



# Merchant Shipping Act 1979

## 1979 CHAPTER 39

### *Miscellaneous*

#### **31 Dues for space occupied by deck cargo**

- (1) In section 85 of the Merchant Shipping Act 1894 (which relates to dues for space occupied by deck cargo) for subsection (3) (which among other things makes provision about the way in which the space is to be ascertained and recorded) there shall be substituted the following subsection—

“(3) The Secretary of State may, by regulations made by statutory instrument, make provision—

- (a) as to the manner in which (including the persons by whom) the tonnage of the space is to be ascertained, recorded and verified;
- (b) as to the occasions on which and the persons by whom and to whom records of the said tonnage are to be produced;
- (c) for a contravention of the regulations to be an offence punishable on summary conviction by a fine not exceeding £500 or such less sum as is prescribed by the regulations;
- (d) for such incidental and supplemental matters as the Secretary of State considers appropriate in connection with the regulations,

and may make different provision by the regulations for different circumstances; and any statutory instrument made by virtue of this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

- (2) Accordingly in section 1(2)(c) of the Merchant Shipping Act 1965 (under which tonnage regulations may provide for the ascertainment of the space to be taken into account for the purposes of the said section 85 and may exempt any space from being taken into account for those purposes) for the words from "provide" to "be" there shall be substituted the words " exempt any space from being " , and the words from " and may " to " those purposes " shall cease to have effect.

**32 Shipping casualties**

- (1) In section 464 of the Merchant Shipping Act 1894 (which specifies the shipping casualties which may be the subject of inquiries and investigations under Part VI of that Act)—
- (a) in paragraph (4) (which refers to loss of life by reason of a casualty happening to or on board a ship) after the word " life" there shall be inserted the words " or serious personal injury " and after the word "ship" there shall be inserted the words " , or any boat or life-raft from a ship, ";
  - (b) after that paragraph there shall be inserted the following paragraph—
 

“(4A) when any person is lost from a ship, or any boat or life-raft from a ship, on or near the coasts of the United Kingdom;”
  - (c) after paragraph (7) there shall be inserted the following paragraph—
 

“(8) when events occur which the Secretary of State determines are of a kind likely to cause events which, if they occurred, would constitute a shipping casualty by virtue of any of the preceding paragraphs..”
- (2) In section 55 of the Merchant Shipping Act 1970 (which relates to inquiries and investigations into shipping casualties)—
- (a) after the words " loss of life " in subsection (1)(b) there shall be inserted the words " or serious personal injury "; and
  - (b) after subsection (1) there shall be inserted the following subsection—
 

“(1A) Where an incident has occurred which the Secretary of State considers was or is capable of causing a casualty into which he could require an inquiry in pursuance of the preceding subsection, the powers to hold an inquiry or an investigation or both which are conferred on him by paragraphs (i) and (ii) of that subsection shall be exercisable in relation to the incident as if it were such a casualty..”
- (3) Accordingly in section 56(1) of the Merchant Shipping Act 1970 (which relates to an investigation under section 55 of that Act into a casualty) after the word " casualty " there shall be inserted the words " or incident ".

**33 Commissioners of Northern Lighthouses and Irish Lights**

- (1) Sections 640 and 641 of the Merchant Shipping Act 1894 (which provide for the control by the Trinity House of certain activities of the Commissioners of Northern Lighthouses and the Commissioners of Irish Lights) and section 637 of that Act (which authorises the Trinity House and their servants to enter lighthouses in a lighthouse area which are vested in the said Commissioners or the Trinity House) shall cease to have effect.
- (2) In section 668(4) of the Merchant Shipping Act 1894 (which authorises the Commissioners of Northern Lighthouses to elect not more than four other persons as members of their body) for the words " four other persons " there shall be substituted the words " five other persons; but a person shall not be elected in pursuance of this subsection after section 33(2) of the Merchant Shipping Act 1979 comes into force unless either he appears to the Commissioners to have special knowledge and experience of nautical matters or three persons who so appear are members of the said body ".

**34 Repeal of spent provisions, and amendment of Part XI, of Merchant Shipping Act 1894**

- (1) Sections 670 to 672 and 675 of the Merchant Shipping Act 1894 (which relate to colonial light dues and became spent after the abolition of the dues in 1960) shall cease to have effect.
- (2) In section 677 of that Act, paragraph (m) (which provides for the payment out of money provided by Parliament of the cost of publishing information about foreign lighthouses, buoys and beacons) shall be omitted.
- (3) The Secretary of State may by order provide that references or a particular reference to a buoy or beacon in Part XI of that Act shall be construed as including, in such circumstances as are specified in the order, equipment of a kind so specified which is intended as an aid to the navigation of ships.

**35 Amendment of s. 503 of Merchant Shipping Act 1894 etc.**

- (1) Nothing in section 503 of the Merchant Shipping Act 1894 (which relates to the limitation of liability in certain cases of loss of life, injury or damage) shall apply to any liability in respect of loss of life or personal injury caused to, or loss of or damage to any property of, a person who is on board or employed in connection with the ship in question if—
  - (a) he is so on board or employed under a contract of service governed by the law of any part of the United Kingdom ; and
  - (b) the liability arises from an occurrence which took place after the coming into force of this subsection and before the coming into force of the following subsection ;and in this subsection " ship " has the same meaning as in the said section 503.
- (2) The provisions having the force of law under section 17 of this Act shall not apply to any liability in respect of loss of life or personal injury caused to, or loss of or damage to any property of, a person who is on board the ship in question or employed in connection with that ship or with the salvage operations in question if—
  - (a) he is so on board or employed under a contract of service governed by the law of any part of the United Kingdom; and
  - (b) the liability arises from an occurrence which took place after the coming into force of this subsection ;and in this subsection " ship " and " salvage operations " have the same meaning as in those provisions.

**36 Amendments of Merchant Shipping (Mercantile Marine Fund) Act 1898**

- (1) Section 2(1) and (2) of the Merchant Shipping (Mercantile Marine Fund) Act 1898 (which relate to colonial light dues and of which subsection (1) became spent after the abolition of the dues in 1960) shall cease to have effect; and in section 2(3) of that Act (which among other things provides for the payment out of the General Lighthouse Fund of contributions in respect of the lighthouse on Cape Spartel, Morocco) for the words " lighthouse on Cape Spartel, Morocco" there shall be substituted the words " lights on the islands of Abu Ail and Jabal at Tair in the Red Sea ".

- (2) For subsection (2) of section 5 of that Act (which enables the scales, rules and exemptions set out in Schedule 2 to that Act for the levying of light dues to be altered by Order in Council) there shall be substituted the following subsection—

“(2) The Secretary of State may by statutory instrument make regulations with respect to the amounts and the levying of such dues (including the cases in which the dues are not to be levied) and the regulations may make different provision for different circumstances; and any statutory instrument made by virtue of this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

- (3) In Schedule 3 to the said Act of 1898, paragraph II (which relates to certain lighthouses off the coast of Sri Lanka as to which an arrangement was made on 27th February 1976 between the government of that country and the government of the United Kingdom providing for their transfer to the government of that country) shall be omitted; but any expenditure incurred by the government of the United Kingdom in pursuance of that arrangement either before or after the passing of this Act shall be defrayed out of the General Lighthouse Fund.

**37 Amendments of ss. 15, 43, 52, 54, 76(1), 92 and 101(4) of Merchant Shipping Act 1970 and s. 23 of the Prevention of Oil Pollution Act 1971**

- (1) Section 15 of the Merchant Shipping Act 1970 (which among other things provides that where a seaman's employment in a ship ends because the ship is wrecked or lost or is sold abroad or ceases to be registered in the United Kingdom he shall in certain cases be entitled to wages for two months after the ending of the employment) shall apply to a master as it applies to a seaman; and in subsection (1) of that section (which makes the wages payable in the case of wreck or loss unless it is proved that the seaman did not make reasonable efforts to save the ship and the persons and property carried on it) the words from " unless " onwards shall be omitted.
- (2) The power to make regulations conferred by section 43 of the Merchant Shipping Act 1970 (which authorises the Secretary of State to make regulations requiring certain ships to carry the number specified in the regulations of officers and other seamen who are qualified in accordance with the regulations) shall include power to make regulations providing that existing certificates shall, except in such cases as are specified in the regulations, be deemed for the purposes of such of the provisions of that Act as are so specified to be issued in pursuance of that section and to confer on the persons to whom they were issued such qualifications for the purposes of that section as are so specified.
- (3) In the preceding subsection " existing certificate " means a certificate granted in pursuance of section 93, 99 or 414 of the Merchant Shipping Act 1894 (which relate to certificates of competency or service as masters, mates and engineers and as skippers and second hands of fishing boats), a certificate referred to in an Order in Council made by virtue of section 102 of that Act (which relates to Commonwealth certificates of competency), a certificate granted in pursuance of subsection (2) of section 27 of the Merchant Shipping Act 1906 or by an institution approved in pursuance of that subsection (which relates to cooks) and a certificate granted in pursuance of section 5 of the Merchant Shipping Act 1948 (which relates to seamen who may be rated as A.B.).
- (4) At the end of sections 52(3) and 54(2) of the Merchant Shipping Act 1970 (which respectively make provision for the rules which are to govern inquiries into the fitness

or conduct of officers and of seamen other than officers) there shall be inserted the words " ; and the persons holding the inquiry shall for the purpose of the inquiry have the powers conferred on an inspector by section 27 of the Merchant Shipping Act 1979. "

- (5) In section 76(1) of the Merchant Shipping Act 1970 (which enables inspections to be carried out for the purpose of seeing that the provisions of the Merchant Shipping Acts and regulations and rules made under those Acts are complied with)—
  - (a) references to the Merchant Shipping Acts shall include references to this Act and,
  - (b) after the words "regulations and rules made thereunder " there shall be inserted the words " or that the terms of any approval, licence, consent, direction or exemption given by virtue of such regulations ".
- (6) Without prejudice to the operation of section 50(1) of this Act, in section 92 of the Merchant Shipping Act 1970 (which among other things enables provisions of that Act to be extended to unregistered British ships) the references to that Act shall be construed as including references to sections 23 and 25 of this Act.
- (7) At the end of section 101(4) of the Merchant Shipping Act 1970 (which authorises the appointment of different days for the coming into force of different provisions of that Act) there shall be inserted the words " or for different purposes of the same provision ".
- (8) In section 23 of the Prevention of Oil Pollution Act 1971 (which among other things authorises the Secretary of State to exempt from provisions of that Act certain discharges of crude oil produced as a result of operations for exploring the seabed or for exploiting its resources) for the words from " crude oil" onwards there shall be substituted the word " oil ".

### **38 Replacement of gold francs by special drawing rights for certain purposes of Merchant Shipping (Oil Pollution) Act 1971 and Merchant Shipping Act 1974**

- (1) In section 4 of the Merchant Shipping (Oil Pollution) Act 1971 (which among other things enables a ship's owner to limit in certain circumstances his liability under section 1 of that Act so that it does not exceed 2,000 gold francs for each ton of the ship's tonnage or 210 million gold francs, whichever is less)—
  - (a) for the words " 2,000 gold francs " and " 210 million gold francs" in subsection (1)(b) there shall be substituted respectively the words " 133 special drawing rights " and " 14 million special drawing rights " ; and
  - (b) subsections (3) to (5) (which relate to the value of gold francs) shall cease to have effect.
- (2) In section 5 of that Act (which among other things relates to payment into court of the amount of a limit determined in pursuance of that section), after subsection (2) there shall be inserted the following subsection—

“(2A) A payment into court of the amount of a limit determined in pursuance of this section shall be made in sterling; and—

  - (a) for the purpose of converting such an amount from special drawing rights into sterling one special drawing right shall be treated as equal to such a sum in sterling as the International Monetary Fund have fixed as being the equivalent of one special drawing right for—
    - (i) the day on which the determination is made, or

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*Status: This is the original version (as it was originally enacted).*

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- (ii) if no sum has been so fixed for that day, the last day before that day for which a sum has been so fixed;
  - (b) a certificate given by or on behalf of the Treasury stating—
    - (i) that a particular sum in sterling has been so fixed for the day on which the determination was made, or
    - (ii) that no sum has been so fixed for that day and that a particular sum in sterling has been so fixed for a day which is the last day for which a sum has been so fixed before the day on which the determination was made,

shall be conclusive evidence of those matters for the purposes of this Act;
  - (c) a document purporting to be such a certificate shall, in any proceedings, be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.”
- (3) For the purposes of sections 10(2) and 11(1) of that Act (which refer to Article VII of the International Convention on Civil Liability for Oil Pollution Damage signed in Brussels in 1969) references in that Article to Article V of the Convention shall be construed as references to Article V as amended by Article II of the protocol dated 19th November 1976 to the Convention; and in section 14(2) of that Act (which refers to the limit prescribed by the said Article V) for the words " Article V thereof " there shall be substituted the words " Article V of the Convention as amended by Article II of the protocol dated 19th November 1976 to the Convention ".
- (4) The Merchant Shipping Act 1974 shall have effect with the following amendments, namely—
  - (a) section 1(6) and (7) (which relate to the value of gold francs) shall cease to have effect;
  - (b) in section 2(7)(a) (which provides for a person's contributions to the International Fund there mentioned to be of an amount determined under articles 11 and 12 of the convention which established the Fund) and in section 4(10) (which provides for the liability of the said Fund to be subject to the limits imposed by article 4 of the said convention) after the words " the Fund Convention" there shall be inserted the words " (as amended by Article III of the protocol dated 19th November 1976 to that Convention) ";
  - (c) at the end of section 4 (which relates to compensation from the said Fund for persons suffering pollution damage) there shall be inserted the following subsection—
    - “(13) Any steps taken to obtain payment of an amount or a reduced amount in pursuance of such a judgment as is mentioned in subsection (12) above shall be steps to obtain payment in sterling; and—
      - (a) for the purpose of converting such an amount from special drawing rights into sterling one special drawing right shall be treated as equal to such a sum in sterling as the International Monetary Fund have fixed as being the equivalent of one special drawing right for—
        - (i) the day on which the judgment is given, or
        - (ii) if no sum has been so fixed for that day, the last day before that day for which a sum has been so fixed;
      - (b) a certificate given by or on behalf of the Treasury stating—

- (i) that a particular sum in sterling has been so fixed for the day on which the judgment was given, or
- (ii) that no sum has been so fixed for that day and that a particular sum in sterling has been so fixed for a day which is the last day for which a sum has been so fixed before the day on which the judgment was given,

shall be conclusive evidence of those matters for the purposes of this Act;

- (c) a document purporting to be such a certificate shall, in any proceedings, be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.;"
  - (d) in section (5)(1)(a) and (b) (which specify the portion of the aggregate amount of a liability for which the said Fund is to give indemnity) for the words " 1,500 francs " and " 2,000 francs " there shall be substituted respectively the words " 100 special drawing rights " and " 133 special drawing rights " and for the words " 125 million francs " and " 210 million francs " there shall be substituted respectively the words " 8,333,000 special drawing rights " and " 14 million special drawing rights ";
  - (e) at the end of section 5 there shall be inserted the following subsection—
    - “(8) For the purpose of converting into sterling the amount in special drawing rights adjudged to be payable by the Fund by way of indemnity in such proceedings as are mentioned in subsection (4) of this section, paragraphs (a) to (c) of subsection (13) of section 4 of this Act shall have effect—
      - (a) if the liability in question has been limited in pursuance of section 5 of the Merchant Shipping (Oil Pollution) Act 1971, as if—
        - (i) for the reference in the said paragraph (a) to the amount there mentioned there were substituted a reference to the amount adjudged as aforesaid, and
        - (ii) for any reference to the day on which the judgment is or was given there were substituted a reference to the day on which the determination of the limit was made in pursuance of the said section 5; and
      - (b) if the liability in question has not been so limited, with the modification made by paragraph (a)(i) of this subsection and as if for any reference to the day on which the judgment is or was given there were substituted a reference to the day on which the said amount was so adjudged.;"
  - (f) in section 6(5)(a) (which refers to provisions of the said article 4 as set out in Schedule 1 to that Act) after the words "as set out" there shall be inserted the words " as amended ";
  - (g) in Schedule 1 for the words "450 million francs" wherever they occur there shall be substituted the words " 30 million special drawing rights "and for the words "900 million francs" there shall be substituted the words " 60 million special drawing rights ".
- (5) It is hereby declared that the powers to make Orders in Council conferred by section 18 of the said Act of 1971 and section 20 of the said Act of 1974 (which provide for

the extension of those Acts to any of the countries mentioned in those sections and for those Acts to have effect as if references in them to the United Kingdom included references to any of those countries) include power to make Orders in Council in respect of those Acts as amended by this section.

- (6) An order made by virtue of section 52(2) of this Act which appoints a day for the coming into force of any of the preceding provisions of this section may contain such transitional provisions as the Secretary of State considers appropriate in connection with the coming into force of the provision in question.

### **39 Attachment of earnings**

- (1) At the beginning of paragraph (e) of section 24(2) of the Attachment of Earnings Act 1971 (under which wages of a seaman are not to be treated as earnings for the purposes of that Act unless he is a seaman of a fishing boat) there shall be inserted the words " except in relation to a maintenance order ".
- (2) As respects Scotland, the wages of a seaman of a fishing boat shall cease to be exempt from arrestment and the wages of any other seaman shall cease to be exempt from arrestment under a maintenance order; and in this subsection " maintenance order " means an order of any court or authority enforceable in Scotland for the payment of any periodical or capital sum due or awarded in respect of a marriage or other family relationship.
- (3) Accordingly section 11(1)(a) of the Merchant Shipping Act 1970 (which provides that the wages of a seaman employed in a ship registered in the United Kingdom shall not be subject to attachment or arrestment) shall have effect, as respects England and Wales, subject to the said Act of 1971 as amended by subsection (1) of this section and, as respects Scotland, subject to the preceding subsection.

### **40 Foreign action affecting shipping**

- (1) In section 14 of the Merchant Shipping Act 1974 (which relates to foreign action affecting shipping)—
- (a) in subsection (3) (which among other things enables provision to be made for regulating matters mentioned in that subsection) after paragraph (d) there shall be inserted the words " and in this subsection ' regulating ', except in relation to the rates which may or must be charged for carrying goods, includes imposing a prohibition ";
  - (b) in subsection (8) (which prohibits the disclosure of information otherwise than with the informant's consent or for the purposes of the section) after paragraph (c) there shall be inserted the words "or
    - (d) in pursuance of a Community obligation to a Community institution";
  - (c) in subsection (11) (which defines expressions used in that section) after the words " United Kingdom " there shall be inserted the words " and ' agency or authority of a foreign government' includes any undertaking appearing to the Secretary of State to be, or to be acting on behalf of, an undertaking which is in effect owned or controlled (directly or indirectly) by a State other than the United Kingdom "; and
  - (d) after that subsection there shall be inserted the following subsection—



“(11A) A recital in an order under this section that the persons who have adopted, or propose to adopt, the measures or practices in question are a foreign government, or an agency or authority of a foreign government, shall be conclusive.”

(2) In paragraph 2 of Schedule 4 to the said Act of 1974 (which relates to the making of orders under subsection (3)(d) of section 14) after sub-paragraph (3) there shall be inserted the following sub-paragraph—

“(4) Nothing in this paragraph prejudices subsection (6) of the principal section..”

#### **41 Application of Merchant Shipping Acts to certain structures etc.**

(1) The Secretary of State may by order provide that a thing designed or adapted for use at sea and described in the order is or is not to be treated as a ship for the purposes of any provision specified in the order of the Merchant Shipping Acts or the Prevention of Oil Pollution Act 1971 or an instrument made by virtue of any of those Acts ; and such an order may—

- (a) make different provision in relation to different occasions;
- (b) if it provides that a thing is to be treated as a ship for the purposes of a provision specified in the order, provide that the provision shall have effect in relation to the thing with such modifications as are so specified.

(2) Where the Secretary of State proposes to make an order in pursuance of the preceding subsection it shall be his duty, before he makes the order, to consult such persons about the proposal as appear to him to represent the persons in the United Kingdom who he considers are likely to be affected by the order.