Civilian Merchant Seamen - War Veterans Allowance Program

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Purpose

This policy provides guidance on determining if an individual's service as a civilian merchant seaman may be considered to satisfy the war service requirements of the *Civilian War-related Benefits Act*.

General

1. During World War I and World War II, civilian merchant seamen service consisted of voyages where the vessels were not considered to be prime targets of enemy attack. The majority of these voyages were on smaller vessels that travelled along provincial coast lines (within territorial waters) while at times crossing out into dangerous waters.
2. During the Korean War, civilian merchant seamen service consisted of voyages involving trips through dangerous waters off the coast of Korea.

Eligibility

3. Civilian Merchant Seamen is the expression used to designate collectively the groups defined in paragraphs (a), (b) and (d) of the definition of "civilian" in subsection 56 (1) of the *Civilian War-related Benefits Act*. These include:

a. A person who
    i. served at sea in a ship of Canadian or Newfoundland registry during World War II for a period of at least six months; and,
    ii. during this period of service made at least one trip through dangerous waters.
b. A Canadian citizen, a Canadian national, or a British subject domiciled in Newfoundland at the commencement of service who
    i. served at sea during World War II for a period of at least six months in a ship of United Kingdom registry, or the registry of one of the countries allied or associated with His Majesty, during World War II; and,
    ii. during this period of service made at least one trip through dangerous waters.
c. A Canadian citizen who:
    i. served at sea on a ship of a country allied or associated with the United Nations for a period of at least six months during the Korean War; and
    ii. during this period of service served at least twenty-eight days on such a ship within dangerous waters off the coast of Korea.

4. The required period of qualifying service by a civilian merchant seamen must have been fully served in either World War II or the Korean War. The required period of service may be aggregated from different qualifying voyages, but not from different wars.

Non-qualifying Service

5. Service on ships which are engaged in the fishing industry, or on ships not registered or licensed as Canadian, Newfoundland, or allied ships cannot be recognized for the purposes of establishing service.

Dangerous Waters

6. The Veterans Review and Appeal Board is empowered to prescribe which waters are to be considered as "dangerous waters." This is interpreted as follows:
    a. World War I - Outside the territorial waters of all countries from August 4, 1914, to November 11, 1918, inclusive, on the Atlantic Ocean, the Indian Ocean and the Mediterranean Sea.
    b. World War II (Except Newfoundland and Labrador) - Outside the territorial waters of all countries:
        i. from September 1, 1939, to May 31, 1940, inclusive, on the Atlantic Ocean, including United Kingdom waters and the North Sea, the Baltic, the Arctic Ocean between Greenland and longitude 70°E, and that part of the Indian Ocean lying south of 15°S and west of 55°E;
        ii. from June 1, 1940, to May 8, 1945, inclusive, anywhere at sea; and
        iii. from May 9, 1945, to August 15, 1945, inclusive, the Pacific Ocean including the South China Sea, the Bay of Bengal as far south as the Equator, and that part of the Indian Ocean lying east of longitude 110°E, and including the southward offshore waters of the Sunda Islands.
    c. World War II - Newfoundland and Labrador - The principle of "dangerous waters" is modified for Newfoundland and Labrador, in that dangerous waters includes all waters to seaward from the mean low water line surrounding Newfoundland and Labrador. This being the case, the concept of "territorial waters" is not a consideration for this type of service. (In reference to territorial waters of countries besides Canada the standard of three nautical miles of any of the coasts, bays, creeks or harbours also applies).
    d. Korean War - any of the waters, including gulfs, bays and inlets, lying between:
        i. the coasts of Siberia, Korea and China; and,

ii. a line beginning at a point on the coast of Siberia at longitude 135° East; thence south to a point at latitude 38° 30' North and longitude 135° East; thence southwesterly to a point 30° North and longitude 124° East; thence westerly to Shichisei Seki; and thence westerly to a point on the coast of China at latitude 23° North.

Service at Sea

7. "Service at sea" means service on a ship that normally sailed or operated outside the territorial waters of all countries during World War I, World War II, or the Korean War.
8. A ship "normally sailed or operated outside the territorial waters" if the physical features of the ship were such that it was capable of sailing or operating beyond the territorial waters. Such sailings or operations during the time that service is claimed would have been consistent with the accepted navigational practices in that area. The ship must have been sailing or operating in an area adjacent to, and must have had immediate and ready access to, waters outside the territorial waters. There must be evidence to indicate that the ship did sail or operate in this manner during World War I or II.
9. Whenever a seaman's record reflects service on a ship engaged in home-trade, the entire duration of service will be credited towards the six-month qualifying period. It is considered that no requirement exists for ships to have actually been at sea outside the territorial waters for six months in order to qualify. So long as it is established that the ship made at least one trip through dangerous waters while the applicant was on board, and that the ship normally sailed or operated outside the territorial waters, any service on the ship counts as qualifying time. To illustrate, a home-trade voyage may include a portion of travelling time that would be considered within inland waters, such as a voyage that commenced at a point west of the mouth of the Saguenay River (technically inland waters) and continued into international waters. In this instance, travelling time, including the portion of time that was within the inland waters, will be included.

Citizenship - Service on Allied Vessels

10. The terms "Canadian national" and "Canadian citizen" are defined for the purposes of civilian merchant seamen who served on allied ships. Canadian nationals also include Newfoundlanders.
11. Canadian national means:
    1. any British subject who is a Canadian citizen within the meaning of the *Immigration Act*. (Basically, a native-born British subject was any person born within His Majesty's dominions and allegiances);
    2. the spouse of any such citizen; and
    3. any person born out of Canada whose father was a Canadian national at the time of that person's birth or, with regard to persons born before May 3, 1921, any person whose parent at the time of such birth was already a Canadian national as per the *Canadian Nationals Act* of 1927.
12. Canadian citizen means, according to the *Immigration Act*of 1927:
    a. a person born in Canada who has not become an alien (meaning a person who is not a British subject);
    b. a British subject who has Canadian domicile (meaning having domiciled in Canada for at least five years); or
    c. a person naturalized under the laws of Canada who has not subsequently become an alien or lost Canadian domicile.

    Naturalization of aliens meant receiving the status of British subject. After five years of Canadian residency, an alien could apply for a certificate of naturalization to become a British subject and, if

granted, the person would become a Canadian national.

13. Prior to 1947, the term "Canadian national" was the main term used to describe what is now called a "Canadian citizen." A "Canadian national" was defined as a British subject who was a Canadian citizen under the *Immigration Act*. A "British subject" was anyone who owed allegiance to the British Crown, either by birth or otherwise. If such a person established a home in Canada for five years and acquired Canadian domicile, that person could then apply for the status of Canadian national (Canadian citizen). In 1947, this procedure was replaced by a simplified concept of "Canadian citizen" under the *Citizenship Act*.
14. Proof of Canadian citizenship can be satisfied by producing:
    a. a birth certificate; or
    b. Canadian citizenship papers; or
    c. a Certificate of naturalization issued by the Canadian government.
15. Proof of Canadian citizenship can be obtained by contacting Citizenship and Immigration Canada. Call **1-888-242-2100.**

Allied or Associated Countries

16. The following countries were allied with Canada during World War II: Australia, Belgium, China, Costa Rica, Cuba, Czechoslovakia, Denmark, Dominican Republic, Ethiopia, France, Great Britain, Greece, Guatemala, Haiti, Honduras, India, Iraq, Luxembourg, Mexico, The Netherlands, New Zealand, Nicaragua, Norway, Panama, Philippines, Poland, El Salvador, South Africa, U.S.S.R., United States, and Yugoslavia.
17. The following countries were allied or associated with the United Nations in the Korean War: Australia, Belgium, Canada, Columbia, Ethiopia, France, Greece, Luxembourg, Netherlands, New Zealand, Philippines, South Africa, Thailand, Turkey, United Kingdom and the United States.
18. Only service by Canadian nationals on ships registered in any of the countries identified in paragraphs 17 and 18 qualifies as eligible service as a civilian merchant seaman.
19. Service on Canadian ships associated with the United Nations' military operations in Korea is recognized as qualifying service as a Merchant Navy Veteran.

Confirmation of Sea Service

20. Clients applying for War Veterans Allowance are expected to provide Veterans Affairs Canada with proof of qualifying service during World War II or the Korean War. Where possible, the VAC staff will assist any applicant in obtaining such proof.
21. The legislation prescribes the use of statutory declarations as evidence by applicants where official records of a person's service or medical evidence during service are unavailable. The following considerations should be noted:
    a. statutory declarations should not be used if better evidence is available such as where records are available relating to the ship or the claimed service. (It might be the case that the ship was repaired and records from the dry dock or other company are available);
    b. the person who makes the declaration no longer needs to be "disinterested" in the sense that there is no motive to misrepresent the facts. This is because the adjudicator must always base the decision on all of the evidence provided.
    c. the adjudicating body must ultimately weigh all evidence before it and make a decision based on common sense. The adjudicating body must be satisfied on a balance of probabilities that the information is true. This means that a person who claims service at sea must lay before the adjudicator evidence of sufficient weight that the adjudicator can make a ruling.

Official Records

22. Official records in most instances means government records. However, a "ship's protest" on file in a notary's office concerning an accident involving a ship would constitute an official record; as would an insurance policy or receipt for supplies. The records from a pilot's station, if a given ship is named, would be sufficient evidence that the ship existed.
23. Discharge certificates represent the best evidence of the person’s involvement as a member of a particular ship’s crew.
24. One of the key features of the shipping legislation since its Victorian origins has been the requirement that mariners must be formally engaged and registered as members of the crew using official documents known as "Articles of Agreement." These documents were retained by shipping masters and are now held either in the archives of the Merchant Navy Registry or in the sub-regional office in St. John’s, Newfoundland. They may be relied upon as conclusive evidence that a particular individual was a member of the crew of a particular ship, at a particular time and thus the definition of "service" incorporates "Articles of Agreement" as a key element in the definition of a civilian merchant seaman.
25. Once registry of the ship is established, an applicant could produce pay records, mail sent to the person c/o the ship, customs or records of places sailed to and/or statutory declarations by others confirming the service of the person on a particular ship.

Underage Service

26. Service performed as a civilian merchant seaman by individuals who were less than fourteen at the time of their service cannot be recognized as qualifying service. This does not preclude the individual from qualifying if, through the duration of their service, they attained the age of fourteen years.

References

Immigration Act

Citizenship Act

Civilian War-related Benefits Act

Canadian Nationals Act