.

SECTION I.—RULES FOR REPLACEMENT.

(b) Each of the Contracting Powers shall communicate promptly to each of the other Contracting Powers the following information :—

* * * *

- (4) The standard displacement in tons and metric tons of each new ship to be laid down, and the principal dimensions, namely, length at waterline, extreme beam at or below waterline, mean draft at standard displacement;
- (5) The date of completion of each new ship and its standard displacement in tons and metric tons, and the principal dimensions, namely, length at waterline, extreme beam at or below waterline, mean draft at standard displacement, at time of completion.

PART 4.—DEFINITIONS.

For the purposes of the present Treaty, the following expressions are to be understood in the sense defined in this part.

Capital Ship.

A capital ship, in the case of ships hereafter built, is defined as a vessel of war, not an aircraft carrier, whose displacement exceeds 10,000 tons (10,160 metric tons) standard displacement, or which carries a gun with a calibre exceeding 8 inches (203 millimetres).

Aircraft Carrier.

An aircraft carrier is defined as a vessel of war with a displacement in excess of 10,000 tons (10,160 metric tons) standard displacement designed for the specific and exclusive purpose of carrying aircraft. It must be so constructed that aircraft can be launched therefrom and landed thereon, and not designed and constructed for carrying a more powerful armament than that allowed to it under Article IX. or Article X. as the case may be.

Standard Displacement.

The standard displacement of a ship is the displacement of the ship complete, fully manned, engined, and equipped ready for sea, including all armament and ammunition, equipment, outfit, provisions and fresh water for crew, miscellaneous stores and implements of every description that are intended to be carried in war, but without fuel or reserve feed water on board.

The word "ton" in the present Treaty, except in the expression "metric tons", shall be understood to mean the ton of 2,240 pounds (1,016 kilos).

Vessels now completed shall retain their present ratings of displacement tonnage in accordance with their national system of measurement. However, a Power expressing displacement in metric tons shall be considered for the application of the present Treaty as owning only the equivalent displacement in tons of 2,240 pounds.

A vessel completed hereafter shall be rated at its displacement tonnage when in the standard condition defined herein.

THE SECOND SCHEDULE.

ARTICLES OF TREATY TO PROTECT NEUTRALS AND NON-COMBATANTS AT SEA IN TIME OF WAR AND TO PREVENT USE IN WAR OF NOXIOUS GASES AND CHEMICALS.

Article I.

The Signatory Powers declare that among the rules adopted by civilized nations for the protection of the lives of neutrals and non-combatants at sea in time of war, the following are to be deemed an established part of international law:—

1. A merchant vessel must be ordered to submit to visit and search to determine its character before it can be seized.

A merchant vessel must not be attacked unless it refuse to submit to visit and search after warning, or to proceed as directed after seizure.

A merchant vessel must not be destroyed unless the crew and passengers have been first placed in safety.

2. Belligerent submarines are not under any circumstances exempt from the universal rules above stated; and if a submarine cannot capture a merchant vessel in conformity with these rules the existing law of nations requires it to desist from attack and from seizure and to permit the merchant vessel to proceed unmolested.

Article III.

The Signatory Powers, desiring to insure the enforcement of the humane rules of existing law declared by them with respect to attacks upon and the seizure and destruction of merchant ships, further declare that any person in the service of any Power who shall violate any of those rules, whether or not such person is under orders of a governmental superior, shall be deemed to have violated the laws of war and shall be liable to trial and punishment as if for an act of piracy and may be brought to trial before the civil or military authorities of any Power within the jurisdiction of which he may be found.