



Merchant Shipping Act 1988

CHAPTER 12

LONDON
HER MAJESTY'S STATIONERY OFFICE



Merchant Shipping Act 1988

CHAPTER 12

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Merchant Shipping Act 1988

1988 CHAPTER 12

An Act to amend the law relating to the registration of ships; to make provision for the giving of financial assistance in connection with the training of seamen and crew relief costs; to make provision for the establishment of a Merchant Navy Reserve; to make further provision with respect to the safety of shipping, with respect to liability and compensation for oil pollution and with respect to the financing and administration of the lighthouse service; to make other amendments of the law relating to shipping, seamen and pollution; and for connected purposes. [3rd May 1988]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

REGISTRATION OF BRITISH SHIPS

Preliminary

1.—(1) In this Part—

- (a) sections 2 and 3 have effect in place of section 1 of the Merchant Shipping Act 1894 (qualification for owning British ship); and
- (b) sections 4 to 8 have effect in place of sections 2 and 3 of that Act (obligation to register British ships and exemptions from registry) and for otherwise regulating the registration of ships under Part I of that Act in the United Kingdom.

(2) In this Part, unless the context otherwise requires—

“length”, in relation to a ship, has the same meaning as in the tonnage regulations of the 1894 Act;

“owner”, in relation to a registered ship, means registered owner;

Effect of Part I
and interpretation.
1894 c. 60.

- PART I “registered” and “registration” mean respectively registered and registration under Part I of the 1894 Act in the United Kingdom;
- “representative person” means a person appointed (or treated as appointed) as such under section 5.
- (3) References in this Part to a ship being entitled to be registered shall be construed in accordance with section 4.
- British ships. 2.—(1) A ship shall be a British ship for the purposes of the Merchant Shipping Acts if—
- (a) the ship is registered in the United Kingdom under any of the following enactments, namely—
- 1983 c. 13. (i) Part I of the 1894 Act or section 5 of the Merchant Shipping Act 1983 (registration of small ships), or
- (ii) Part II of this Act (registration of British fishing vessels); or
- 1906 c. 48. (b) the ship is registered in the United Kingdom in pursuance of an Order in Council under section 80 of the Merchant Shipping Act 1906 (Government ships); or
- (c) the ship is a fishing vessel within the meaning of Part II of this Act which is eligible to be registered under that Part of this Act by virtue of section 14 below, but—
- (i) is excluded from registration under that Part of this Act by regulations made under section 13 below, and
- (ii) is not registered under the law of any country outside the United Kingdom; or
- (d) the ship is registered under the law of a relevant overseas territory; or
- (e) the ship is less than 24 metres in length and—
- (i) is not a fishing vessel within the meaning of Part II of this Act, and
- (ii) is not registered in the United Kingdom under an enactment falling within paragraph (a)(i) above or under the law of any country outside the United Kingdom, but
- (iii) is wholly owned by one or more persons qualified to be owners of British ships by virtue of section 3(1) below.
- (2) This section shall have effect in relation to any time before the end of the period referred to in section 13(3)(b) below as if the enactments falling within subsection (1)(a)(i) included Part IV of the 1894 Act (registration of British fishing boats).
- Persons qualified to be owners of British ships. 3.—(1) For the purposes of Part I of the 1894 Act the following persons are persons qualified to be owners of British ships, namely—
- (a) British citizens;
- (b) British Dependent Territories citizens;
- (c) British Overseas citizens;
- 1981 c. 61. (d) persons who under the British Nationality Act 1981 are British subjects;

- (e) persons who under the Hong Kong (British Nationality) Order 1986 are British Nationals (Overseas);
- (f) bodies corporate incorporated in the United Kingdom or in any relevant overseas territory and having their principal place of business in the United Kingdom or in any such territory; and
- (g) citizens of the Republic of Ireland.

PART I
S.I. 1986/948.

(2) Subject to subsection (3) below, references (however phrased) in any statutory provision to persons who are, for the purposes of Part I of the 1894 Act, qualified to be owners of British ships shall be construed in accordance with subsection (1) above.

(3) For the purposes of section 5 of the Merchant Shipping Act 1983 the following persons are persons qualified to be owners of British ships, namely—

1983 c. 13.

- (a) persons falling within paragraphs (a) to (e) and (g) of subsection (1) above; and
- (b) Commonwealth citizens not falling within those paragraphs.

(4) It is hereby declared that a person who is not qualified under subsection (1) above to be an owner of a British ship may nevertheless be one of the owners of such a ship if—

- (a) a majority interest in the ship (within the meaning of section 4 below) is owned by persons who are qualified to be owners of British ships; and
- (b) the ship is registered, in accordance with the provisions of that section, under Part I of the 1894 Act.

Registration under Part I of 1894 Act

4.—(1) Subject to sections 6 and 7 below, this section has effect for the purpose of determining whether a ship is entitled to be registered under Part I of the 1894 Act in the United Kingdom.

Entitlement to
registration under
Part I of 1894 Act.

(2) Subject to subsection (3), a ship shall be entitled to be registered if a majority interest in the ship is owned by one or more persons qualified to be owners of British ships by virtue of section 3(1)(a), (b), (e) or (f) above.

(3) Where—

- (a) a ship falling within subsection (2) is 24 metres or more in length, and
- (b) the person, or (as the case may be) each of the persons, by whom the majority interest in the ship is owned is not resident in the United Kingdom,

the ship shall only be entitled to be registered if a representative person is appointed in relation to the ship.

(4) Where a majority interest in a ship is owned by one or more persons qualified to be owners of British ships by virtue of section 3(1)(c), (d) or (g) above, the ship shall be entitled to be registered—

- (a) if that person, or (as the case may be) any of those persons, is resident in the United Kingdom, or
- (b) (where that condition is not satisfied) if the Secretary of State furnishes him or them with a declaration that he consents to the ship being registered, and, in addition, a representative person is appointed in relation to the ship.

PART I (5) Where a majority interest in a ship is owned by the following persons, namely—

- (a) one or more persons qualified to be owners of British ships by virtue of section 3(1)(a), (b), (e) or (f), and
- (b) one or more persons so qualified by virtue of section 3(1)(c), (d) or (g),

the ship shall be entitled to be registered—

- (i) if any of those persons is resident in the United Kingdom, or
- (ii) (where that condition is not satisfied) if a representative person is appointed in relation to the ship.

(6) A ship shall, in accordance with section 13(2)(a) below, not be entitled to be registered if it is a fishing vessel within the meaning of Part II.

(7) For the purposes of this section—

- (a) one or more persons shall be treated as owning a majority interest in a ship if there is vested in that person or in those persons, taken together, the legal title to 33 or more of the 64 shares into which the property in the ship is divided, for the purposes of registration, in accordance with section 5 of the 1894 Act (there being left out of account for this purpose any share in which any beneficial interest is owned by a person who is not qualified to be an owner of a British ship); and
- (b) a body corporate shall be treated as resident in the United Kingdom if it is incorporated in the United Kingdom and has its principal place of business there.

(8) Nothing in this section applies to a ship to which section 80 of the Merchant Shipping Act 1906 applies (Government ships).

1906 c. 48.

Representative persons.

5.—(1) Where the entitlement of any ship to be registered is, by virtue of any provision of section 4, conditional on the appointment of a representative person in relation to the ship, the owner of the ship shall—

- (a) before applying for the ship to be registered, appoint an individual or body corporate satisfying the prescribed requirements to be the representative person in relation to the ship, and
- (b) secure that, so long as the ship remains registered, an individual or body corporate satisfying those requirements is so appointed.

(2) For the purposes of subsection (1) the prescribed requirements are—

- (a) that the representative person is either—
 - (i) an individual resident in the United Kingdom, or
 - (ii) a body corporate incorporated in the United Kingdom and having its principal place of business there; and
- (b) such other requirements as the Secretary of State may by regulations prescribe.

(3) Where subsection (1) applies to a ship, any person who is registered under section 59(2) of the 1894 Act (registration of ship's manager) in relation to the ship shall, if that person is such an individual or body

corporate as is mentioned in subsection (2)(a)(i) or (ii) above, be treated for the purposes of this Part of this Act as the representative person for the time being appointed in relation to the ship.

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(4) The owner of any ship in relation to which any representative person is for the time being appointed shall—

- (a) on applying for the ship to be registered, notify the registrar to whom the application is made of the name and address of the representative person; and
- (b) in the event of any change in the identity, or in the address, of the representative person so appointed, notify the registrar of the ship's port of registry of the name and address of the new representative person, or (as the case may be) of the new address, as soon as practicable after the change occurs;

and the registrar in question shall record any particulars notified to him in pursuance of this section in the register kept by him under Part I of the 1894 Act.

(5) Any document required or authorised, by virtue of any statutory provision, to be served for the purpose of the institution of, or otherwise in connection with, proceedings for an offence under the Merchant Shipping Acts, or under any instrument in force under those Acts, shall, where the person to be served is the owner of a registered ship, be treated as duly served on him if—

- (a) delivered to any representative person for the time being appointed in relation to the ship, or
- (b) sent to any such person by post at the address notified (or, as the case may be, last notified) to the registrar under subsection (4) in relation to that person, or
- (c) left for any such person at that address.

(6) Any person who contravenes subsection (1)(b) or (4)(b) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding the third level on the standard scale.

6.—(1) If for any reason it appears to the Secretary of State that a ship in respect of which an application for registration has been made may not be entitled to be registered, he may by notice served on—

Refusal of registration.

- (a) the applicant, or
- (b) any representative person for the time being appointed in relation to the ship,

require that person to furnish him with such information as he thinks necessary for the purpose of determining whether the ship is entitled to be registered.

(2) Where the Secretary of State has served a notice under subsection (1) with respect to any ship, then, unless he has become satisfied that the ship is entitled to be registered, he shall, as soon as practicable after the end of the period of 30 days beginning with the date of service of that notice, give to registrars of British ships generally a direction requiring them not to register the ship.

PART I

(3) Notwithstanding that any ship in respect of which an application for registration has been made is entitled to be registered, the Secretary of State may give to registrars of British ships generally a direction requiring them not to register the ship if he is satisfied that, having regard—

- (a) to the condition of the ship so far as relevant to its safety or to any risk of pollution, or
- (b) to the safety, health and welfare of persons employed or engaged in any capacity on board the ship,

it would be inappropriate for the ship to be registered.

Power of Secretary of State to direct removal from the register.

7.—(1) If for any reason it appears to the Secretary of State that a registered ship may no longer be entitled to be registered, he may by notice served on—

- (a) the owner of the ship, or
- (b) any representative person for the time being appointed in relation to the ship,

require that person to furnish him with such information as he thinks necessary for the purpose of determining whether the ship is entitled to be registered.

(2) Where the Secretary of State has served a notice under subsection (1) with respect to any ship, then, unless he has become satisfied that the ship is entitled to be registered, he shall, as soon as practicable after the end of the period of 30 days beginning with the date of service of that notice, serve a notice under subsection (4) on the owner or on any representative person for the time being appointed in relation to the ship.

(3) Where the Secretary of State is satisfied—

- (a) that, having regard to the matters mentioned in paragraph (a) or (b) of section 6(3), it would be inappropriate for a registered ship to continue to be registered, or
- (b) that any penalty imposed on the owner of a registered ship in respect of a contravention of the Merchant Shipping Acts, or of any instrument in force under those Acts, has remained unpaid for a period of more than three months (and no appeal against the penalty is pending), or
- (c) that any summons for any such contravention has been duly served on the owner of a registered ship but the owner failed to appear at the time and place appointed for the trial of the information or complaint in question and a period of not less than three months has elapsed since that time,

the Secretary of State shall serve a notice under subsection (4) either on the owner or on any representative person for the time being appointed in relation to the ship.

(4) A notice under this subsection is a notice stating—

- (a) that the Secretary of State is not satisfied that the ship in question is entitled to be registered or (as the case may be) that he is satisfied as mentioned in paragraph (a), (b) or (c) of subsection (3); and

- (b) that he intends, after the end of the period of 30 days beginning with the date of service of the notice, to direct that the ship in question should cease to be registered unless he is satisfied that it would be inappropriate to do so by any representations made to him by or on behalf of the owner within that period.

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(5) As soon as practicable after the end of that period the Secretary of State shall accordingly direct the registrar of the ship's port of registry to terminate the ship's registration unless he is satisfied that it would be inappropriate to do so by any such representations.

(6) Where the registration of any ship has terminated by virtue of this section, the Secretary of State may subsequently, if he is satisfied that it would be appropriate to do so, direct the registrar of the ship's former port of registry to restore the ship's registration.

8.—(1) Any person who—

- (a) in purported compliance with the requirements of a notice under section 6(1) or 7(1), or
 (b) in connection with the making of any representations in pursuance of section 7(4)(b),

Offences relating to furnishing of information, and duty to comply with directions.

knowingly or recklessly furnishes information which is false in a material particular shall be guilty of an offence and liable—

- (i) on summary conviction, to a fine not exceeding the statutory maximum;
 (ii) on conviction on indictment, to a fine.

(2) It shall be the duty of any person to whom the Secretary of State gives a direction under this Part to give effect to that direction.

9.—(1) Where a ship becomes registered at a time when it is already registered under the law of any country outside the United Kingdom, the owner of the ship shall take all reasonable steps to secure the termination of the ship's registration under the law of that country.

Duty of owner of registered ship to secure termination of any overseas registration.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable on summary conviction to a fine not exceeding the third level on the standard scale.

(3) Subsection (1) does not apply to a ship which becomes registered in pursuance of section 53B of the 1894 Act (transfer of registration under that Act from overseas territory).

10.—(1) Part I of the 1894 Act shall have effect subject to the amendments specified in Schedule 1 to this Act, which include amendments—

Amendments of Part I of 1894 Act.

- (a) restricting the scope of operation of that Part of that Act to registration in the United Kingdom;
 (b) restricting the grant of provisional certificates of registration under section 22 of that Act (ships becoming British-owned abroad); and
 (c) enabling ships to be registered otherwise than in register books; as well as amendments consequential on the preceding provisions of this Part of this Act.

PART I

(2) In Part I of the 1894 Act—

- (a) references to registration or to registered ships or registered owners shall accordingly (unless the context otherwise requires) be construed as references to registration, or to ships or owners registered, under that Part of that Act in the United Kingdom;
- (b) references to registrars of British ships shall accordingly be construed as references to registrars of British ships in the United Kingdom;
- (c) references to a ship being entitled to be registered shall be construed in accordance with section 4 of this Act; and
- (d) references to the ownership of a majority interest in a ship shall be construed in accordance with subsection (7)(a) of that section.

Registration in overseas territories

Regulation of registration in overseas territories by reference to categories of registries.

11.—(1) Her Majesty may by Order in Council make provision for regulating the registration of ships under Part I of the 1894 Act in relevant overseas territories by reference to categories of registries established by the Order.

(2) Any such Order may—

- (a) establish different categories of registries to which different restrictions on the registration of ships under Part I of the 1894 Act apply, being restrictions framed by reference to—
 - (i) ships' tonnages, or
 - (ii) types of ships, or
 - (iii) any other specified matter, or
 - (iv) any combination of matters falling within one or more of the preceding sub-paragraphs,
 as well as a category of registries to which no such restriction applies;
- (b) assign any relevant overseas territory to such one of the categories so established as appears to Her Majesty to be appropriate;
- (c) provide that, where a relevant overseas territory has been assigned to a category to which any such restriction on registration as is mentioned in paragraph (a) applies, no ship covered by that restriction shall be registered under Part I of the 1894 Act in that territory;
- (d) specify circumstances in which ships may be exempted from any provision made by virtue of paragraph (c).

(3) Any provision made by virtue of subsection (2)(c) shall be expressed to be without prejudice to the operation of any provision for the time being in force under the law of any such territory as is mentioned in subsection (2)(c) by virtue of which the registration of ships under Part I of the 1894 Act in that territory is, or may be, further restricted.

(4) An Order in Council under this section—

- (a) may make such transitional, incidental or supplementary provision as appears to Her Majesty to be necessary or expedient; and

- (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

PART I

PART II

REGISTRATION OF BRITISH FISHING VESSELS

Preliminary

- 12.—(1) In this Part (unless the context otherwise requires)—

Interpretation of Part II, etc.

“fishing vessel” means a vessel for the time being used (or, in the context of an application for registration, intended to be used) for or in connection with fishing for sea fish, other than a vessel used (or intended to be used) for fishing otherwise than for profit;

“fishing vessel survey rules” has the meaning given by section 2 of the Fishing Vessels (Safety Provisions) Act 1970, and any reference to a survey under the fishing vessel survey rules is a reference to such a survey carried out in the United Kingdom;

1970 c. 27.

“owner”, in relation to a registered fishing vessel, means registered owner;

“prescribed” means prescribed by regulations under section 13;

“the register” means the register of British fishing vessels referred to in section 13(1)(a);

“registered” and “registration” mean respectively registered and registration in the register;

“sea fish” includes shellfish, salmon and migratory trout (as defined by section 44 of the Fisheries Act 1981);

1981 c. 29.

“share”, in relation to a fishing vessel, means one of the shares into which the property in the vessel is divided, for the purposes of registration, in accordance with section 18.

(2) It is hereby declared that a vessel for the time being used (or intended to be used) wholly for the purpose of conveying persons wishing to fish for pleasure is not a fishing vessel for the purposes of this Part.

(3) References in this Part to a fishing vessel being eligible to be registered as a British fishing vessel shall be construed in accordance with section 14.

(4) For the purposes of this Part the beneficial ownership of a fishing vessel shall be determined by reference to every beneficial interest in that vessel, however arising (whether held by a trustee or nominee or arising under a contract or otherwise), other than an interest held by any person as mortgagee.

New system of registration for fishing vessels

- 13.—(1) The Secretary of State shall by regulations make provision—

Separate registration of fishing vessels.

(a) for the establishment and maintenance of a register of British fishing vessels; and

(b) for the registration in that register of fishing vessels which are, by virtue of section 14, eligible to be registered as British fishing vessels.

PART II

(2) Subject to subsection (3), a fishing vessel shall no longer be capable of being registered under any of the following enactments, namely—

- (a) Part I of the 1894 Act;
- (b) section 373 of that Act (registry of British fishing boats); or
- (c) the Sea Fishing Boats (Scotland) Act 1886.

1886 c. 53.

(3) Where any fishing vessel is registered under any of those enactments immediately before the commencement of this Part, the registration of the vessel under that enactment shall (notwithstanding any repeals made by this Act) continue in force until—

- (a) the vessel (being eligible to be registered as a British fishing vessel) is registered under this Part in accordance with regulations under this section, or
- (b) the end of such period beginning with the commencement of this Part as may be prescribed,

whichever first occurs.

(4) Any fishing vessel whose registration under any of those enactments continues in force by virtue of subsection (3) shall be deemed to be a vessel registered under this Part for the purposes of sections 19, 20 and 22 below.

(5) Where a fishing vessel becomes registered under this Part at a time when it is already registered under the law of any country outside the United Kingdom, the owner of the vessel shall take all reasonable steps to secure the termination of the vessel's registration under the law of that country.

(6) Any person who contravenes subsection (5) shall be guilty of an offence and liable on summary conviction to a fine not exceeding the third level on the standard scale.

(7) Schedule 2 shall have effect for the purpose of supplementing this section.

Eligibility for registration as British fishing vessel.

14.—(1) Subject to subsections (3) and (4), a fishing vessel shall only be eligible to be registered as a British fishing vessel if—

- (a) the vessel is British-owned;
- (b) the vessel is managed, and its operations are directed and controlled, from within the United Kingdom; and
- (c) any charterer, manager or operator of the vessel is a qualified person or company.

(2) For the purposes of subsection (1)(a) a fishing vessel is British-owned if—

- (a) the legal title to the vessel is vested wholly in one or more qualified persons or companies; and
- (b) the vessel is beneficially owned—
 - (i) as to not less than the relevant percentage of the property in the vessel, by one or more qualified persons, or
 - (ii) wholly by a qualified company or companies, or
 - (iii) by one or more qualified companies and, as to not less than the relevant percentage of the remainder of the property in the vessel, by one or more qualified persons.

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(3) The Secretary of State may by regulations specify further requirements which must be satisfied in order for a fishing vessel to be eligible to be registered as a British fishing vessel, being requirements imposed—

(a) in connection with the implementation of any of the requirements specified in subsection (1)(a) to (c), or

(b) in addition to the requirements so specified,

and appearing to the Secretary of State to be appropriate for securing that such a vessel has a genuine and substantial connection with the United Kingdom.

(4) Where, in the case of any fishing vessel, the Secretary of State is satisfied that—

(a) the vessel would be eligible to be registered as a British fishing vessel but for the fact that any particular individual, or (as the case may be) each of a number of particular individuals, is not a British citizen (and is accordingly not a qualified person), and

(b) it would be appropriate to dispense with the requirement of British citizenship in the case of that individual or those individuals, in view of the length of time he has or they have resided in the United Kingdom and been involved in the fishing industry of the United Kingdom,

the Secretary of State may determine that that requirement should be so dispensed with; and, if he does so, the vessel shall, so long as paragraph (a) above applies to it and any such determination remains in force, be treated for the purposes of this Part as eligible to be registered as a British fishing vessel.

(5) Where any share in a vessel is beneficially owned jointly by persons not all of whom are qualified persons or companies, then, for the purposes of this section, the whole of that share shall be treated as beneficially owned by persons who are not qualified persons or companies.

(6) For the purpose of determining whether a fishing vessel is eligible to be registered as a British fishing vessel, the Secretary of State may, if he thinks fit, appoint a person—

(a) to investigate the eligibility of the vessel to be so registered, and

(b) to make a report of his conclusions to the Secretary of State;

and any person so appointed shall, for the purpose of conducting the investigation, have the powers conferred on an inspector by the provisions of section 27 of the Merchant Shipping Act 1979 (other than paragraphs (d) to (h) of subsection (1) of that section).

1979 c. 39.

(7) In this section—

“qualified company” means a company which satisfies the following conditions, namely—

(a) it is incorporated in the United Kingdom and has its principal place of business there;

(b) at least the relevant percentage of its shares (taken as a whole), and of each class of its shares, is legally and beneficially owned by one or more qualified persons or companies; and

(c) at least the relevant percentage of its directors are qualified persons;

PART II

“qualified person” means—

(a) a person who is a British citizen resident and domiciled in the United Kingdom, or

(b) a local authority in the United Kingdom; and

“the relevant percentage” means 75 per cent. or such greater percentage (which may be 100 per cent.) as may for the time being be prescribed.

Grant or refusal of applications for registration of fishing vessels.

15.—(1) If, on an application for the registration of a fishing vessel made in accordance with regulations under section 13, the Secretary of State is satisfied—

(a) that the vessel is eligible to be registered as a British fishing vessel, and

(b) that any relevant requirements of any such regulations have been complied with in relation to the vessel,

he shall (subject to subsection (2)) cause the vessel to be registered as a British fishing vessel.

(2) Notwithstanding that the Secretary of State is so satisfied, he may refuse any such application if he is satisfied that there is not in force in respect of the vessel any certificate required to be so in force by virtue of section 4 of the Fishing Vessels (Safety Provisions) Act 1970 (prohibition on going to sea without appropriate certificates).

1970 c. 27.

(3) If, on any such application, the Secretary of State is not satisfied as mentioned in subsection (1), he shall refuse the application.

Termination of registration where vessel is not eligible for registration or is not certificated.

16.—(1) If for any reason it appears to the Secretary of State that a registered vessel may no longer be eligible to be registered as a British fishing vessel, he may by notice served on—

(a) the owner of the vessel, or

(b) any charterer, manager or operator of the vessel,

require that person, at such time or times as may be specified in the notice—

(i) to produce to the Secretary of State such documents or descriptions of documents specified in the notice, and

(ii) to furnish to him, in such form as may be specified in the notice, such accounts, estimates, returns or other information (of whatever nature) specified in the notice,

as the Secretary of State thinks necessary for the purpose of determining whether the vessel is eligible to be so registered.

(2) In a case where the owner of a registered vessel is a company, subsection (1) shall apply to any person holding any shares in the company as it applies to the company.

(3) Where the Secretary of State has served a notice under subsection (1) with respect to any vessel, then, unless he has become satisfied that the vessel is eligible to be registered as a British fishing vessel—

(a) he shall, as soon as practicable after the end of the period of 30 days beginning with the date of service of that notice, serve a notice under subsection (6) on the owner of the vessel, and

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- (b) the vessel's registration shall terminate by virtue of this subsection at the relevant time.

(4) Where it appears to the Secretary of State that there is not in force in respect of any registered vessel any such certificate as is mentioned in section 15(2), he may by notice served on the owner of the vessel require the vessel to be presented for a survey under the fishing vessel survey rules within the period of 30 days beginning with the date of service of the notice.

- (5) If the vessel is not presented for such a survey within that period—

- (a) the Secretary of State shall serve a notice under subsection (6) on the owner of the vessel, and
 (b) the vessel's registration shall terminate by virtue of this subsection at the relevant time.

- (6) A notice under this subsection is a notice stating—

- (a) that the Secretary of State is not satisfied that the vessel in question is eligible to be registered as a British fishing vessel, or
 (b) that the vessel has not been presented for a survey as required by a notice under subsection (4),

as the case may be, and that the vessel's registration will accordingly terminate at the relevant time by virtue of subsection (3) or (5).

(7) In this section "the relevant time", in relation to a notice under subsection (6), means the end of the period of 14 days beginning with the date of service of that notice.

17.—(1) Where the registration of any vessel has terminated by virtue of section 16(3) or (5), then, without prejudice to the operation of any other provision of this Part of this Act or of regulations under section 13, the vessel shall not again be registered as a British fishing vessel unless—

Consequences of termination of registration by virtue of s.16.

- (a) the Secretary of State is satisfied that the earlier failure of the vessel to be eligible to be so registered or (as the case may be) to be presented for a survey was due to inadvertence, and (in the latter case) that the vessel has since been presented for a survey, or
 (b) the Secretary of State consents to the vessel being so registered, or
 (c) in the case of a vessel whose registration terminated by virtue of section 16(3), the Secretary of State is satisfied that the vessel has been disposed of by its former registered owner by means of a transaction at arm's length and that no person who for the time being is a relevant owner of the vessel was a relevant owner of it at the time when its registration terminated.

(2) In subsection (1)(a) "survey" means a survey under the fishing vessel survey rules.

(3) For the purposes of subsection (1)(c) a person is a relevant owner of a vessel at any time if at that time—

- (a) the legal title to the vessel or any share in it is vested in that person, or
 (b) the vessel or any share in it is beneficially owned by that person, or

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(c) any shares in a company falling within paragraph (a) or (b) above are legally or beneficially owned by that person, whether vested in, or (as the case may be) owned by, that person alone or together with any other person or persons.

Registration of property in fishing vessels.

18.—(1) For the purposes of the registration of a fishing vessel—

- (a) the property in the vessel shall be divided into 64 shares;
- (b) except as provided by paragraph (c), the number of persons registered as owners of the vessel shall not at any time exceed 64;
- (c) any number of persons not exceeding five may be registered as joint owners of the vessel or of any share in the vessel (but for the purposes of paragraph (b) the registered joint owners of any such share shall be treated as constituting one person);
- (d) a registered joint owner of the vessel or of any share in the vessel shall not be entitled to dispose of his interest in the vessel or share separately from the interest or interests in it of the other joint owner or joint owners; and
- (e) a person shall not be entitled to be registered as the owner of a fractional part of a share in the vessel.

(2) Subsection (1)(b) and (c) do not prejudice any beneficial interest of any person represented by or claiming under or through a registered owner (including a registered joint owner).

Transfers etc. of registered vessels

Transfer of vessel or share by bill of sale.

19.—(1) Any transfer of—

- (a) a registered vessel (not being a vessel registered in pursuance of paragraph 2(c) of Schedule 2), or
- (b) a share in any such vessel,

shall be effected by a bill of sale satisfying the requirements specified in subsection (2), unless the transfer will result in the vessel ceasing to be British-owned for the purposes of section 14(1)(a).

(2) Those requirements are that the bill of sale—

- (a) is in such form as may be prescribed or approved by the Secretary of State; and
- (b) contains a description of the vessel sufficient to identify the vessel to the satisfaction of the Secretary of State.

(3) Where any such vessel or share has been transferred in accordance with subsection (1), the transferee shall not be registered as owner of the vessel or share unless—

- (a) he has made an application for the purpose in accordance with regulations under section 13 and has produced to the Secretary of State the bill of sale by which the vessel or share has been so transferred, and

(b) the Secretary of State is satisfied as mentioned in section 15(1); and section 15(2) and (3) shall apply in relation to an application under this subsection as they apply in relation to an application for the registration of a fishing vessel.

(4) If an application under subsection (3) is granted by the Secretary of State, the Secretary of State shall—

- (a) register the bill of sale referred to in paragraph (a) of that subsection by causing the applicant's name to be entered in the register as owner of the vessel or share in question, and
- (b) endorse on the bill of sale the fact that that entry has been made, together with the date and time when it was made.

(5) Bills of sale shall be registered under subsection (4) in the order in which they are produced to the Secretary of State for the purposes of registration.

(6) If on an application under subsection (3) the Secretary of State is not satisfied that the vessel with respect to which the application is made is eligible to be registered as a British fishing vessel—

- (a) the Secretary of State shall serve a notice under subsection (7) on the owner of the vessel; and
- (b) the vessel's registration shall terminate by virtue of this subsection at the end of the period of 14 days beginning with the date of service of that notice.

(7) A notice under this subsection is a notice stating—

- (a) that the Secretary of State is not satisfied that the vessel in question is eligible to be registered as a British fishing vessel; and
- (b) that the vessel's registration will accordingly terminate by virtue of subsection (6) at the end of the period referred to in that subsection.

20.—(1) Where a registered vessel, or a share in a registered vessel, is transmitted to any person by any lawful means other than by a transfer under section 19, that person shall not be registered as owner of the vessel or share unless—

Transmission of property in vessel or share other than under s.19.

- (a) he has made an application for the purpose in accordance with regulations under section 13 and has produced to the Secretary of State such evidence of the transmission as may be prescribed; and
- (b) the Secretary of State is satisfied as mentioned in section 15(1); and section 15(2) and (3) shall apply in relation to an application under this subsection as they apply in relation to an application for the registration of a fishing vessel.

(2) If an application under subsection (1) is granted by the Secretary of State, he shall cause the applicant's name to be entered in the register as owner of the vessel or share.

(3) The preceding provisions of this section shall apply in relation to the transmission of the interest of a joint owner in a registered vessel or in a share in any such vessel as they apply in relation to the transmission of any such vessel or share, except that anything required to be done by virtue of subsection (1)(a) shall be done by both or all of the joint owners of the vessel or share.

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(4) If on an application under subsection (1) the Secretary of State is not satisfied that the vessel with respect to which the application is made is eligible to be registered as a British fishing vessel—

- (a) the Secretary of State shall serve a notice under subsection (5) on the owner of the vessel; and
 - (b) the vessel's registration shall terminate by virtue of this subsection at the end of the period of 14 days beginning with the date of service of that notice.
- (5) A notice under this subsection is a notice stating—
- (a) that the Secretary of State is not satisfied that the vessel in question is eligible to be registered as a British fishing vessel; and
 - (b) that the vessel's registration will accordingly terminate by virtue of subsection (4) at the end of the period referred to in that subsection.

Mortgages of registered vessels

Mortgages of registered vessels.

21.—(1) Schedule 3 to this Act (which makes provision with respect to the registration of mortgages) shall have effect.

(2) Where the registration of any fishing vessel terminates by virtue of any provision of this Act, the termination of that registration shall not affect any entry made in the register under Schedule 3 so far as relating to any undischarged registered mortgage of that vessel or of any share in it.

(3) In subsection (2) "registered mortgage" has the same meaning as in Schedule 3.

Unregistered fishing vessels

Offences relating to, and liabilities of, unregistered fishing vessels.

22.—(1) If any fishing vessel to which this subsection applies fishes for profit—

- (a) the skipper, the owner and any charterer of the vessel shall each be guilty of an offence; and
- (b) the vessel shall be liable to forfeiture.

(2) Subsection (1) applies to any fishing vessel which is either—

- (a) eligible to be registered under this Part, or
- (b) wholly owned by one or more persons qualified to be owners of British ships for the purposes of Part I of the 1894 Act,

but is neither registered under this Part nor excluded from registration by regulations under section 13 nor registered under the law of any country outside the United Kingdom.

(3) Subsection (1) also applies to any fishing vessel which (notwithstanding that it is not entitled to be so registered) is for the time being registered in the United Kingdom under Part I of the 1894 Act or section 5 of the Merchant Shipping Act 1983 (registration of small ships).

(4) Subject to subsection (8), if any prescribed marks are displayed on a fishing vessel which is not a registered vessel, the skipper, the owner and any charterer of the vessel shall each be guilty of an offence.

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(5) If the skipper or owner of a fishing vessel which is not a registered vessel does anything, or permits anything to be done, for the purpose of causing the vessel to appear to be a registered vessel, then (subject to subsection (8))—

- (a) the skipper, the owner and any charterer of the vessel shall each be guilty of an offence; and
- (b) the vessel shall be liable to forfeiture.

(6) Where a fishing vessel is not a British ship and is not registered under the law of any country outside the United Kingdom, but—

- (a) it is eligible to be registered under this Part, or
- (b) it is wholly owned by one or more such persons as are mentioned in subsection (2)(b), or
- (c) (subject to subsection (8)) any prescribed marks are displayed on it,

then (notwithstanding that the vessel is not entitled to any benefits, privileges, advantages or protection usually enjoyed by a British ship) the vessel shall, for the purposes mentioned in subsection (7), be dealt with in the same manner in all respects as if the vessel were a British ship.

(7) Those purposes are—

- (a) the payment of dues, fees or other charges;
- (b) liability to fines and forfeiture; and
- (c) the punishment of offences committed on board the vessel, or by any persons belonging to it.

(8) Where the registration of any vessel has terminated by virtue of any provision of this Part, any prescribed marks displayed on the vessel within the period of 14 days beginning with the date of termination of that registration shall be disregarded for the purposes of subsections (4) to (6).

(9) Subsections (1), (4) and (5)(a) apply to offences falling within those provisions wherever committed.

(10) Section 76 of the 1894 Act (proceedings on forfeiture of ship) shall apply to any vessel liable to forfeiture under this section as it applies to any such ship as is mentioned in subsection (1) of that section.

Supplemental

23.—(1) If at any time there occurs, in relation to a registered vessel—

- (a) any change affecting the eligibility of the vessel to be registered as a British fishing vessel, or
- (b) any change (not falling within paragraph (a)) in the percentage of the property in the vessel which is beneficially owned by persons who are qualified persons or companies within the meaning of section 14,

Notification of changes in ownership etc., and offences relating to furnishing of information.

the owner of the vessel shall, as soon as practicable after the change occurs, notify the Secretary of State in writing of that change.

(2) Any person who contravenes subsection (1) shall be guilty of an offence.

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(3) Any person who—

- (a) in connection with the registration of any vessel or the making of any other entry in the register in pursuance of this Part, or
- (b) in purported compliance with the requirements of any notice under section 16(1),

knowingly or recklessly furnishes information which is false in a material particular shall be guilty of an offence.

(4) Any person who intentionally alters, suppresses, conceals or destroys a document which he has been required to produce by a notice under section 16(1) shall be guilty of an offence.

Penalties for offences under s. 22 or 23 and other provisions relating to such offences.

24.—(1) Any person guilty of an offence under section 22 or 23 shall be liable—

- (a) on summary conviction, to a fine not exceeding £50,000;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.

(2) Proceedings for an offence under section 22 or 23 shall not be instituted—

- (a) in England and Wales, except by or with the consent of the Attorney General, the Secretary of State or the Minister; or
- (b) in Northern Ireland, except by or with the consent of the Attorney General for Northern Ireland, the Secretary of State or the Minister.

(3) Proceedings for an offence under section 22 may be taken, and the offence may for all incidental purposes be treated as having been committed, in any place in the United Kingdom.

(4) In this section “the Minister”—

- (a) in relation to England and Wales, means the Minister of Agriculture, Fisheries and Food; and
- (b) in relation to Northern Ireland, means the Secretary of State concerned with sea fishing in Northern Ireland.

Application of other enactments, etc.

25.—(1) Any reference (however phrased) in any statutory provision not contained in this Act to the registration of a fishing vessel under any of the enactments specified in section 13(2) shall, so far as the context permits, be construed as, or as including, a reference to the registration of a fishing vessel under this Part; and connected phrases shall be construed accordingly.

(2) The following provisions of the 1894 Act, namely—

- (a) section 69 (penalty for unduly assuming British character), and
- (b) section 71 (penalty for acquiring ownership if unqualified),

shall not apply to a registered vessel; and section 72 of that Act (liabilities of unregistered ships) shall not apply to a fishing vessel (whether registered or not).

1968 c. 77.

(3) Sections 8 and 9 of the Sea Fisheries Act 1968 (general powers of British sea-fishery officers and powers of sea-fishery officers to enforce conventions) shall apply in relation to—

- (a) this Part of this Act, and

(b) any regulations made under it,
as they apply in relation to any order mentioned in section 8 of that Act and in relation to any convention mentioned in section 9 of that Act respectively; and sections 10 to 12 and 14 of that Act (offences and supplemental provisions as to legal proceedings) shall apply accordingly.

(4) A document purporting to be a copy of any information contained in an entry in the register and to be certified as a true copy by an authorised officer of the Secretary of State shall be evidence (and, in Scotland, sufficient evidence) of the matters stated in the document.

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MISCELLANEOUS PROVISIONS RELATING TO MERCHANT SHIPPING ETC.

Financial assistance

26.—(1) The Secretary of State may, with the consent of the Treasury, give any person or body of persons of any description determined by him for the purposes of this section financial assistance in respect of expenses incurred or to be incurred by any such person or body in connection with the training (whether in the United Kingdom or elsewhere) of officers and ratings for service in merchant ships, including expenses incurred or to be incurred by any such person in connection with his undergoing any such training.

Financial assistance in respect of costs of training merchant navy officers and ratings.

(2) Assistance under this section may be given by way of a grant or a loan or otherwise; and in giving any such assistance the Secretary of State may impose such conditions as he thinks fit, including conditions requiring a grant to be repaid in specified circumstances.

(3) This section is without prejudice to any other power of the Secretary of State to give financial assistance in connection with any such training as is mentioned in subsection (1).

27.—(1) The Secretary of State may, with the consent of the Treasury, give financial assistance to—

Financial assistance in respect of crew relief costs.

- (a) the owner of a ship registered in the British Islands, or
- (b) any manager of a ship so registered, being either an individual ordinarily resident in the British Islands or a body corporate which is incorporated in the British Islands and has its principal place of business there,

in respect of travel and other costs incurred by the owner or manager in connection with members of the ship's crew joining or leaving the ship outside the Limited European trading area.

(2) If the Secretary of State so determines, eligibility for assistance under this section shall be conditional on the fulfilment of such conditions with respect to all or any of the following matters as are specified in his determination, namely —

- (a) the nationality of any person in relation to whom any such costs as are mentioned in subsection (1) are incurred;
- (b) the ordinary residence of any such person;
- (c) the place (outside the Limited European trading area) where any such person joins or leaves his ship.

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(3) Assistance under this section may be given by way of a grant or a loan or otherwise; and in giving any such assistance the Secretary of State may impose such conditions as he thinks fit.

(4) For the purposes of this section—

- (a) the crew of a ship shall be taken to include the master and other officers of the ship; and
- (b) “the Limited European trading area” has the same meaning as it has for the purposes of any regulations made under section 43 of the Merchant Shipping Act 1970 (regulations about manning).

1970 c. 36.

The Merchant Navy Reserve

Establishment of
the Merchant
Navy Reserve.

28.—(1) The Secretary of State may establish and maintain a body of persons to be known as the Merchant Navy Reserve whose members may, in such circumstances and for such periods as the Secretary of State may determine, be required by him to serve in ships belonging to or employed in the service of Her Majesty.

(2) The Merchant Navy Reserve shall consist of such number of persons as the Secretary of State may determine who voluntarily undertake to become members of the Reserve and are accepted as members of it.

(3) The Secretary of State may determine the procedure by which, and the conditions under which, persons may become, or (subject to any regulations made by him under this section) may cease to be, members of the Merchant Navy Reserve.

(4) The Secretary of State may make regulations with respect to the calling into, and discharge from, service of members of the Merchant Navy Reserve and with respect to other matters relating to the service of members of the Reserve.

(5) Any such regulations may, in particular, make provision—

- (a) for call-out notices to be served on members of the Reserve;
- (b) for the requirements to be complied with by persons on whom such notices have been served;
- (c) as to the uniform and equipment with which members of the Reserve are to be provided;
- (d) for regulating the conduct and discipline of members of the Reserve who have entered into service, and for securing their attendance at their places of duty;
- (e) for the imposition of fines, or the forfeiture of pay or other amounts, for misconduct or breaches of discipline or for contraventions of provisions of the regulations.

(6) Without prejudice to the operation of subsection (5)(e), regulations under this section may provide that a contravention of the regulations shall be an offence punishable on summary conviction by a fine not exceeding the third level on the standard scale or such lower amount as is prescribed by the regulations.

Supplementary
provisions relating
to Merchant Navy
Reserve.

29.—(1) Subject to such conditions as the Secretary of State may determine, there shall be payable to members of the Merchant Navy Reserve such pay, bounties and allowances as he may determine.

(2) The Secretary of State may make such payments as he thinks fit in connection with the training and certification of members of the Merchant Navy Reserve (including payments to persons undergoing such training and payments in connection with the re-validation of certificates).

(3) The Secretary of State shall not make any determination under subsection (1), or any payment under subsection (2), except with the consent of the Treasury.

(4) Where any person is called into service by virtue of regulations under section 28—

- (a) the provisions of the Reserve Forces (Safeguard of Employment) Act 1985 shall apply to that person as if any service rendered by him in pursuance of the call-out were whole-time service within the meaning of that Act; and 1985 c. 17.
- (b) any service so rendered shall be relevant service within the meaning of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951. 1951 c. 65.

Safety of navigation, oil pollution etc.

30.—(1) If, having regard to the nature of the service for which it is intended—

- (a) a ship in a port in the United Kingdom, or
- (b) a ship registered in the United Kingdom which is in any other port,

Owner and master liable in respect of dangerously unsafe ship.

is, by reason of any of the matters mentioned in subsection (3), not fit to go to sea without serious danger to human life, then, subject to subsections (5) and (6), the master and the owner of the ship shall each be guilty of an offence.

(2) Where, at the time when a ship is not fit to go to sea as mentioned in subsection (1), any responsibilities of the owner with respect to the particular matters by reason of which the ship is not fit to go to sea have been assumed (whether wholly or in part) by any person or persons other than the owner, and have been so assumed by that person or (as the case may be) by each of those persons either—

- (a) directly, under the terms of a charter-party or management agreement made with the owner, or
- (b) indirectly, under the terms of a series of charter-parties or management agreements,

the reference to the owner in subsection (1) shall be construed as including a reference to that other person or (as the case may be) to each of those other persons.

(3) The matters referred to in subsection (1) are—

- (a) the condition, or the unsuitability for its purpose, of—
 - (i) the ship or its machinery or equipment, or
 - (ii) any part of the ship or its machinery or equipment;
- (b) undermanning;
- (c) overloading or unsafe or improper loading;
- (d) any other matter relevant to the safety of the ship.

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(4) A person guilty of an offence under this section shall be liable—

- (a) on summary conviction, to a fine not exceeding £50,000;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.

(5) It shall be a defence in proceedings for an offence under this section to prove that at the time of the alleged offence—

- (a) arrangements had been made which were appropriate to ensure that before the ship went to sea it was made fit to do so without serious danger to human life by reason of the matters falling within subsection (3) which are specified in the charge (or, in Scotland, which are libelled in the complaint, petition or indictment); or
- (b) it was reasonable for such arrangements not to have been made.

(6) It shall also be a defence in proceedings for an offence under this section to prove—

- (a) that, under the terms of one or more charter-parties or management agreements entered into by the defendant, the relevant responsibilities, namely—
 - (i) where the defendant is the owner, his responsibilities with respect to the matters referred to in subsection (5) (a), or
 - (ii) where the defendant is liable to proceedings under this section by virtue of subsection (2), so much of those responsibilities as had been assumed by him as mentioned in that subsection,

had at the time of the alleged offence been wholly assumed by some other person or persons party thereto; and

- (b) that in all the circumstances of the case the defendant had taken such steps as it was reasonable for him to take, and exercised such diligence as it was reasonable for him to exercise, to secure the proper discharge of the relevant responsibilities during the period during which they had been assumed by some other person or persons as mentioned in paragraph (a);

and, in determining whether the defendant had done so, regard shall be had in particular to the matters mentioned in subsection (7).

(7) Those matters are—

- (a) whether prior to the time of the alleged offence the defendant was, or in all the circumstances ought reasonably to have been, aware of any deficiency in the discharge of the relevant responsibilities; and
- (b) the extent to which the defendant was or was not able, under the terms of any such charter-party or management agreement as is mentioned in subsection (6)(a)—
 - (i) to terminate it, or
 - (ii) to intervene in the management of the ship,in the event of any such deficiency, and whether it was reasonable for the defendant to place himself in that position.

(8) No proceedings for an offence under this section shall be instituted—

- (a) in England and Wales, except by or with the consent of the Secretary of State or the Director of Public Prosecutions;
- (b) in Northern Ireland, except by or with the consent of the Secretary of State or the Director of Public Prosecutions for Northern Ireland.

(9) In this section—

“management agreement”, in relation to a ship, means any agreement (other than a charter-party or a contract of employment) under which the ship is managed, either wholly or in part, by a person other than the owner (whether on behalf of the owner or on behalf of some other person);

“relevant responsibilities” shall be construed in accordance with subsection (6);

and any reference in this section to going to sea shall, in a case where the service for which a ship is intended consists of going on voyages or excursions that do not involve going to sea, be construed as a reference to going on such a voyage or excursion.

(10) References in this section to responsibilities being assumed by a person under the terms of a charter-party or management agreement are references to their being so assumed by him whether or not he has entered into a further charter-party or management agreement providing for them to be assumed by some other person.

31.—(1) It shall be the duty of the owner of a ship to which this section applies to take all reasonable steps to secure that the ship is operated in a safe manner.

Owner liable for unsafe operation of ship.

(2) This section applies to—

- (a) any ship registered in the United Kingdom; and
- (b) any ship which—
 - (i) is registered under the law of any country outside the United Kingdom, and
 - (ii) is within the seaward limits of the territorial sea of the United Kingdom while proceeding to or from a port in the United Kingdom,

unless the ship would not be so proceeding but for weather conditions or any other unavoidable circumstances.

(3) If the owner of a ship to which this section applies fails to discharge the duty imposed on him by subsection (1), he shall be guilty of an offence and liable—

- (a) on summary conviction, to a fine not exceeding £50,000;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.

(4) Where any such ship—

- (a) is chartered by demise, or

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- (b) is managed, either wholly or in part, by a person other than the owner under the terms of a management agreement within the meaning of section 30,

any reference to the owner of the ship in subsection (1) or (3) above shall be construed as including a reference—

- (i) to the charterer under the charter by demise, or
- (ii) to any such manager as is referred to in paragraph (b), or
- (iii) (if the ship is both chartered and managed as mentioned above) to both the charterer and any such manager,

and accordingly the reference in subsection (1) to the taking of all reasonable steps shall, in relation to the owner, the charterer or any such manager, be construed as a reference to the taking of all such steps as it is reasonable for him to take in the circumstances of the case.

(5) No proceedings for an offence under this section shall be instituted—

- (a) in England and Wales, except by or with the consent of the Secretary of State or the Director of Public Prosecutions;
- (b) in Northern Ireland, except by or with the consent of the Secretary of State or the Director of Public Prosecutions for Northern Ireland.

Conduct endangering ships, structures or individuals. 1970 c. 36.

32. The following section shall be substituted for section 27 of the Merchant Shipping Act 1970—

“Conduct endangering ships, structures or individuals.

27.—(1) This section applies—

- (a) to the master of, or any seaman employed in, a ship registered in the United Kingdom; and
- (b) to the master of, or any seaman employed in, a ship which—
 - (i) is registered under the law of any country outside the United Kingdom, and
 - (ii) is in a port in the United Kingdom or within the seaward limits of the territorial sea of the United Kingdom while proceeding to or from any such port.

(2) If a person to whom this section applies, while on board his ship or in its immediate vicinity—

- (a) does any act which causes or is likely to cause—
 - (i) the loss or destruction of or serious damage to his ship or its machinery, navigational equipment or safety equipment, or
 - (ii) the loss or destruction of or serious damage to any other ship or any structure, or
 - (iii) the death of or serious injury to any person, or
- (b) omits to do anything required—

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(i) to preserve his ship or its machinery, navigational equipment or safety equipment from being lost, destroyed or seriously damaged, or

(ii) to preserve any person on board his ship from death or serious injury, or

(iii) to prevent his ship from causing the loss or destruction of or serious damage to any other ship or any structure, or the death of or serious injury to any person not on board his ship,

and either of the conditions specified in subsection (3) of this section is satisfied with respect to that act or omission, he shall (subject to subsections (6) and (7) of this section) be guilty of an offence.

(3) Those conditions are—

- (a) that the act or omission was deliberate or amounted to a breach or neglect of duty;
- (b) that the master or seaman in question was under the influence of drink or a drug at the time of the act or omission.

(4) If a person to whom this section applies—

- (a) discharges any of his duties, or performs any other function in relation to the operation of his ship or its machinery or equipment, in such a manner as to cause, or to be likely to cause, any such loss, destruction, death or injury as is mentioned in subsection (2)(a) of this section, or
- (b) fails to discharge any of his duties, or to perform any such function, properly to such an extent as to cause, or to be likely to cause, any of those things,

he shall (subject to subsections (6) and (7) of this section) be guilty of an offence.

(5) A person guilty of an offence under this section shall be liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.

(6) In proceedings for an offence under this section it shall be a defence to prove—

- (a) in the case of an offence under subsection (2) of this section where the act or omission alleged against the defendant constituted a breach or neglect of duty, that the defendant took all reasonable steps to discharge that duty;

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(b) in the case of an offence under subsection (4) of this section, that the defendant took all reasonable precautions and exercised all due diligence to avoid committing the offence; or

(c) in the case of an offence under either of those subsections—

(i) that he could have avoided committing the offence only by disobeying a lawful command, or

(ii) that in all the circumstances the loss, destruction, damage, death or injury in question, or (as the case may be) the likelihood of its being caused, either could not reasonably have been foreseen by the defendant or could not reasonably have been avoided by him.

(7) In the application of this section to any person falling within subsection (1)(b) of this section, subsections (2) and (4) shall have effect as if paragraphs (a)(i) and (b)(i) of subsection (2) were omitted; and no proceedings for an offence under this section shall be instituted against any such person—

(a) in England and Wales, except by or with the consent of the Secretary of State or the Director of Public Prosecutions;

(b) in Northern Ireland, except by or with the consent of the Secretary of State or the Director of Public Prosecutions for Northern Ireland.

(8) In this section—

“breach or neglect of duty”, except in relation to a master, includes any disobedience to a lawful command;

“duty”—

(a) in relation to a master or seaman, means any duty falling to be discharged by him in his capacity as such; and

(b) in relation to a master, includes his duty with respect to the good management of his ship and his duty with respect to the safety of operation of his ship, its machinery and equipment; and

“structure” means any fixed or movable structure (of whatever description) other than a ship.”

Investigation of
marine accidents.

33.—(1) The Secretary of State shall, for the purpose of the investigation of any such accidents as are mentioned in subsection (2), appoint such number of persons as he may determine to be inspectors of marine accidents, and he shall appoint one of those persons to be Chief Inspector of Marine Accidents.

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- (2) The accidents referred to in subsection (1) are—
- (a) any accident involving a ship or ship's boat where, at the time of the accident—
 - (i) the ship is registered in the United Kingdom, or
 - (ii) the ship, or (in the case of an accident involving a ship's boat) that boat, is within the seaward limits of the territorial sea of the United Kingdom; and
 - (b) such other accidents involving ships or ships' boats as the Secretary of State may determine.
- (3) The Secretary of State may by regulations make such provision as he considers appropriate with respect to the investigation of any such accidents as are mentioned in subsection (2).
- (4) Any such regulations may, in particular, make provision—
- (a) with respect to the definition of "accident" for the purposes of this section and the regulations;
 - (b) imposing requirements as to the reporting of accidents;
 - (c) prohibiting, pending investigation, access to or interference with any ship or ship's boat involved in an accident;
 - (d) authorising any person, so far as may be necessary for the purpose of determining whether an investigation should be carried out, to have access to, examine, remove, test, take measures for the preservation of, or otherwise deal with, any such ship or boat or any other ship or ship's boat;
 - (e) specifying, with respect to the investigation of accidents, the functions of the Chief Inspector of Marine Accidents (which may include the function of determining whether, and if so by whom, particular accidents should be investigated), the functions of other inspectors of marine accidents, and the manner in which any such functions are to be discharged;
 - (f) for the appointment by the Chief Inspector of Marine Accidents, in such circumstances as may be specified in the regulations, of persons to carry out investigations under this section who are not inspectors of marine accidents;
 - (g) for the appointment by any Minister of the Crown of persons to review any findings or conclusions of a person carrying out an investigation under this section;
 - (h) for the procedure to be followed in connection with investigations or reviews under this section;
 - (i) for conferring on persons discharging functions under the regulations who are not inspectors of marine accidents all or any of the powers conferred on an inspector by section 27 of the Merchant Shipping Act 1979;
 - (j) for the submission to the Secretary of State, and the publication by him, of reports of investigations or reviews under this section;
 - (k) for the publication by the Chief Inspector of Marine Accidents of reports and other information relating to accidents.

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(5) Regulations under this section may provide for any provisions of the regulations to apply to any specified class or description of incidents or situations which involve, or occur on board, ships or ships' boats but are not accidents for the purposes of the regulations, being a class or description framed by reference to any of the following, namely—

- (a) the loss or destruction of or serious damage to any ship or structure,
- (b) the death of or serious injury to any person, or
- (c) environmental damage,

whether actually occurring or not, and (subject to such modifications as may be specified in the regulations) for those provisions to apply in relation to any such incidents or situations as they apply in relation to accidents.

(6) Regulations under this section may provide that a contravention of the regulations shall be an offence punishable on summary conviction by a fine not exceeding the statutory maximum and on conviction on indictment by a fine.

(7) The Chief Inspector of Marine Accidents, or (as the case may be) inspectors of marine accidents generally, shall discharge such functions in addition to those conferred by or under the preceding provisions of this section as the Secretary of State may determine.

1979 c. 39.

(8) Any inspector of marine accidents shall, for the purpose of discharging any functions conferred on him by or under this section, have the powers conferred on an inspector by section 27 of the Merchant Shipping Act 1979.

(9) Nothing in this section shall limit the powers of any authority under sections 530 to 537 of the 1894 Act (removal of wrecks).

(10) In this section—

- (a) references to an accident involving a ship or ship's boat include references to an accident occurring on board a ship or ship's boat (and any reference to a ship or ship's boat involved in an accident shall be construed accordingly); and
- (b) "ship's boat" includes a liferaft.

Liability and
compensation for
oil pollution
damage.
1971 c. 59.
1974 c. 43.

34.—(1) The Merchant Shipping (Oil Pollution) Act 1971 ("the 1971 Act") and the Merchant Shipping Act 1974 ("the 1974 Act") shall be amended in accordance with Parts I and II of Schedule 4 to this Act (which contain amendments designed to implement provisions of the following Conventions, namely—

- (a) the International Convention on Civil Liability for Oil Pollution Damage 1984; and
- (b) the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage 1984).

(2) Her Majesty may by Order in Council make such provision as appears to Her Majesty to be appropriate in connection with the implementation of any transitional provisions contained in those Conventions; and any such Order may in particular provide, in relation to occurrences of any description specified in the Order—

- (a) for provisions of the 1971 Act or the 1974 Act to have effect —

- (i) to such extent as is so specified, as if Schedule 4 to this Act were not in force, and
- (ii) to such extent as is so specified, as if that Schedule were in force;
- (b) for any such provisions to have effect (whether as amended by that Schedule or not) subject to such modifications as are so specified.

35.—(1) The Secretary of State may by regulations make, in relation to the transfer of cargo, stores, bunker fuel or ballast between ships while within the seaward limits of the territorial sea of the United Kingdom, such provision as he considers appropriate for preventing pollution, danger to health or to navigation, or hazards to the environment or to natural resources.

Regulation of transfers between ships in territorial waters.

(2) Regulations under this section may, in particular, do any of the following things, namely—

- (a) prohibit transfers of any specified description or prohibit transfers if, or unless, carried out in specified areas, circumstances or ways;
- (b) make provision about—
 - (i) the design of, and standards to be met by, ships and equipment,
 - (ii) the manning of ships, including the qualifications and experience to be possessed by persons of any specified description employed on board, and
 - (iii) the qualifications and experience to be possessed by persons (whether masters or not) controlling the carrying out of transfers or operations ancillary thereto;
- (c) provide for proposed transfers to be notified to and approved by persons appointed by the Secretary of State or another person, and for the supervision of transfers, and the inspection of ships and equipment, by persons so appointed;
- (d) provide—
 - (i) for the procedure to be followed in relation to the approval of transfers to be such as may be prescribed by any document specified in the regulations, and
 - (ii) for references in the regulations to any document so specified to operate as references to that document as revised or re-issued from time to time;
- (e) provide for the making and keeping of records about ships and equipment, the issuing of certificates, and the furnishing of information;
- (f) require the payment of fees determined with the approval of the Treasury;
- (g) provide for the granting by the Secretary of State or another person of exemptions from specified provisions of the regulations, on such terms (if any) as the Secretary of State or that other person may specify, and for altering or cancelling exemptions;

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(h) limit any provision of the regulations to specified cases or kinds of case.

(3) Regulations under this section may provide—

- (a) that a contravention of the regulations shall be an offence punishable on summary conviction by a fine not exceeding £25,000 and on conviction on indictment by imprisonment for a term not exceeding two years or a fine or both;
- (b) that any such contravention shall be an offence punishable only on summary conviction by a fine not exceeding £25,000 or such lower amount as is prescribed by the regulations;
- (c) that, in such cases as are prescribed by the regulations, such persons as are so prescribed shall each be guilty of an offence created by virtue of paragraph (a) or (b) above.

Amendments of
Coast Protection
Act 1949 relating
to safety of
navigation.
1949 c. 74.

36.—(1) The Coast Protection Act 1949 shall be amended as follows.

(2) In section 34(1) (restriction of works detrimental to navigation and carried out below high water mark of ordinary spring tides)—

- (a) in paragraph (a), for “high water mark of ordinary spring tides” there shall be substituted “the level of mean high water springs”;
- (b) in paragraph (c), for “low water mark of ordinary spring tides” there shall be substituted “the level of mean low water springs”;
- and
- (c) for the words from “so that” onwards there shall be substituted “if the operation (whether while being carried out or subsequently) causes or is likely to result in obstruction or danger to navigation.”

(3) The following subsection shall be inserted after section 34(3)—

“(3A) Any reference in subsection (1) or (3) above to an operation being likely to result in obstruction or danger to navigation shall, in the case of an operation falling within subsection (1)(a) above, be construed as including a reference to its being likely to result in obstruction or danger to navigation by reason of any use intended to be made of the works in question when constructed, altered or improved.”

(4) The following subsection shall be inserted after section 34(4)—

“(4A) Any condition subject to which the Secretary of State has given his consent for an operation falling within subsection (1)(a) of this section—

- (a) shall (subject to paragraph (d) below) either remain in force for a specified period or remain in force without limit of time;
- (b) shall (in addition to binding the person to whom the consent is given) bind, so far as is appropriate, any other person who for the time being owns, occupies, or enjoys any use of, the works in question;
- (c) may, if the condition relates—
 - (i) to the provision of any lights, signals or other aids to navigation, or

(ii) to the stationing of guard ships in the vicinity of the works in question or to the taking of any other measures for the purpose of, or in connection with, controlling the movements of ships in the vicinity of those works,

be varied by the Secretary of State in the interests of the safety of navigation (whether or not the operation has been completed) in such manner as he thinks fit for the purpose of enhancing the effectiveness of any such aids or measures as are mentioned in sub-paragraph (i) or (ii) above; and

(d) may, if the Secretary of State thinks fit, be revoked by him.”

(5) In section 36 (enforcement of section 34)—

(a) after subsection (1) there shall be inserted—

“(1A) Where a person is bound by any condition subject to which any such consent has been given under that section but is not the person to whom the consent was given, then, for the purposes of subsection (1) of this section, he shall not be taken to have failed to comply with the condition unless—

(a) he has been served by the Secretary of State with a notice requiring him to comply with the condition within such period (not being less than thirty days) as may be specified in the notice; and

(b) he has failed to comply with the condition within that period”;

(b) in subsection (2), for “the last foregoing subsection” there shall be substituted “subsection (1) of this section”; and

(c) in subsection (4), after “from the person” there shall be inserted “on whom the notice was served under subsection (2) of this section or (if no such notice was served) from the person”.

(6) After section 36 insert—

“Imposition by Secretary of State of safety requirements in cases of emergency.

36A.—(1) Where at any time after the Secretary of State has given his consent for an operation falling within section 34(1)(a) of this Act (“the relevant consent”), it appears to him—

(a) that any danger to navigation has arisen by reason of—

(i) any substantial damage to any works to which that consent relates, or

(ii) any other substantial and unforeseen change in the state or position of any such works, and

(b) that it is urgently necessary to do so in the interests of the safety of navigation,

he may, by notice served on the person to whom the consent was given, impose on that person such requirements as he thinks fit with respect to any of the matters referred to in subsection (2) below.

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(2) Those matters are—

- (a) the provision on, or in the vicinity of, the works in question of any lights, signals or other aids to navigation, and
- (b) the stationing of guard ships in the vicinity of those works.

(3) Where the person on whom a notice is served under subsection (1) above fails to comply with any requirements of the notice within the period of 24 hours beginning with the time when it is served on him or as soon after the end of that period as is reasonably practicable, the Secretary of State may make such arrangements as he thinks fit for the purpose of securing that those requirements are implemented.

(4) Where under subsection (3) above the Secretary of State makes any such arrangements, he shall be entitled to recover the cost, as certified by him, of making those arrangements from such one or more of the following, namely—

- (a) the person to whom the relevant consent was given, and
- (b) any other person or persons who is or are, in accordance with section 34(4A)(b) of this Act, bound by any condition subject to which that consent was given,

as he thinks fit.

(5) Once the requirements of a notice under subsection (1) above have been complied with by the person on whom it was served, or implemented in accordance with arrangements made by the Secretary of State under subsection (3) above, those requirements shall, subject to subsection (6) below, be treated for the purposes of this Part of this Act as conditions subject to which the relevant consent was given.

(6) Section 34(4A)(a) and (d) of this Act shall not apply to any such requirements; but if it appears to the Secretary of State (whether on the application of any person or otherwise) that the circumstances giving rise to the urgent necessity for the imposition of the requirements no longer exist, he shall revoke them by notice served on the person to whom the relevant consent was given.

(7) Where the Secretary of State has served a notice under subsection (1) above in respect of any particular circumstances, subsection (5) above shall not preclude him from serving a further notice under subsection (1) in respect of those circumstances.

(8) A notice may be served by the Secretary of State under subsection (1) above whether or not—

- (a) the operation in question has been completed, or

- (b) any condition was imposed by him, on giving the relevant consent, with respect to any of the matters referred to in subsection (2) above.”

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(7) In section 49 (interpretation)—

- (a) in subsection (1), in the definitions of “sea” and “seashore”, for “the next following subsection” there shall be substituted “subsections (2) and (2A) of this section”; and
- (b) the following subsection shall be inserted after subsection (2)—
- “(2A) For the purposes of Part II of this Act the expression “sea” includes any part of the sea within the seaward limits of the territorial sea of the United Kingdom, and the expression “seashore” shall be construed accordingly.”

37.—(1) Where—

- (a) it appears to the Secretary of State that any harbour authority have, by virtue of any statutory provision, power to license or otherwise regulate operations of any description falling within any of paragraphs (a) to (c) of section 34(1) of the Coast Protection Act 1949 (“the relevant power”), and
- (b) he considers it appropriate to do so,

Licensing of tidal works by harbour authorities.

1949 c. 74.

he may make regulations providing for section 34 of that Act not to apply to operations of that description in relation to which the relevant power is exercisable and which are carried out within such area or areas falling within the jurisdiction of that harbour authority as may be specified in the regulations (“the prescribed operations”); and, if he does so, the relevant power shall be exercisable by the harbour authority, in relation to the prescribed operations, subject to and in accordance with the following provisions of this section.

(2) Regulations made by the Secretary of State under this section with respect to any harbour authority may make provision—

- (a) in connection with the exercise by the authority of the relevant power in relation to the prescribed operations—
- (i) for any matter for which provision is made by sections 34(2) to (4A) and 36 of the Coast Protection Act 1949, and
- (ii) for any provision of the regulations made in pursuance of sub-paragraph (i) above or any of paragraphs (b) to (g) below to have effect in addition to or in substitution for any other statutory provision which (apart from the regulations) has effect in that connection;
- (b) requiring the authority to advertise in such manner as may be specified in the regulations—
- (i) any application made to them for the grant, in the exercise of the relevant power, of a licence to carry out a prescribed operation, and
- (ii) the grant of any such licence and any conditions subject to which it has been granted,
- and to give to the Secretary of State such notice of any of those matters as may be so specified;

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- (c) enabling representations to be made with respect to any such application in such manner as may be specified in the regulations;
- (d) requiring the authority, when determining any such application, to have regard to any representations made in accordance with the regulations so far as touching on any consideration material to the authority's decision on the application;
- (e) enabling an appeal to the Secretary of State to be brought, by such persons, on such grounds and in such manner as may be specified in the regulations, against—
 - (i) the grant or refusal of any such licence, or
 - (ii) any conditions imposed on the grant of any such licence;
- (f) for the operation of any such licence to be suspended during the period during which such an appeal may be brought and, if such an appeal is brought by a person other than the applicant, until such time (if any) as the authority's decision on the application is affirmed by the Secretary of State;
- (g) authorising the Secretary of State on such an appeal to do any of the things mentioned in subsection (6)(a) to (c) below;
- (h) for any statutory provision having effect in relation to the authority to have effect subject to such modifications as appear to the Secretary of State to be necessary or expedient—
 - (i) for the purpose of making provision for any matter for which provision may be made by virtue of any of paragraphs (a) to (g) above, or
 - (ii) in consequence of any provision of the regulations made in pursuance of any of those paragraphs.

(3) Where—

- (a) any regulations under this section are in force in relation to a harbour authority, and
- (b) the authority have determined an application made to them for the grant, in the exercise of the relevant power, of a licence to carry out a prescribed operation, and
- (c) no appeal has been brought (whether under the regulations or otherwise) in respect of their determination of the application, but
- (d) the Secretary of State considers that it would be appropriate in the interests of the safety of navigation for the application to be redetermined by him,

the Secretary of State may, within the period of 60 days beginning with the date of the authority's determination, serve a notice on the authority requiring them to furnish him with written particulars of their determination, and with any documents in their possession relating to the application, in order that he may redetermine the application.

(4) Where the Secretary of State serves a notice under subsection (3) in respect of any application—

- (a) the Secretary of State shall serve a copy of that notice on the applicant and shall, in such manner as he thinks fit, advertise the fact that the application is to be redetermined by him; and

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- (b) the operation of any licence granted by the authority in pursuance of the application shall be suspended until such time (if any) as the authority's decision to grant the licence is affirmed by the Secretary of State under subsection (6).

(5) The Secretary of State shall, when redetermining any application, have regard to any representations made to him by persons appearing to him to be likely to be affected by the operation to which the application relates where those representations have been made to him within the period of 30 days beginning with the date (or, as the case may be, the latest date) of the publication of any advertisement published in pursuance of subsection (4)(a).

(6) Where the Secretary of State redetermines an application, he may (according to the circumstances of the case)—

- (a) direct the harbour authority to grant either—
- (i) a licence free from conditions, or
 - (ii) a licence subject to such conditions as are specified in the direction,
- as he thinks fit;
- (b) direct the harbour authority to cancel any licence granted by them in pursuance of the application; or
- (c) affirm the harbour authority's determination of the application.

(7) Any direction given by the Secretary of State under subsection (6)(a) shall be a direction requiring the authority in question to grant such a licence as is mentioned in sub-paragraph (i) or (ii) of that provision either—

- (a) in the form in which it was originally applied for by the applicant, or
- (b) in that form but subject to such modifications as are specified in the direction,

as the Secretary of State thinks fit; but where the Secretary of State proposes to specify any modifications under paragraph (b) above which appear to him to be capable of resulting in any substantial interference with navigation—

- (i) he shall take such steps as appear to him to be reasonably practicable for informing persons likely to be concerned, and
- (ii) shall not so specify those modifications unless there has elapsed such period for consideration of, and comment upon, them as he thinks reasonable.

(8) The power of the Secretary of State to make any regulations under this section with respect to any harbour authority shall be exercisable by him either—

- (a) on the application of the harbour authority, or
- (b) of his own motion after consulting the authority.

(9) On each occasion when a harbour authority grant a licence in the exercise of any such power as is mentioned in subsection (1) (whether they do so in pursuance of the preceding provisions of this section or not) they shall furnish the Hydrographer of the Navy—

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- (a) before the operation to which the licence relates has been begun, with written particulars of the operation and with a plan showing where it is to be carried out, and
- (b) once the operation has been carried out, with a notification of that fact, and with such plans and additional information relating to the completed operation as he may require for the purpose of determining whether, and if so what, changes should be made to any chart or other publication produced under his superintendence.

(10) It shall be the duty of any harbour authority to whom the Secretary of State gives a direction under or by virtue of this section to give effect to the direction.

(11) In this section “licence” includes a consent or permission and references to the grant of a licence accordingly include references to the giving of a consent or permission.

Protection of shipping interests

Amendments of
Part III of
Merchant
Shipping Act
1974.
1974 c. 43.

38.—(1) Part III of the Merchant Shipping Act 1974 (protection of shipping and trading interests) shall be amended as follows.

(2) In section 14 (foreign action affecting shipping), the following subsection shall be substituted for subsection (1)—

“(1) The Secretary of State may exercise the powers conferred by this section if he is satisfied that—

- (a) a foreign government, or
- (b) persons purporting to exercise governing authority over any territory outside the United Kingdom, or
- (c) any agency or authority of a foreign government or of such persons,

have adopted, or propose to adopt, measures or practices concerning or affecting any shipping services which—

- (i) are damaging or threaten to damage the shipping or trading interests of the United Kingdom, or
- (ii) are damaging or threaten to damage the shipping or trading interests of another State,

and, in the latter case, the Secretary of State is satisfied that action under this section would be in fulfilment of the obligations of the United Kingdom to that other State or would be appropriate in view of any arrangements made between Her Majesty’s Government and the government of that other State.”

(3) The following subsection shall be substituted for section 14(3)—

“(3) The Secretary of State may by order provide for—

- (a) regulating the provision of any shipping services and the rates, fares or other amounts which may or must be charged for providing those services;
- (b) regulating—
 - (i) the admission and departure of ships to and from United Kingdom ports,

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- (ii) the nature of the shipping services they may be used to provide (whether by reference to the cargoes or passengers they may carry or otherwise), and
- (iii) the loading or unloading of cargoes, the embarkation or disembarkation of passengers, or the doing of other things in connection with the provision of any shipping services;
- (c) regulating the making and implementation of agreements (including charter-parties) whose subject matter relates directly or indirectly to the provision of any shipping services, and requiring such agreements to be subject to the Secretary of State's approval in such cases as he may specify;
- (d) imposing charges in respect of ships which enter United Kingdom ports in connection with the provision of any shipping services;
- (e) imposing, in pursuance of any Community obligation, such tax or duty payable by such persons and in such circumstances as the Secretary of State may specify;

and in this subsection "regulating", except in relation to the rates, fares or other amounts which may or must be charged as mentioned in paragraph (a) above, includes imposing a prohibition."

(4) In section 14(4) (orders under subsection (3)), for "subsection (1)(a)" substitute "subsection (1)(i)".

(5) In section 14(5) (directions by Secretary of State), for "charges imposed under subsection (3)(d) above" there shall be substituted "any charge, tax or duty imposed under subsection (3)(d) or (e) above".

(6) The following subsections shall be substituted for section 14(11) and (11A)—

"(11) In this section—

- (a) "foreign government" means the government of any State other than the United Kingdom;
- (b) references to an agency or authority of a foreign government or of such persons as are mentioned in subsection (1)(b) above include references to 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, or by a territory outside, the United Kingdom;
- (c) "shipping services" means services provided by means of ships, and includes the carriage of goods or passengers by sea, cable laying, dredging, and services provided by offshore support vessels; and
- (d) references to ships are to ships of any registration.

(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) a foreign government, or
- (b) such persons as are mentioned in subsection (1)(b) above, or

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(c) an agency or authority of a foreign government or of such persons,

shall be conclusive.”

(7) In section 15 (parliamentary control of orders under section 14)—

(a) at the beginning of each of subsections (1) and (2) there shall be inserted “Subject to subsection (2A) below,”;

(b) after subsection (2) there shall be inserted—

“(2A) Subsections (1) and (2) above do not apply to an order under the said subsection (3) which is made for the purpose only of implementing any Community obligation.”; and

(c) in subsection (4), after “recites” there shall be inserted “that it is made as mentioned in subsection (2A) above, or”.

(8) In Schedule 4 (provisions supplementing section 14), for paragraph 2 there shall be substituted—

“Orders imposing charges, taxes or duties

2.—(1) An order under subsection (3)(d) or (e) of the principal section —

(a) may apply to ships of any description specified in the order, and may apply in particular to ships registered in a specified country, or to ships carrying goods or cargoes of a specified description, or providing any other specified shipping services (within the meaning of the principal section), and

(b) may contain such provisions as appear to the Secretary of State expedient to enable the Commissioners of Customs and Excise to collect any charge, tax or duty imposed by the order, and

(c) may apply, subject to any modifications or exceptions specified in the order, any of the enactments for the time being in force relating to duties (whether of customs or excise) chargeable on goods imported into the United Kingdom.

(2) Any charge, tax or duty so imposed may be a fixed amount, or an amount depending on the tonnage of the ship.

(3) Any such charge, tax or duty shall be payable to the Secretary of State.

(4) An order shall not be made by the Secretary of State under subsection (3)(d) or (e) of the principal section except with the consent of the Treasury.

(5) Nothing in this paragraph prejudices subsection (6) of that section.”

Power to prohibit provision of coastal shipping services which are not British-based.

39.—(1) The Secretary of State may by order provide for the provision of shipping services to which this section applies to be prohibited except where such services are provided from one or more permanent places of business maintained in the British Islands.

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- (2) This section applies to the following shipping services—
- (a) the carriage of goods or passengers by sea—
 - (i) between ports in the United Kingdom, or
 - (ii) between a port in the United Kingdom and an offshore installation in United Kingdom waters, or
 - (iii) between offshore installations in United Kingdom waters;
 - (b) the carriage of passengers by sea on voyages or excursions beginning and ending at the same port in the United Kingdom, other than voyages or excursions which involve calling at any port or ports outside the British Islands (whether passengers disembark there or not); and
 - (c) shipping services (other than the carriage of goods or passengers by sea) which are—
 - (i) provided by means of ships operating out of ports in the United Kingdom (whether so provided within United Kingdom waters or not), or
 - (ii) provided within United Kingdom waters by means of ships operating out of ports outside the United Kingdom.
- (3) An order under this section may make provision—
- (a) with respect to the circumstances in which shipping services are to be regarded for the purposes of the order as being provided from one or more permanent places of business maintained in the British Islands;
 - (b) authorising the Secretary of State to issue licences sanctioning the provision of shipping services to which this section applies, notwithstanding that they are not provided as mentioned in paragraph (a) above, in cases where he is satisfied that there is no-one willing and able to provide the services in question as mentioned in that paragraph;
 - (c) requiring the payment, in connection with applications for such licences, of fees determined with the approval of the Treasury;
 - (d) exempting any prescribed class or description of shipping services from any prohibition imposed by virtue of subsection (1);
 - (e) authorising the Secretary of State, or a person appointed by him for the purpose, to serve notices requiring the production or furnishing of documents or information appearing to the Secretary of State or any such person to be necessary to enable him to determine such matters as may be prescribed;
 - (f) with respect to the manner of service of notices in pursuance of paragraph (e).
- (4) An order under this section may—
- (a) make different provision for different circumstances;
 - (b) make such transitional, incidental or supplementary provision as appears to the Secretary of State to be necessary or expedient.

PART III

(5) The provisions of an order under this section shall not discriminate between shipping services provided by different persons on the basis of the place of registration of the ships by means of which the services are provided.

(6) Section 728 of the 1894 Act (appointment of inspectors) shall have effect in relation to—

(a) any order under this section, or

(b) any licence issued by virtue of subsection (3)(b) above,

as it has effect in relation to any such regulations or licence as is mentioned in paragraph (b) of that section; but section 27 of the Merchant Shipping Act 1979 (powers of inspectors) shall have effect in relation to any inspector appointed by virtue of this subsection with the omission of paragraphs (f) to (h) of subsection (1) of that section.

1979 c. 39.

(7) The power to make an order under this section shall be exercisable by statutory instrument, but no such order shall be made unless a draft of it has been laid before and approved by resolution of each House of Parliament.

(8) In this section—

1971 c. 61.

“offshore installation” has the same meaning as in the Mineral Workings (Offshore Installations) Act 1971;

“prescribed” means prescribed by an order under this section;

“shipping services” means—

(a) the carriage of goods or passengers by sea,

(b) services provided by offshore support vessels, and

(c) such other services provided by means of ships as the Secretary of State may specify in an order under this section;

1964 c. 29.

“United Kingdom waters” means waters within the seaward limits of the territorial sea of the United Kingdom and waters in any area designated under section 1(7) of the Continental Shelf Act 1964.

Enforcement of
s. 39.

40.—(1) Where—

(a) any ship is used in the course of the provision of any shipping services to which section 39 applies, or

(b) anything is done on board a ship with a view to its being used to provide any such services,

and the provision of those services is prohibited by virtue of subsection (1) of that section and is not sanctioned by any licence issued by virtue of subsection (3)(b) of that section, then (subject to subsections (6) and (7)), the master and the owner of the ship shall each be guilty of an offence.

(2) Where the ship—

(a) is chartered by demise, or

(b) is managed, either wholly or in part, by a person other than the owner under the terms of a management agreement,

the reference in subsection (1) to the owner of the ship shall be construed as including a reference—

PART III

- (i) to the charterer under the charter by demise, or
- (ii) to any such manager as is referred to in paragraph (b) above, or
- (iii) (if the ship is both chartered and managed as mentioned above) to both the charterer and any such manager.

(3) Any person who—

- (a) in connection with an application for such a licence as is mentioned in subsection (3)(b) of section 39, or
- (b) in purported compliance with the requirements of any notice served on him by virtue of subsection (3)(e) of that section,

knowingly or recklessly furnishes information which is false in a material particular shall be guilty of an offence.

(4) Any person who—

- (a) without reasonable excuse (the proof of which lies on him) fails to comply with the requirements of any such notice, or
- (b) intentionally alters, suppresses, conceals or destroys a document which he has been required to produce in pursuance of subsection (3)(e) of that section,

shall be guilty of an offence.

(5) Any person guilty of an offence under this section shall be liable—

- (a) on summary conviction, to a fine not exceeding £50,000;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.

(6) It shall be a defence in proceedings brought under subsection (1) against the master of a ship to prove—

- (a) that the master did not know and had no reason to suspect that, in the circumstances of the case, the provision of the shipping services referred to in paragraph (a) or (as the case may be) paragraph (b) of that subsection was prohibited by virtue of subsection (1) of section 39, or
- (b) that the master had reasonable grounds for believing that the provision of those services was sanctioned by a licence issued by virtue of subsection (3)(b) of that section.

(7) It shall be a defence in proceedings brought under subsection (1) against a person other than the master of a ship to prove that, under the terms of one or more charter-parties or management agreements entered into by the defendant, the right to determine the purpose for which the ship in question was being used at the time of the alleged offence was wholly vested in some other person or persons party thereto (whether or not any such other person or persons had entered into a further charter-party or management agreement providing for that right to be vested in some other person).

(8) Subsections (1), (3) and (4) apply to offences falling within those subsections wherever committed.

(9) Proceedings for an offence under this section may be taken, and the offence may for all incidental purposes be treated as having been committed, in any place in the United Kingdom.

PART III (10) Proceedings for an offence under this section shall not be instituted—

- (a) in England and Wales, except by or with the consent of the Attorney General or the Secretary of State; or
- (b) in Northern Ireland, except by or with the consent of the Attorney General for Northern Ireland or the Secretary of State.

(11) Any document required or authorised, by virtue of any statutory provision, to be served for the purpose of the institution of, or otherwise in connection with, proceedings for an offence under subsection (1) shall, where it is to be served on a person who was, at the time of the alleged offence—

- (a) the owner of the ship in question, or
- (b) such a charterer by demise or manager of that ship as is mentioned in subsection (2),

be treated as duly served on that person if—

- (i) sent to him by post at his last-known address (whether of his residence or of a place where he carries on business), or
- (ii) left for him at that address,

or if the document is served on the master of the ship in question.

(12) In this section “management agreement” has the same meaning as in section 30.

Financing and administration of lighthouse service

Joint discharge of functions by general lighthouse authorities.

41. The following section shall be inserted after section 634 of the 1894 Act—

“Joint discharge of functions by general lighthouse authorities.

634A.—(1) Two or more of the general lighthouse authorities may discharge any of their functions jointly; and for that purpose—

- (a) those authorities may share any part of their respective establishments, and
- (b) any of them may, in the area of another and on that other’s behalf, execute any works or do any other thing which the authority have power to execute or do in their own area;

and any enactment relating to the functions in question or to the authorities by whom or the areas in which those functions are to be discharged shall be construed accordingly.

(2) Any expenses incurred by any of the general lighthouse authorities in pursuance of this section shall be apportioned between that authority and the other authority or authorities concerned in such manner as may be agreed between them or (in default of agreement) determined by the Secretary of State.”

42.—(1) The following sections shall be substituted for section 662 of the 1894 Act—

“Borrowing powers of general lighthouse authorities.

662.—(1) A general lighthouse authority may, with the consent of the Secretary of State and the Treasury, borrow money for the purpose of defraying any expenses incurred or to be incurred by the authority in connection with the discharge of their functions under this Act.

(2) A general lighthouse authority may, in connection with any advance to them under this section, mortgage any land or other property belonging to them.

(3) Any sums payable by a general lighthouse authority under the terms of an advance under this section by way of principal, interest or otherwise shall be paid out of the General Lighthouse Fund.

Limit on borrowings under s. 662.

662A.—(1) The aggregate amount outstanding in respect of the principal of any sums borrowed under section 662 of this Act shall not at any time exceed £100 million.

(2) The Secretary of State may, by order made by statutory instrument with the approval of the Treasury, increase or further increase that limit, but not by more than £33 million at a time.

(3) An order shall not be made under subsection (2) of this section unless a draft of the order has been laid before and approved by a resolution of the House of Commons.

Guarantees by Secretary of State.

662B.—(1) The Secretary of State with the consent of the Treasury may guarantee, in such manner and on such conditions as he thinks fit, the repayment of the principal of, the payment of interest on, and the discharge of any other financial obligation in connection with, any sums borrowed by a general lighthouse authority under section 662 of this Act.

(2) Immediately after a guarantee is given under this section, the Secretary of State shall lay a statement of the guarantee before each House of Parliament, and where any sum is issued for fulfilling a guarantee so given the Secretary of State shall, as soon as possible after the end of each financial year beginning with that in which the sum is issued and ending with that in which all liability in respect of the principal of the sum and in respect of interest thereon is finally discharged, lay before each House of Parliament a statement relating to that sum.

(3) Any sums required by the Secretary of State for fulfilling any guarantee under this section shall be paid out of money provided by Parliament.

(4) If any sums are issued in fulfilment of any guarantee given under this section there shall be made to the Secretary of State out of the General Lighthouse Fund, at such times and in such manner as the Secretary of State may determine with the consent of the Treasury, payments of such amounts as the Secretary of State may so determine in or towards repayment of the sums so

PART III
Borrowing powers in connection with lighthouse expenditure.

PART III

issued, and payments of interest on what is outstanding for the time being in respect of sums so issued at such rate as the Secretary of State may so determine.

(5) The Secretary of State, with the consent of the Treasury, may vary or revoke any determination made by him under subsection (4) of this section.

(6) Any sums received by the Secretary of State under that subsection shall be paid into the Consolidated Fund."

(2) In consequence of subsection (1) above, section 663 of the 1894 Act (power of Public Works Loan Commissioners to advance money on security of mortgage effected under section 662 of that Act as originally enacted) shall cease to have effect.

Payment out of General Lighthouse Fund of certain expenses of Secretary of State. 1898 c. 44.

43. The following sections shall be inserted after section 2 of the Merchant Shipping (Mercantile Marine Fund) Act 1898—

"Payment out of Fund of Secretary of State's expenses relating to certain navigational aids.

2A.—(1) There shall be paid out of the General Lighthouse Fund—

- (a) any expenses (whether of a capital nature or not) incurred by the Secretary of State in pursuance of any international agreement relating to the provision of an electronic position-fixing system which is intended as an aid to the navigation of ships ; and
- (b) any expenses incurred by the Secretary of State preliminary to his entering into any such agreement.

(2) Any sums received by the Secretary of State in pursuance of any such agreement in respect of—

- (a) expenses incurred by him as mentioned in subsection (1)(a) of this section, or
- (b) expenses incurred by any of the general lighthouse authorities which, by virtue of any enactment, are payable out of the General Lighthouse Fund,

shall be paid into the Fund.

Payment out of Fund of administrative expenses of Secretary of State.

2B. There shall be paid out of the General Lighthouse Fund such sums as the Secretary of State may determine for the purposes of this section, being sums which appear to him to represent the amount or estimated amount of any expenses incurred or likely to be incurred by him in connection with the administration of the Fund."

Inquiries

Power to summon witness to inquiry into fitness or conduct of officer or other seaman. 1970 c. 36.

44.—(1) The persons holding an inquiry under section 52 or 54 of the Merchant Shipping Act 1970 (inquiries into fitness or conduct of officers or other seamen) may—

- (a) by summons require any person to attend, at a time and place stated in the summons, to give evidence or to produce any documents in his custody or under his control which relate to any matter in question at the inquiry; and

- (b) take evidence on oath (and for that purpose administer oaths) or, instead of administering an oath, require the person examined to make a solemn affirmation.

(2) If on the failure of a person to attend such an inquiry in answer to a summons under this section—

- (a) the persons holding the inquiry are satisfied by evidence on oath—

(i) that the person in question is likely to be able to give material evidence or produce any document which relates to any matter in question at the inquiry, and

(ii) that he has been duly served with the summons, and

(iii) that a reasonable sum has been paid or tendered to him for costs and expenses, and

(b) it appears to them that there is no just excuse for the failure, they may issue a warrant to arrest him and bring him before the inquiry at a time and place specified in the warrant.

(3) If any person attending or brought before such an inquiry refuses without just excuse to be sworn or give evidence, or to produce any document, the persons holding the inquiry may—

- (a) commit him to custody until the end of such period not exceeding one month as may be specified in the warrant or until he gives evidence or produces the document (whichever occurs first), or

- (b) impose on him a fine not exceeding £1,000,

or both.

(4) A fine imposed under subsection (3)(b) shall be treated for the purposes of its collection, enforcement and remission as having been imposed by the magistrates' court for the area in which the inquiry in question was held, and the persons holding the inquiry shall, as soon as practicable after imposing the fine, give particulars of it to the clerk of that court.

- (5) This section does not apply to Scotland.

45. Where an inquiry under section 52 or 54 of the Merchant Shipping Act 1970 (inquiries into fitness or conduct of officers or other seamen) is held in Scotland by a sheriff—

- (a) he shall (subject to rules made under section 58(1) of that Act (rules of procedure)) dispose of the inquiry as a summary application; and

- (b) (subject to section 57 of that Act (re-hearings and appeals)) his decision on the inquiry shall be final.

Procedure where inquiry into fitness or conduct of officer or other seaman is held by sheriff.
1970 c. 36.

Crew agreements

46.—(1) Section 7 of the Merchant Shipping Act 1970 (payment of seamen's wages) shall be amended as provided in subsections (2) to (8) below.

Payment of wages on termination of crew agreement.

- (2) The following subsection shall be substituted for subsection (1)—

PART III

“(1) Where a seaman employed under a crew agreement relating to a ship leaves the ship on being discharged from it, then, except as provided by or under this Act or any other enactment, the wages due to the seaman under the agreement shall either—

- (a) be paid to him in full at the time when he so leaves the ship (in this section and section 8 of this Act referred to as the time of discharge), or
- (b) be paid to him in accordance with subsections (3A) and (3B) of this section.”

(3) In subsection (2), after “payable to him under” there shall be inserted “paragraph (a) of”.

(4) In subsection (3), for “the preceding provisions” there shall be substituted “subsection (1)(a) or (2)”.

(5) The following subsections shall be inserted after subsection (3)—

“(3A) Where the crew agreement referred to in subsection (1) of this section provides for the seaman’s basic wages to be payable up-to-date at specified intervals not exceeding one month, and for any additional amounts of wages to be payable within the pay cycle following that to which they relate, any amount of wages due to the seaman under the agreement shall (subject to subsection (3B) of this section) be paid to him not later than the date on which the next payment of his basic wages following the time of discharge would have fallen due if his employment under the agreement had continued.

(3B) If it is not practicable, in the case of any amount due to the seaman by way of wages additional to his basic wages, to pay that amount by the date mentioned in subsection (3A) of this section, that amount shall be paid to him not later than what would have been the last day of the pay cycle immediately following that date if his employment under the crew agreement had continued.

(3C) If any amount which, under subsection (3A) or (3B) of this section, is payable to a seaman is not paid at the time at which it is so payable, it shall carry interest at the rate of 20 per cent. per annum.”

(6) In subsection (4)—

- (a) for “Subsection (3) of this section does” there shall be substituted “The provisions of subsection (3) or (3C) of this section shall”; and
- (b) for “that subsection” there shall be substituted “those provisions”.

(7) In subsection (6), for “(1) to (3)” there shall be substituted “(1) to (3A)”.

(8) The following subsection shall be added after that subsection—

“(7) For the purposes of this section any amount of wages shall, if not paid to him in cash, be taken to have been paid to a seaman—

- (a) on the date when a cheque, or a money or postal order issued by the Post Office, for that amount was despatched by the recorded delivery service to the seaman’s last-known address, or

(b) on the date when any account kept by the seaman with a bank or other institution was credited with that amount.” PART III

(9) In section 8 of the Merchant Shipping Act 1970 (account of seaman’s wages)— 1970 c. 36.

(a) in subsection (1), for “subsection (4)” there shall be substituted “subsections (3A) and (4)”; and

(b) the following subsection shall be inserted after subsection (3)—

“(3A) Where subsection (3A) or (3B) of section 7 of this Act applies to the payment of any amount of wages due to a seaman under a crew agreement—

(a) the persons who employed the seaman shall deliver to him an account of the wages payable to him under that subsection and of the deductions subject to which the wages are payable; and

(b) any such account shall be so delivered at the time when the wages are paid to him; and

(c) subsections (1) to (3) of this section shall not apply;

and subsection (7) of section 7 shall apply for the purposes of this subsection as it applies for the purposes of that section.”

Miscellaneous

47.—(1) This section applies to a ship if for the time being—

(a) the ship is—

(i) registered in the United Kingdom, and

(ii) in the service of a government department (“the relevant department”) by reason of a charter by demise to the Crown; and

(b) there is in force under section 80 of the Merchant Shipping Act 1906 (Government ships) an Order in Council providing for the registration of Government ships in the service of the relevant department. Application of Merchant Shipping Acts to ships chartered by demise to the Crown.
1906 c. 48.

(2) Where this section applies to any ship, the following statutory provisions, namely—

(a) the provisions of the Order in Council referred to in subsection (1)(b) (excluding those relating to registration under the Order), and

(b) the provisions of the Merchant Shipping Acts (as they apply by virtue of the Merchant Shipping Act 1906 and that Order in Council),

shall (subject to subsections (3) and (4)) have the same effect in relation to that ship as they have in relation to a Government ship in the service of the relevant department (whether referred to as such or as such a ship registered in pursuance of that Order in Council).

(3) Subject to subsection (4), the registration enactments shall have effect in relation to a ship to which this section applies in like manner as if it were not, for the purposes of the Merchant Shipping Acts, a ship belonging to Her Majesty.

PART III

(4) Her Majesty may by Order in Council provide that any statutory provision falling within subsection (2) or (3) and specified in the Order—

- (a) shall not have effect in accordance with that subsection in relation to a ship to which this section applies, or
- (b) shall so have effect in relation to such a ship, but subject to such modifications as are specified in the Order.

(5) In the application of any provision of the Merchant Shipping Acts (other than a provision of the registration enactments) in relation to a ship to which this section applies, any reference to the owner of the ship shall be construed as a reference to the relevant department.

(6) An Order in Council under this section—

- (a) may make such transitional, incidental or supplementary provision as appears to Her Majesty to be necessary or expedient; and
- (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(7) In this section—

“government department” includes a Northern Ireland department;

“Government ship” means a Government ship within the meaning of section 80 of the Merchant Shipping Act 1906;

“the registration enactments” means—

- (a) the provisions of Part I of the 1894 Act down to and including section 67 of that Act;
- (b) section 5 of the Merchant Shipping Act 1983; and
- (c) Parts I and II of this Act.

1906 c. 48.

1983 c. 13.

Miscellaneous amendments of Merchant Shipping Acts.

48. Schedule 5 to this Act (which contains miscellaneous amendments of the Merchant Shipping Acts 1894 to 1986) shall have effect.

PART IV

GENERAL

Application to hovercraft.
1968 c. 59.

49. The enactments and instruments with respect to which provision may be made by Order in Council in pursuance of section 1(1)(h) of the Hovercraft Act 1968 shall include this Act and any instrument made under it.

Application to unregistered ships.

50.—(1) The Secretary of State may make regulations specifying any description of unregistered ships and directing that such of the provisions of sections 30, 31 and 33 as may be specified in the regulations—

- (a) shall extend to unregistered ships of that description, or
 - (b) shall so extend in such circumstances as may be so specified,
- with such modifications (if any) as may be so specified.

(2) Subsection (1) shall not be construed as prejudicing the application to unregistered ships of section 30(1)(a) or section 33(2)(a)(ii).

(3) In this section “unregistered ship” means a ship which is not registered in the United Kingdom or elsewhere.

PART IV

51.—(1) Where a body corporate is guilty of an offence under this Act or any regulations made under it, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Offences by officers of bodies corporate.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

52.—(1) No obligation as to secrecy or other restriction on the disclosure of information (whether imposed by statute or otherwise) shall preclude any of the persons mentioned in subsection (2) from disclosing—

Disclosure of information to Secretary of State by other government departments.

- (a) to the Secretary of State, or
- (b) to an authorised officer of the Secretary of State,

information for the purpose of assisting the Secretary of State in the performance of his functions under Part I or Part II.

- (2) The persons referred to in subsection (1) are—
- (a) the Minister of Agriculture, Fisheries and Food,
 - (b) the Secretaries of State respectively concerned with sea fishing in Scotland, Wales and Northern Ireland,
 - (c) the Department of Agriculture for Northern Ireland,
 - (d) the Commissioners of Customs and Excise, and
 - (e) an authorised officer of any of the persons falling within paragraphs (a) to (d) above.

(3) Information obtained by any person in pursuance of subsection (1) shall not be disclosed by him to any other person except where the disclosure is made—

- (a) to a person to whom the information could have been disclosed by any of the persons mentioned in subsection (2) in accordance with subsection (1), or
- (b) for the purposes of any legal proceedings arising out of Part I or Part II.

53.—(1) Any power of the Secretary of State to make regulations under this Act shall be exercisable by statutory instrument subject to annulment by a resolution of either House of Parliament.

Regulations.

- (2) Regulations under this Act may—
- (a) make different provision for different classes or descriptions of ships and for different circumstances; and
 - (b) make such transitional, incidental or supplementary provision as appears to the Secretary of State to be necessary or expedient.

PART IV
Notices under
Parts I and II.

54.—(1) Any notice required or authorised to be served by the Secretary of State under Part I or II may be served by post.

(2) Any notice required or authorised to be served by the Secretary of State under Part I or II on the registered owner of any registered ship or registered fishing vessel shall, where there are two or more registered owners, be treated as duly served—

- (a) in the case of a ship in relation to which a managing owner is for the time being registered under section 59(1) of the 1894 Act, if served on that managing owner, and
- (b) in the case of any other ship or in the case of a fishing vessel, if served on any one of the registered owners.

1978 c. 30.

(3) For the purposes of section 7 of the Interpretation Act 1978 (service of documents by post) a letter containing—

- (a) a notice to be served on any person in pursuance of subsection (2) above, or
- (b) a notice required or authorised to be served under Part I on a representative person within the meaning of that Part,

shall be deemed to be properly addressed if it is addressed to that person at the address for the time being recorded in relation to him in the appropriate register; and a letter containing any other notice to which subsection (1) above applies shall be deemed to be properly addressed if it is addressed to the last-known address of the person to be served (whether of his residence or of a place where he carries on business).

(4) In this section—

“the appropriate register”—

- (a) in relation to a notice in respect of a registered ship, means the register in which the ship is registered under Part I of the 1894 Act, and
- (b) in relation to a notice in respect of a registered fishing vessel, means the register kept under Part II of this Act;

“registered ship” means a ship registered under Part I of the 1894 Act;

“registered fishing vessel” means a fishing vessel registered under Part II of this Act; and

“registered owner” means an owner registered under Part I of the 1894 Act or Part II of this Act, as the case may be.

Financial
provisions.

55.—(1) There shall be paid out of money provided by Parliament any expenses incurred by the Secretary of State in consequence of the provisions of this Act.

(2) Any sums received by the Secretary of State by virtue of this Act shall (subject to subsection (3)) be paid into the Consolidated Fund.

(3) Subsection (2) does not apply to—

- (a) any sums required by virtue of any other provision of this Act to be paid into the General Lighthouse Fund, or
- (b) any sums paid to the Secretary of State out of that fund under section 2A(1) of the Merchant Shipping (Mercantile Marine Fund) Act 1898.

1898 c. 44.

56.—(1) Her Majesty may by Order in Council direct that any of the provisions of this Act or any instrument made under it shall extend, with such modifications (if any) as may be specified in the Order, to any relevant overseas territory.

PART IV
Extension of Act
to overseas
territories.

(2) An Order in Council under this section may make such transitional, incidental or supplementary provision as appears to Her Majesty to be necessary or expedient.

(3) Without prejudice to the generality of subsection (2), an Order in Council under this section may, in its application to any relevant overseas territory, provide for such authority in that territory as is specified in the Order to furnish the Secretary of State with such information with respect to—

- (a) the registration of ships under Part I of the 1894 Act in that territory, or
- (b) other matters relating to merchant shipping,

as is specified in the Order or as the Secretary of State may from time to time require, and for any such information to be so furnished at such time or times and in such manner as is or are so specified or (as the case may be) as the Secretary of State may so require.

57.—(1) This Act shall be construed as one with the Merchant Shipping Acts 1894 to 1986.

Interpretation,
minor and
consequential
amendments and
repeals.
1894 c. 60.

(2) In this Act—

“the 1894 Act” means the Merchant Shipping Act 1894;

“country” includes any territory;

“the Merchant Shipping Acts” means the Merchant Shipping Acts 1894 to 1986 and this Act;

“modifications” includes additions, omissions and alterations;

“relevant overseas territory” means—

- (a) the Isle of Man,
- (b) any of the Channel Islands, or
- (c) any colony;

“statutory provision” means any provision contained in or having effect under any enactment.

(3) In the application of this Act to Scotland any reference to a defendant shall be construed as a reference to a defender.

(4) The enactments mentioned in Schedule 6 shall have effect subject to the minor and consequential amendments specified in that Schedule.

(5) The enactments mentioned in Schedule 7 are hereby repealed to the extent specified in the third column of that Schedule.

58.—(1) This Act may be cited as the Merchant Shipping Act 1988; and this Act and the Merchant Shipping Acts 1894 to 1986 may be cited together as the Merchant Shipping Acts 1894 to 1988.

Citation,
commencement,
transitional
provisions and
extent.

(2) This Act, except Part II, shall come into force on such day as the Secretary of State may appoint by order made by statutory instrument, and different days may be appointed for different provisions or for different purposes.

PART IV

(3) Part II of this Act shall come into force on the date of the coming into force of the first regulations made under section 13.

(4) The transitional provisions and savings contained in Schedule 8 to this Act shall have effect; and the Secretary of State may by order made by statutory instrument make such transitional, incidental, supplemental, consequential or saving provision as appears to him to be necessary or expedient in connection with the coming into force of any provision of this Act or the operation of any enactment which is repealed or amended by a provision of this Act during any period when the repeal or amendment is not wholly in force.

(5) With the exception of—

sections 36 and 37,

section 45, and

section 57(4) and (5) and Schedules 6 and 7 so far as they amend or repeal any enactment which does not extend to Northern Ireland,

this Act extends to Northern Ireland.

SCHEDULES

SCHEDULE 1

Section 10.

AMENDMENTS OF PART I OF MERCHANT SHIPPING ACT 1894

1. Omit sections 1 to 3 (qualification for owning British ships and registration of such ships).
2. In section 4 (registrars of British ships)—
 - (a) for subsection (1) substitute—

“(1) The registrar of British ships at any port in the United Kingdom approved by the Commissioners of Customs and Excise for the registry of ships shall be any officer (whether at that port or elsewhere) appointed for the purpose by the Commissioners.”; and
 - (b) omit subsection (2).
3. In section 5 (register books), for the words from “a book” to “that book” substitute “a register of such ships (referred to in this Part of this Act as “the register”), and entries in the register”.
4. In section 6 (survey and measurement of ships), omit “British”.
5. In section 7 (marking of ships)—
 - (a) in subsection (1), omit “British”;
 - (b) omit subsection (2); and
 - (c) in subsection (5), for the words from “British” to “so marked” substitute “registered ship neglects to keep his ship marked as required by this section”.
6. In section 9 (declaration of ownership on registry)—
 - (a) omit paragraph (iii);
 - (b) in paragraph (iv), for the words from “of which” onwards substitute “the legal title to which is vested in him or (as the case may be) the corporation, whether alone or jointly with any other person or persons.”;
 - (c) for paragraph (v) substitute—

“(v) A declaration that, to the best of his knowledge and belief, a majority interest in the ship is owned by persons qualified to be owners of British ships, and the ship is otherwise entitled to be registered”; and
 - (d) at the end add—

“(vi) In the case of a ship which is for the time being registered under the law of any country outside the United Kingdom, a declaration that, if the ship is still so registered at the time when it becomes registered under this Part of this Act, he will take all reasonable steps to secure the termination of the ship’s registration under the law of that country.

In the application of this section to a ship which is not wholly owned by persons qualified to be owners of British ships, paragraph (i) above shall have effect only in relation to persons who are so qualified.”
7. In section 11 (entry of particulars in register book), omit “book”.
8. In section 13 (port of registry), omit “British”.
9. In section 14 (certificate of registry), for “book, with the name of her master” substitute “in pursuance of section 11 of this Act.”

- SCH. 1 10. In section 18 (provision for loss of certificate)—
- (a) for subsection (2) substitute—
- “(2) If—
- (a) the port where the ship is at the time of the event (or, as the case may be, where it first arrives thereafter) is a port in a country outside the British Islands, and
- (b) the master of the ship, or some other person having knowledge of the facts of the case, makes a declaration before the appropriate person stating—
- (i) the facts of the case, and
- (ii) the names and descriptions of the registered owners of the ship to the best of the declarant’s knowledge and belief,
- the appropriate person may thereupon grant a provisional certificate containing a statement of the circumstances under which it is granted.”;
- (b) in subsection (3), for the words from “her port” (where first occurring) to “that port” substitute “a port in the United Kingdom”; and
- (c) at the end add—
- “(4) In this section “the appropriate person”, in relation to a port in a country outside the British Islands, means—
- (a) any British consular officer within whose consular district the port lies, or
- (b) where Her Majesty’s Government in the United Kingdom is represented in that country by a High Commissioner, any member of the High Commissioner’s official staff nominated by him for the purposes of this Part of this Act, or
- (c) where that country is a colony, the Governor of the colony or any person appointed by him for those purposes;
- and in this subsection “High Commissioner” includes an acting High Commissioner and “Governor” includes an acting Governor.”
11. Omit section 19 (endorsement of change of master on certificate).
12. In section 21 (delivery up of certificate of ship lost or ceasing to be British-owned)—
- (a) in subsection (1)—
- (i) for the words from “ceasing” to “every owner” substitute “in the event of such a ship—
- (a) ceasing to be entitled to be registered (whether because a majority interest in the ship is no longer owned by persons qualified to be owners of British ships or for any other reason), or
- (b) becoming registered, otherwise than under this Part of this Act, in the United Kingdom,
- every registered owner”, and
- (ii) for the words from “book and” onwards substitute “and the registry of the ship shall terminate forthwith.”;
- (b) for subsection (2) substitute—
- “(2) Except where the ship’s certificate of registry is lost or destroyed, the master of the ship shall, as soon as practicable after the event, deliver up the certificate—
- (a) to the registrar of the ship’s port of registry, or

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- (b) if the port where the ship is at the time of the event (or, as the case may be, where it first arrives thereafter) is a port in a country outside the British Islands, to the appropriate person (as defined by section 18(4) of this Act);

and any person receiving a certificate in pursuance of paragraph (b) above shall forthwith forward it to the registrar of the ship's port of registry."; and

- (c) at the end add—

“(4) The registry of a registered ship shall also terminate if—

- (a) the owner of the ship gives notice to the registrar of the ship's port of registry that he desires to terminate the ship's registry, and
 (b) the registrar records the giving of that notice in the register.

(5) Where the registry of a ship terminates by reason of—

- (a) any notice given in pursuance of subsection (4) of this section, or
 (b) any direction given by the Secretary of State under section 7(5) of the Merchant Shipping Act 1988 (power to direct removal from register in certain cases),

subsections (2) and (3) of this section shall have effect in relation to the delivering up and forwarding of the ship's certificate of registry as if the giving of that notice or direction were the event referred to in subsection (2).

(6) Where the registry of a ship terminates—

- (a) under subsection (1) or (4) of this section, or
 (b) as mentioned in subsection (5)(b) of this section,

the termination of its registry shall not affect any entry made in the register so far as relating to any undischarged registered mortgage, or any existing certificate of mortgage, of that ship or of any share in it.

(7) Subsection (6) of this section shall not apply to an entry in the register in a case where—

- (a) the mortgage in question becomes registered under Part II of the Merchant Shipping Act 1988, or
 (b) the registrar is satisfied that every person appearing on the register to be interested as a mortgagee under the mortgage in question has consented to the entry ceasing to have effect.”

13. For section 22 substitute—

“Provisional certificate for ship becoming entitled to be registered while abroad.

22.—(1) If a ship becomes entitled to be registered while at a port in a country outside the British Islands, then (subject to the following provisions of this section) the appropriate person (as defined by section 18(4) of this Act) may, on the application of the master of the ship, grant to him a provisional certificate stating the matters specified in subsection (2) of this section, and shall forward a copy of the certificate at the first convenient opportunity to the Registrar-General of Shipping and Seamen.

(2) Those matters are—

- (a) the name of the ship;
 (b) the time and place of the purchase of the ship and the names of the purchasers; and
 (c) the best particulars respecting the tonnage, build and description of the ship which the person granting the certificate is able to obtain.

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(3) No provisional certificate shall be granted by any person under this section unless he is satisfied that an application under section 8 of this Act for registry of the ship has been made or is intended.

(4) A provisional certificate shall have the effect of a certificate of registry until—

(a) the expiration of three months from its date, or

(b) the ship's arrival at a port where there is a registrar,

whichever happens first, and shall then cease to be of any effect.

(5) Where a provisional certificate has been granted for a ship under this section, no further provisional certificate shall be so granted for the ship within one year from the date of that certificate except with the consent of the Secretary of State."

14. In section 23 (temporary passes in lieu of certificates of registry)—

(a) omit “, or to the governor of a British possession,”;

(b) for the words from “any port” to “dominions”, in the second place where it occurs, substitute “one port in the United Kingdom to another”; and

(c) omit “or the governor”.

15. In section 24 (transfer of ships or shares), for subsection (1) substitute—

“(1) Any transfer of—

(a) a registered ship, or

(b) a share in any such ship,

shall be effected by a bill of sale, unless the transfer will result in a majority interest in the ship no longer being owned by persons qualified to be owners of British ships.”

16. In section 25 (declaration of transfer)—

(a) after “transferred” insert “in accordance with section 24(1) of this Act”;

(b) for paragraph (b) substitute—

“(b) a declaration that, to the best of his knowledge and belief, a majority interest in the ship is owned by persons qualified to be owners of British ships, and the ship is otherwise entitled to be registered.”; and

(c) at the end add—

“In the application of this section to a ship which is not wholly owned by persons qualified to be owners of British ships, paragraph (a) above shall have effect only in relation to persons who are so qualified.”

17. In section 26 (registration of transfers), omit “book” wherever occurring.

18. In section 27 (transmission of property in ship on death, etc.)—

(a) in subsection (1)—

(i) for the words from “a person” to “under this Act” substitute “any person by any lawful means other than a transfer under section 24 of this Act and a majority interest in the ship remains in the ownership of persons qualified to be owners of British ships”, and

(ii) omit paragraph (b); and

(b) in subsection (2), omit “book”.

19. In section 28 (order for sale on transmission to unqualified person), for subsection (1) substitute— SCH. 1

“(1) Where the property in a registered ship or share therein is transmitted to any person by any lawful means other than a transfer under section 24 of this Act, but as a result a majority interest in the ship no longer remains in the ownership of persons qualified to be owners of British ships, then—

(a) if the ship is registered in England and Wales or in Northern Ireland, the High Court, or

(b) if the ship is registered in Scotland, the Court of Session,

may, on an application by or on behalf of that person, order a sale of the property so transmitted and direct that the proceeds of sale, after deducting the expenses of the sale, shall be paid to that person or otherwise as the court direct.”

20. In section 30 (power of courts to prohibit transfer), for paragraphs (a) to (d) substitute—

“(a) in England and Wales or in Northern Ireland, the High Court; and

(b) in Scotland, the Court of Session.”

21. In section 31 (mortgage of registered ship or share), for subsection (1) substitute—

“(1) A registered ship, or a share in any such ship, may be made a security for the repayment of a loan or the discharge of any other obligation; and on production of the instrument creating any such security (referred to in this Act as a mortgage) the registrar of the ship’s port of registry shall record it in the register.”

22. In sections 32 and 33 (other provisions about mortgages), omit “book” wherever occurring.

23. In section 37 (transfer of mortgages), for the words from “and the instrument” to “book” substitute “and on production of the instrument effecting the transfer the registrar shall record it by entering in the register”.

24. In section 38 (transmission of interest in mortgage otherwise than by transfer)—

(a) in subsection (1), omit “marriage,”; and

(b) in subsection (2), omit “book”.

25. Omit sections 39 to 46 (certificates of mortgage and sale).

26. In the following provisions, namely—

section 47(4) and (5) (rules as to name of ship), and

section 48(1) (registration of alterations),

omit “book” wherever occurring.

27. In section 49(2) (rules as to registration of alterations), for “his register book” substitute “the register”.

28. In section 50(2) (provisional certificate and endorsement where ship is to be registered anew), for the words from “her port” (where first occurring) to “register thereof” substitute “a port in the United Kingdom, be delivered up to the registrar of the ship’s port of registry.”

29. In section 53 (transfer of registry)—

(a) in subsection (1)—

(i) at the beginning insert “Subject to subsection (5) of this section,”; and

(ii) after “one port” insert “in the United Kingdom”;

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(b) in subsection (4)—

(i) before “grant” insert “(subject to subsection (5) of this section)”, and

(ii) for “his register book” substitute “the register”; and

(c) after subsection (4) add—

“(5) Where the entitlement of a ship to be registered is by virtue of any provision of section 4 of the Merchant Shipping Act 1988 subject to any condition specified in that provision being satisfied, the registry of the ship shall not be transferred to any port under this section unless it appears to the registrar of that port that that condition is satisfied.”

30. After section 53 insert—

“Transfer of
registry to
overseas territory.

53A.—(1) Subject to subsection (2) of this section, the registration of a ship under this Part of this Act may be transferred from a port in the United Kingdom to a port in a relevant overseas territory; and the provisions of section 53 of this Act (except subsections (4) and (5)) shall apply in relation to a transfer of registration under this section as they apply in relation to a transfer of registration under that section.

(2) Where an application is made under this section for the transfer of a ship’s registration to a port in a relevant overseas territory, the registrar of the ship’s existing port of registry shall not proceed to deal with the application unless he is satisfied that registration of the ship under this Part of this Act at the intended port of registry is not precluded by—

(a) any Order in Council in force under section 11 of the Merchant Shipping Act 1988, or

(b) any provision of the law in force in the territory in question;

and any certificate purporting to be signed by the registrar of the intended port of registry and stating that any such registration of the ship is not precluded by any such provision shall be conclusive evidence for the purposes of this subsection of the matters stated in it.

(3) Where the registrar of the intended port of registry grants a fresh certificate of registry in pursuance of any such application as is mentioned in subsection (2) of this section, the ship in question shall thenceforth be considered as registered at the new port of registry, and the name of that port shall be substituted for the name of the former port of registry on the ship’s stern.

(4) The registrar of the former port of registry shall, on being notified by the registrar of the new port of registry of the grant of the new certificate of registry, terminate the registration of the ship in his register.

(5) In this section “relevant overseas territory” means—

(a) the Isle of Man;

(b) any of the Channel Islands; or

(c) any colony.

Transfer of
registry from
overseas territory.

53B.—(1) Where a ship is registered under this Part of this Act in a relevant overseas territory (as defined by section 53A(5) of this Act), the registration of that ship may (subject to subsection (5) of this section) be transferred to a port in the United Kingdom if—

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- (a) an application to the registrar of the existing port of registry has been made for the purpose by a declaration in writing by all the persons appearing on his register to be interested in the ship as owners or mortgagees, and
- (b) the documents mentioned in subsection (2) of this section have been transmitted to the registrar of the intended port of registry.

(2) Those documents are—

- (a) a notice of the application transmitted by the registrar of the existing port of registry;
- (b) a copy transmitted by him of all the registered particulars of the ship and the names of all the persons appearing on his register to be interested in the ship as owners or mortgagees; and
- (c) the ship's certificate of registry.

(3) On receipt of those documents the registrar of the intended port of registry shall (subject to subsection (5) of this section)—

- (a) enter in the register all the particulars and names so transmitted, and
- (b) grant a fresh certificate of registry;

and thenceforth the ship in question shall be considered as registered at the new port of registry, and the name of that port shall be substituted for the name of the former port of registry on the ship's stern.

(4) The registrar of the new port of registry shall notify the registrar of the former port of registry of the grant of the new certificate of registry.

(5) Subsection (5) of section 53 of this Act shall apply to a transfer of registration under this section as it applies to a transfer of registration under that section.

(6) A transfer of registration under this section shall not affect the rights of any of the persons mentioned in subsection (1)(a) of this section."

31. Omit section 54 (restrictions on re-registration of abandoned ships).

32. Omit section 55 (provision for cases of infancy or other incapacity).

33. In sections 56 and 57 (trusts and equitable rights), omit "book", wherever occurring.

34. In section 59 (registration of managing owner or manager), for subsection (1) substitute—

"(1) A person shall not be the managing owner of a registered ship unless he is a person qualified to own a British ship, and the name and address of the managing owner of any registered ship shall be registered by the registrar of the ship's port of registry."

35. Omit section 61(1) (mode of making declarations).

36. In section 62 (application of fees), omit—

- (a) ", if taken in any part of the United Kingdom,"; and
- (b) the words from "if taken in a British possession" onwards.

- SCH. 1 37. In section 63 (returns to be made by registrars)—
- (a) in subsection (1)—
 - (i) omit “in the United Kingdom”,
 - (ii) omit the words from “, and every” to “Seamen,”, and
 - (iii) for “him” (where it first occurs) substitute “the Registrar-General of Shipping and Seamen”; and
 - (b) in subsection (2), omit “at a port in the United Kingdom”.
38. In section 64 (inspection and evidence of register book and other documents)—
- (a) in subsection (1), for “any register book” substitute “the information contained in any entries in the register”;
 - (b) in subsection (2)—
 - (i) omit paragraph (a), and
 - (ii) in paragraph (d), omit “in respect of a British ship”; and
 - (c) for subsection (3) substitute—

“(3) A person shall be entitled, on payment of the prescribed fee, to obtain—

 - (a) a copy, certified as a true copy by the registrar, of any information contained in an entry in a register kept under this Part of this Act; or
 - (b) a copy, certified as a true copy by the Registrar-General of Shipping and Seamen, of any information contained in an entry in the register of British ships kept by him under the direction of the Secretary of State;

and any document purporting to be such a certified copy shall be evidence, and in Scotland sufficient evidence, of the matters stated in the document.

(4) A person shall be entitled, on payment of the prescribed fee, to obtain such a certified copy of the information entered in a register on the registry of a ship, together with a statement certified by the registrar showing who is for the time being the owner of the ship.

(5) The provisions of subsection (3), and (in Scotland) of subsection (4), of section 695 of this Act shall apply to any document supplied in pursuance of subsection (3) or (4) of this section as they apply to any document to which that section applies.

(6) In subsection (3) or (4) of this section “the prescribed fee” means such fee as the Secretary of State may prescribe for the purposes of that subsection by regulations made with the approval of the Treasury.”
39. In section 65 (forms of documents and instructions as to registry)—
- (a) in subsection (1), omit the words from “, and also” to “schedule”;
 - (b) in subsections (2) and (4), omit “book” wherever occurring; and
 - (c) omit subsection (3).
40. In section 67(2) (false declarations), after “any share therein,” insert “or the entitlement of a ship to be registered,”.
41. In section 69(1) (penalty for unduly assuming British character), for the words from “owned” to “own a British ship,” substitute “in which a majority interest is not owned by persons qualified to be owners of British ships, and does so”.

42. For section 70 substitute—

“Penalty for
concealing
British character
of a ship.

70. If the master or owner of a British ship does anything, or permits anything to be done, for the purpose of—

- (a) concealing the nationality of the ship from any person entitled under the law of any part of the United Kingdom to inquire into the nationality of the ship, or
- (b) deceiving such a person, or
- (c) causing the ship to appear not to be a British ship,

the ship shall be subject to forfeiture under this Act; and the master and the owner of the ship shall each be guilty of an offence and liable on summary conviction to a fine not exceeding the fifth level on the standard scale.”

43. Omit section 71 (penalty for acquiring ownership if unqualified).

44. For section 72 substitute—

“Liabilities of
unregistered
ships.

72.—(1) Where a ship—

- (a) is 24 metres or more in length, and
- (b) is wholly owned by one or more persons qualified to be owners of British ships, but
- (c) is neither registered under this Part of this Act nor registered under the law of any country outside the United Kingdom,

then (notwithstanding that the ship is not entitled to any benefits, privileges, advantages or protection usually enjoyed by a British ship) the ship shall, for the purposes mentioned in subsection (2) of this section, be dealt with in the same manner in all respects as if the ship were a British ship.

(2) Those purposes are—

- (a) the payment of dues, fees or other charges;
- (b) liability to fines and forfeiture; and
- (c) the punishment of offences committed on board the ship, or by any persons belonging to the ship.

(3) In this section “length”, in relation to a ship, has the same meaning as in the tonnage regulations of this Act.”

45. In section 73 (national colours for ships and penalty for carrying improper colours)—

(a) in subsection (1)—

- (i) for “ships and boats belonging to any British subject” substitute “British ships”, and
- (ii) omit “or boats” and “or boat”;

(b) in subsection (2)—

- (i) for “ship or boat belonging to any British subject” substitute “British ship”, and
- (ii) omit “or boat” (where last occurring); and

(c) in subsection (3), omit “or boat”.

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46. In section 74 (penalty for ship not showing colours)—
- (a) in subsection (1), for “A ship belonging to a British subject” substitute “A British ship”; and
 - (b) for subsection (3) substitute—

“(3) This section shall not apply to a fishing vessel registered under Part II of the Merchant Shipping Act 1988 and duly marked in accordance with regulations under section 13 of that Act.”
- 47.—(1) Section 76 (proceedings on forfeiture of ship) shall be amended as follows.
- (2) In subsection (1)—
 - (a) for paragraphs (b) and (c) substitute “or
 - (b) any person appointed by the Secretary of State for the purposes of this section;”;
 - (b) omit the words from “and elsewhere” to “dominions;”;
 - (c) after “the officer” insert “or other person”.
 - (3) In subsection (2), for “as in this section mentioned” substitute “or other person as is mentioned in subsection (1) of this section”.
48. In section 84(1) (tonnage of ships of foreign countries adopting tonnage regulations)—
- (a) for “Her Majesty’s dominions” substitute “the United Kingdom”;
 - (b) for “British”, in the first and second places where it occurs, substitute “registered”; and
 - (c) for “British ship registered in the United Kingdom” substitute “registered ship”.
49. Omit section 85 (space occupied by deck cargo to be liable to dues).
50. Omit sections 88 to 90 (registration of ships abroad).
51. Omit section 91 (application of Part I).
52. In Schedule 1 (forms relating to registration)—
- (a) omit Part I; and
 - (b) in Part II—
 - (i) omit “Certificate of mortgage”, “Certificate of sale” and “Revocation of certificate of sale or mortgage”, and
 - (ii) at the end add—

“Mortgage.”

“Transfer of mortgage.”

Section 13.

SCHEDULE 2

REGISTRATION OF FISHING VESSELS: SUPPLEMENTARY PROVISIONS

Interpretation

1. In this Schedule—

“declaration of British character” means a declaration, in such form as may be prescribed, relating to the eligibility of a fishing vessel to be registered as a British fishing vessel;

“regulations” means regulations made under section 13;

“relevant statutory provision” means any provision of this Part or of regulations; SCH. 2

“specified” means specified in regulations.

Regulations: general provisions

2. Regulations may make provision—

- (a) for the persons by whom and the manner in which applications in connection with registration are to be made (including provision limiting the persons who may apply for registration, whether by reference to residence or place of business or otherwise);
- (b) for the information and evidence to be provided in connection with such applications and for such supplementary information or evidence as may be required by any authority specified in the regulations for the purpose to be so provided, and for the production, in connection with such applications, of declarations of British character;
- (c) for the registration of vessels as vessels to which the provisions of this Part relating to transfers by bill of sale and the registration of mortgages do not apply;
- (d) for the issue of certificates of registration (including temporary certificates), their production and surrender;
- (e) for the marking of registered vessels;
- (f) for the period for which the registration of a vessel is to remain effective without renewal;
- (g) for matters arising out of the expiration or termination of registration (including the removal of marks and the cancellation of certificates);
- (h) for declarations of British character to be produced to the Secretary of State, as respects registered vessels, at specified intervals or at the request of the Secretary of State;
- (i) for the payment of fees determined with the approval of the Treasury;
- (j) excluding from registration, or from any provision of the regulations, any specified class or description of vessel;
- (k) for the manner in which notices or other documents required or authorised to be given or served by virtue of any relevant statutory provision are to be given or served;
- (l) for prescribing anything which is authorised to be prescribed under this Part;
- (m) for any of the provisions of Part I of the 1894 Act to have effect in relation to the registration of fishing vessels subject to such modifications (if any) as may be specified;
- (n) for any other matters relating to the establishment and maintenance of the register (including its inspection).

Provisional registration

3. Regulations may make provision—

- (a) for fishing vessels acquired outside the United Kingdom which are eligible to be registered as British fishing vessels to be provisionally registered as such pending their registration in the register;
- (b) for any such provisional registration to terminate in specified circumstances (including failure to comply with requirements imposed by or under the regulations).

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Transfers of registration

4.—(1) Regulations may make provision with respect to the transfer to the register of—

- (a) fishing vessels to which section 13(3) applies where those vessels are eligible to be registered as British fishing vessels, and
- (b) undischarged mortgages affecting those vessels,

and with respect to matters consequential on the termination of the registration of fishing vessels under any of the enactments specified in section 13(2) (including vessels which are not transferred to the register).

(2) Any such regulations may make provision—

- (a) for any of the matters specified in sub-paragraphs (a), (b) and (i) of paragraph 2;
- (b) for applications under sections 19(3) and 20(1) to be treated, in cases where those provisions apply by virtue of section 13(4), as applications for registration of the vessels in question;
- (c) for the issue of certificates of registration under this Part (including temporary certificates) and for the surrender of certificates of registration issued under any of the enactments specified in section 13(2);
- (d) for preserving the effect of entries in any register kept under either of the enactments specified in section 13(2)(a) and (c) so far as those entries relate to undischarged mortgages affecting vessels which are not transferred to the register kept under this Part.

(3) Nothing in this paragraph prejudices the generality of paragraph 2.

Offences

5.—(1) Regulations may provide for the creation of offences and their punishment on summary conviction in any of the following cases—

- (a) where a person with intent to deceive, uses, or lends to or allows to be used by another, a certificate of registration, whether in force or not;
- (b) where a person required by regulations to ensure that any requirement of the regulations as to the marking of a fishing vessel is satisfied fails to ensure that that requirement is satisfied;
- (c) where a person required by regulations to surrender a certificate of registration fails without reasonable excuse to surrender the certificate.

(2) Any such regulations shall—

- (a) in the case of an offence created by virtue of sub-paragraph (1)(a), provide for the offence to be punishable with a fine not exceeding the fifth level on the standard scale; and
- (b) in the case of an offence created by virtue of sub-paragraph (1)(b) or (c), provide for it to be punishable with a fine not exceeding the third level on the standard scale.

(3) Regulations providing for the creation of an offence by virtue of sub-paragraph (1)(b) shall provide that it shall be a defence for a person charged with the offence to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

Operation of regulations in territorial waters

6. Regulations may provide for any of their provisions to extend to the territorial sea of the United Kingdom.

Discharge of functions by persons appointed by Secretary of State

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7.—(1) The Secretary of State may appoint persons to discharge such functions in connection with—

- (a) applications for registration, or
- (b) the issue, production or surrender of certificates of registration,

as he may specify; and regulations may provide for references to the Secretary of State in any relevant statutory provision to be read as, or as including, references to any person so appointed.

(2) Sub-paragraph (1) does not authorise the appointment of any person to determine applications for registration.

Construction of references in other enactments to fishing vessels excluded from registration

8. References in any statutory provision (apart from section 2(1)(c)) to fishing vessels excluded from registration by regulations under section 13 shall be construed as references to fishing vessels which, being eligible to be registered under this Part by virtue of section 14, are excluded from registration by such regulations (and are not registered under the law of any country outside the United Kingdom).

SCHEDULE 3

Section 21.

MORTGAGES OF REGISTERED FISHING VESSELS

Interpretation

1. In this Schedule—

- “mortgage” shall be construed in accordance with paragraph 2(2) below;
- “registered mortgage” means a mortgage registered in pursuance of paragraph 2(3) below; and
- “registered vessel” means a vessel registered otherwise than in pursuance of paragraph 2(c) of Schedule 2.

Mortgages of registered vessels

2.—(1) Any registered vessel or share in a registered vessel may be made a security for the repayment of a loan or the discharge of any other obligation.

(2) The instrument creating any such security (referred to in this Schedule as a mortgage) shall be in such form as is prescribed or approved by the Secretary of State.

(3) Where a mortgage executed in accordance with sub-paragraph (2) is produced to the Secretary of State, he shall—

- (a) register the mortgage by causing it to be recorded in the register, and
- (b) endorse on it the fact that it has been recorded, together with the date and time when it was recorded.

(4) Mortgages shall be registered under sub-paragraph (3) in the order in which they are produced to the Secretary of State for the purposes of registration.

Priority of registered mortgages

3. Where two or more mortgages are registered in respect of the same vessel or share, the priority of the mortgagees between themselves shall (subject to paragraph 4) be determined by the order in which the mortgages were registered (and not by reference to any other matter).

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Notices by intending mortgagees

4.—(1) Where any person who is an intending mortgagee under a proposed mortgage of—

- (a) a registered vessel, or
- (b) a share in a registered vessel,

notifies the Secretary of State in writing of the interest which it is intended that he should have under the proposed mortgage, the Secretary of State shall cause that interest to be recorded in the register.

(2) Where any person who is an intending mortgagee under a proposed mortgage of—

- (a) a fishing vessel which is not for the time being a registered vessel, or
- (b) a share in any such vessel,

notifies the Secretary of State in writing of the interest which it is intended that he should have under the proposed mortgage and furnishes him with such particulars of that vessel as may be prescribed, the Secretary of State—

- (i) shall cause that interest to be recorded in the register, and
- (ii) if the vessel is subsequently registered (otherwise than in pursuance of paragraph 2(c) of Schedule 2), shall cause the vessel to be registered subject to that interest or, if the mortgage has by then been executed in accordance with paragraph 2(2) and produced to the Secretary of State, subject to that mortgage.

(3) In a case where—

- (a) paragraph 3 operates to determine the priority between two or more mortgages, and
- (b) any of those mortgagees gave a notification under sub-paragraph (1) or (2) above with respect to his mortgage,

paragraph 3 shall have effect in relation to that mortgage as if it had been registered at the time when the relevant entry was made in the register under sub-paragraph (1) or (2) above.

(4) Any notification given by a person under sub-paragraph (1) or (2) (and anything done as a result of it) shall cease to have effect—

- (a) if the notification is withdrawn, or
- (b) at the end of the period of 30 days beginning with the date of the notification, unless the notification is renewed in accordance with sub-paragraph (5).

(5) The person by whom any such notification is given may renew or further renew the notification, on each occasion for a period of 30 days, by notice in writing given to the Secretary of State—

- (a) before the end of the period mentioned in sub-paragraph (4)(b), or
- (b) before the end of the current period of renewal,

as the case may be.

(6) Any notification or notice purporting to be given under this paragraph (and anything done as a result of it) shall not have any effect if the Secretary of State determines that it was not validly given.

Registered mortgagee's power of sale

5.—(1) Subject to sub-paragraph (2), every registered mortgagee shall have power, if the mortgage money or any part of it is due, to sell the vessel or share in respect of which he is registered, and to give effectual receipts for the purchase money.

(2) Where two or more mortgagees are registered in respect of the same vessel or share, a subsequent mortgagee shall not, except under an order of a court of competent jurisdiction, sell the vessel or share without the concurrence of every prior mortgagee.

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Transfer of registered mortgage

6.—(1) A registered mortgage may be transferred by an instrument made in such form as is prescribed or approved by the Secretary of State.

(2) Where any such instrument is produced to the Secretary of State, he shall—

- (a) cause the name of the transferee to be entered in the register as mortgagee of the vessel or share in question, and
- (b) endorse on the instrument the fact that that entry has been made, together with the date and time when it was made.

Transmission of registered mortgage by operation of law

7. Where the interest of a mortgagee in a registered mortgage is transmitted to any person by any lawful means other than by a transfer under paragraph 6, the Secretary of State shall, on production of such evidence of the transmission as may be prescribed, cause the name of that person to be entered in the register as mortgagee of the vessel or share in question.

Discharge of registered mortgage

8. Where a registered mortgage has been discharged, the Secretary of State shall, on production of the mortgage deed with such evidence of the discharge of the mortgage as is prescribed, cause an entry to be made in the register to the effect that the mortgage has been discharged.

Transfer of mortgages from one system of registration to another

9.—(1) Regulations may provide—

- (a) for the transfer to the register of undischarged mortgages that have been registered under Part I of the 1894 Act and affect ships registered under that Part of that Act which become registered vessels otherwise than in pursuance of paragraph 4 of Schedule 2 to this Act; and
- (b) for any provisions of this Part to have effect in relation to any such mortgages, or in relation to any mortgages transferred in pursuance of paragraph 4 of that Schedule, subject to such modifications as may be specified in the regulations.

(2) Regulations may also provide—

- (a) for the transfer to registers kept under Part I of the 1894 Act of undischarged registered mortgages affecting registered vessels which become ships registered under that Part of that Act; and
- (b) for any provisions of that Part of that Act to have effect in relation to any such mortgages subject to such modifications as may be specified in the regulations.

(3) Without prejudice to the generality of sub-paragraphs (1) and (2)—

- (a) regulations made by virtue of sub-paragraph (1) may make provision, in connection with the transfer of mortgages in pursuance of that sub-paragraph, for the transmission of information relating to such mortgages which is recorded in registers kept under Part I of the 1894 Act, and for the recording of such information in the register kept under this Part; and

SCH. 3 (b) regulations made by virtue of sub-paragraph (2) may make corresponding provision, in connection with the transfer of mortgages in pursuance of that sub-paragraph, for the transmission and recording of information relating to such mortgages which is recorded in the register kept under this Part.

(4) In this paragraph “regulations” means regulations made under section 13.

Section 34.

SCHEDULE 4

AMENDMENTS RELATING TO LIABILITY AND COMPENSATION FOR OIL POLLUTION DAMAGE

PART I

AMENDMENTS OF MERCHANT SHIPPING (OIL POLLUTION) ACT 1971

1. For section 1 substitute—

“Liability for oil pollution.

1.—(1) Where, as a result of any occurrence, any oil is discharged or escapes from a ship to which this section applies, then (except as otherwise provided by this Act) the owner of the ship shall be liable—

- (a) for any damage caused outside the ship in the area of the United Kingdom by contamination resulting from the discharge or escape; and
- (b) for the cost of any measures reasonably taken after the discharge or escape for the purpose of preventing or minimising any damage so caused in the area of the United Kingdom by contamination resulting from the discharge or escape; and
- (c) for any damage so caused in the area of the United Kingdom by any measures so taken.

(2) Where, as a result of any occurrence, there arises a grave and imminent threat of damage being caused outside a ship to which this section applies by contamination resulting from a discharge or escape of oil from the ship, then (except as otherwise provided by this Act) the owner of the ship shall be liable—

- (a) for the cost of any measures reasonably taken for the purpose of preventing or minimising any such damage in the area of the United Kingdom; and
- (b) for any damage caused outside the ship in the area of the United Kingdom by any measures so taken;

and in this Act any such threat is referred to as a relevant threat of contamination.

(3) Subject to subsection (4) of this section, this section applies to any ship constructed or adapted for carrying oil in bulk as cargo.

(4) Where any ship so constructed or adapted is capable of carrying other cargoes besides oil, this section shall apply to any such ship—

- (a) while it is carrying oil in bulk as cargo; and
- (b) unless it is proved that no residues from the carriage of any such oil remain in the ship, while it is on any voyage following the carriage of any such oil,

but not otherwise.

(5) Where a person incurs a liability under subsection (1) or (2) of this section he shall also be liable for any damage or cost for which he would be liable under that subsection if the references in it to the area of the United Kingdom included the area of any other Convention country.

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(6) Where—

- (a) as a result of any occurrence, a liability is incurred under this section by the owner of each of two or more ships, but
- (b) the damage or cost for which each of the owners would be liable cannot reasonably be separated from that for which the other or others would be liable,

each of the owners shall be liable, jointly with the other or others, for the whole of the damage or cost for which the owners together would be liable under this section.

(7) For the purposes of this Act—

- (a) references to a discharge or escape of oil from a ship are references to such a discharge or escape wherever it may occur, and whether it is of oil carried in a cargo tank or of oil carried in a bunker fuel tank;
- (b) where more than one discharge or escape results from the same occurrence or from a series of occurrences having the same origin, they shall be treated as one, but any measures taken after the first of them shall be deemed to have been taken after the discharge or escape; and
- (c) where a relevant threat of contamination results from a series of occurrences having the same origin, they shall be treated as a single occurrence.

(8) The Law Reform (Contributory Negligence) Act 1945 and, in Northern Ireland, the Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1948 shall apply in relation to any damage or cost for which a person is liable under this section, but which is not due to his fault, as if it were due to his fault.”

1945 c. 28.
1948 c. 23 (N.I.).

2. For section 2 substitute—

“Exceptions from liability under s.1.

2. No liability shall be incurred by the owner of a ship under section 1 of this Act by reason of any discharge or escape of oil from the ship, or by reason of any relevant threat of contamination, if he proves that the discharge or escape, or (as the case may be) the threat of contamination—

- (a) resulted from an act of war, hostilities, civil war, insurrection or an exceptional, inevitable and irresistible natural phenomenon; or
- (b) was due wholly to anything done or omitted to be done by another person, not being a servant or agent of the owner, with intent to do damage; or
- (c) was due wholly to the negligence or wrongful act of a government or other authority in exercising its function of maintaining lights or other navigational aids for the maintenance of which it was responsible.”

SCH. 4 3. For section 3 substitute—

“Restriction of liability for oil pollution.

3.—(1) Where, as a result of any occurrence—

- (a) any oil is discharged or escapes from a ship to which section 1 of this Act applies, or
- (b) there arises a relevant threat of contamination,

then, whether or not the owner of the ship in question incurs a liability under section 1 of this Act—

- (i) he shall not be liable otherwise than under that section for any such damage or cost as is mentioned in it, and
- (ii) no person to whom this paragraph applies shall be liable for any such damage or cost unless it resulted from anything done or omitted to be done by him either with intent to cause any such damage or cost or recklessly and in the knowledge that any such damage or cost would probably result.

(2) Subsection (1)(ii) of this section applies to—

- (a) any servant or agent of the owner of the ship;
- (b) any person not falling within paragraph (a) above but employed or engaged in any capacity on board the ship or to perform any service for the ship;
- (c) any charterer of the ship (however described and including a bareboat charterer), and any manager or operator of the ship;
- (d) any person performing salvage operations with the consent of the owner of the ship or on the instructions of a competent public authority;
- (e) any person taking any such measures as are mentioned in subsection (1)(b) or (2)(a) of section 1 of this Act;
- (f) any servant or agent of a person falling within paragraph (c), (d) or (e) above.

(3) The liability of the owner of a ship under section 1 of this Act for any impairment of the environment shall be taken to be a liability only in respect of—

- (a) any resulting loss of profits, and
- (b) the cost of any reasonable measures of reinstatement actually taken or to be taken.”

4. For section 4 substitute—

“Limitation of liability under s.1.

4.—(1) Where, as a result of any occurrence, the owner of a ship incurs a liability under section 1 of this Act by reason of a discharge or escape or by reason of any relevant threat of contamination, then (subject to subsection (3) of this section)—

- (a) he may limit that liability in accordance with the provisions of this Act, and
- (b) if he does so, his liability (that is to say, the aggregate of his liabilities under section 1 resulting from the occurrence) shall not exceed the relevant amount.

(2) In subsection (1) of this section “the relevant amount” means—

- (a) in relation to a ship not exceeding 5,000 tons, 3 million special drawing rights;

- (b) in relation to a ship exceeding 5,000 tons, 3 million special drawing rights together with an additional 420 special drawing rights for each ton of its tonnage in excess of 5,000 tons up to a maximum amount of 59.7 million special drawing rights;

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but the Secretary of State may by order made by statutory instrument make such amendments of paragraphs (a) and (b) above as appear to him to be appropriate for the purpose of giving effect to the entry into force of any amendment of the limits of liability laid down in paragraph 1 of Article V of the Convention.

(3) Subsection (1) of this section shall not apply in a case where it is proved that the discharge or escape, or (as the case may be) the relevant threat of contamination, resulted from anything done or omitted to be done by the owner either with intent to cause any such damage or cost as is mentioned in section 1 of this Act or recklessly and in the knowledge that any such damage or cost would probably result.

(4) For the purposes of this section a ship's tonnage shall be its gross tonnage calculated in such manner as may be prescribed by an order made by the Secretary of State by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

(5) Any such order shall, so far as it appears to the Secretary of State to be practicable, give effect to the regulations in Annex 1 of the International Convention on Tonnage Measurement of Ships 1969."

5. In section 5 (limitation actions), after subsection (6) add—

“(7) No lien or other right in respect of any ship or other property shall affect the proportions in which any amount is distributed in accordance with subsection (2)(b) of this section.”

6. In section 7 (concurrent liabilities of owners and others), for the words from the beginning to “of that section,” substitute “Where, as a result of any discharge or escape of oil from a ship or as a result of any relevant threat of contamination, the owner of a ship incurs a liability under section 1 of this Act and any other person incurs a liability, otherwise than under that section, for any such damage or cost as is mentioned in subsection (1) or (2) of that section,”.

7. In section 9 (extinguishment of claims), after “escape” insert “, or (as the case may be) in the relevant threat of contamination,”.

8. In section 10 (compulsory insurance against liability for pollution)—

- (a) in subsection (1), omit “persistent”;
- (b) in subsection (3)(c), for the words from “a certificate recognised” onwards substitute “by or under the authority of the government of any Convention country other than the United Kingdom”; and
- (c) omit subsection (4).

9. In section 12 (rights of third parties against insurers)—

- (a) in subsection (1), after “occurring” insert “, or as a result of any relevant threat of contamination arising,”;
- (b) in subsection (2), after “escape” insert “, or (as the case may be) the threat of contamination,”; and
- (c) in subsection (3), for “occurred without the owner’s actual fault or privity” substitute “, or (as the case may be) the threat of contamination, resulted from anything done or omitted to be done by the owner as mentioned in section 4(3) of this Act.”

SCH. 4 10. In section 13 (jurisdiction of United Kingdom courts, etc.), for subsection (2) substitute—

“(2) Where—

- (a) any oil is discharged or escapes from a ship but does not result in any damage caused by contamination in the area of the United Kingdom and no measures are reasonably taken to prevent or minimise such damage in that area, or
- (b) any relevant threat of contamination arises but no measures are reasonably taken to prevent or minimise damage caused by contamination in the area of the United Kingdom resulting from a discharge or escape of oil from the ship,

no court in the United Kingdom shall entertain any action (whether in rem or in personam) to enforce a claim arising from any relevant damage or cost—

- (i) against the owner of the ship, or
- (ii) against any person to whom section 3(1)(ii) of this Act applies, unless any such damage or cost resulted from anything done or omitted to be done as mentioned in that provision.

(2A) In subsection (2) of this section “relevant damage or cost” means—

- (a) in relation to any such discharge or escape as is mentioned in paragraph (a) of that subsection, any damage caused in the area of another Convention country by contamination resulting from the discharge or escape, or any cost incurred in taking measures to prevent or minimise such damage in the area of another Convention country;
- (b) in relation to any such threat of contamination as is mentioned in paragraph (b) of that subsection, any cost incurred in taking measures to prevent or minimise damage caused by contamination in the area of another Convention country resulting from a discharge or escape of oil from the ship; or
- (c) any damage caused by any measures taken as mentioned in paragraph (a) or (b) above;

and section 3(2)(e) of this Act shall have effect for the purposes of subsection (2)(ii) of this section as if it referred to any person taking any such measures as are mentioned in paragraph (a) or (b) above.”

11. In section 14(2) (Government ships), for the words from “Article V” onwards substitute “Article V of the Convention”.

12. In section 15 (liability for cost of preventive measures where section 1 does not apply)—

(a) for subsection (1)(a) substitute—

“(a) after a discharge or escape of oil from a ship, measures are reasonably taken for the purpose of preventing or minimising damage in the area of the United Kingdom which may be caused outside the ship by contamination resulting from the discharge or escape; and”;

(b) after subsection (1) insert—

“(1A) Where—

- (a) after there has arisen a grave and imminent threat of damage being caused outside a ship by contamination resulting from a discharge or escape of oil from the ship, measures are reasonably taken for the purpose of preventing or minimising any such damage in the area of the United Kingdom, but

(b) section 1(2) of this Act does not apply,

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the owner of the ship shall be liable for the cost of the measures, whether or not the person taking them does so for the protection of his interests or in the performance of a duty.

(1B) Where a person is, by virtue of subsection (1) or (1A) of this section, liable for the cost of any measures, he shall also be liable for any damage caused in the area of the United Kingdom by those measures."

13. In section 19(1) (meaning of "the Convention" etc.), for the definition of "the Convention" substitute—

"the Convention" means the International Convention on Civil Liability for Oil Pollution Damage 1984;".

14. For section 20 substitute—

"General interpretation.

20.—(1) In this Act—

"the court" means the High Court in England and Wales, the Court of Session, or the High Court in Northern Ireland;

"damage" includes loss;

"oil" means persistent hydrocarbon mineral oil;

"owner" means the person or persons registered as the owner of the ship or, in the absence of registration, the person or persons owning the ship, except that, in relation to a ship owned by a State which is operated by a person registered as the ship's operator, it means the person registered as its operator;

"relevant threat of contamination" shall be construed in accordance with section 1(2) of this Act;

"ship" means any sea-going vessel or sea-borne craft of any type whatsoever.

(2) In relation to any damage or cost resulting from the discharge or escape of any oil from a ship, or from a relevant threat of contamination, references in this Act to the owner of the ship are references to the owner at the time of the occurrence or first of the occurrences resulting in the discharge or escape or (as the case may be) in the threat of contamination.

(3) References in this Act to the area of any country include the territorial sea of that country and—

(a) in the case of the United Kingdom, any area within the British fishery limits set by or under the Fishery Limits Act 1976; and

(b) in the case of any other Convention country, the exclusive economic zone of that country established in accordance with international law, or, if such a zone has not been established, such area adjacent to the territorial sea of that country and extending not more than 200 nautical miles from the baselines from which the breadth of that sea is measured as may have been determined by the Convention State in question in accordance with international law."

1976 c. 86.

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PART II

AMENDMENTS OF THE MERCHANT SHIPPING ACT 1974

15. For section 1 substitute—

“Interpretation of Part I.

1.—(1) In this Part of this Act—

- (a) “the Liability Convention” means the International Convention on Civil Liability for Oil Pollution Damage 1984;
- (b) “the Fund Convention” means the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage 1984;
- (c) “the Fund” means the International Fund established by the Fund Convention; and
- (d) “Fund Convention country” means a country in respect of which the Fund Convention is in force.

(2) If Her Majesty by Order in Council declares that any State specified in the Order is a party to the Fund Convention in respect of any country so specified, the Order shall, while in force, be conclusive evidence that that State is a party to the Convention in respect of that country.

(3) In this Part of this Act, unless the context otherwise requires—

“the Act of 1971” means the Merchant Shipping (Oil Pollution) Act 1971;

“damage” includes loss;

“discharge or escape”, in relation to pollution damage, means the discharge or escape of oil from the ship;

“guarantor” means any person providing insurance or other financial security to cover the owner’s liability of the kind described in section 10 of the Act of 1971;

“incident” means any occurrence, or series of occurrences having the same origin, resulting in a discharge or escape of oil from a ship or in a relevant threat of contamination;

“oil”, except in sections 2 and 3, means persistent hydrocarbon mineral oil;

“owner” means the person or persons registered as the owner of the ship or, in the absence of registration, the person or persons owning the ship, except that, in relation to a ship owned by a State which is operated by a person registered as the ship’s operator, it means the person registered as its operator;

“pollution damage” means (subject to subsection (4) below)—

(a) damage caused outside a ship by contamination resulting from a discharge or escape of oil from the ship,

(b) the cost of preventive measures, and

(c) further damage caused by preventive measures;

“preventive measures” means any reasonable measures taken by any person to prevent or minimise pollution damage, being measures taken—

(a) after an incident has occurred, or

(b) in the case of an incident consisting of a series of occurrences, after the first of those occurrences;

“relevant threat of contamination” means a grave and imminent threat of damage being caused outside a ship by contamination resulting from a discharge or escape of oil from the ship;

“ship” means any ship (within the meaning of the Act of 1971) to which section 1 of that Act applies.

(4) In this Part of this Act “pollution damage” does not include any damage attributable to any impairment of the environment except to the extent that any such damage consists of—

(a) any loss of profits, or

(b) the cost of any reasonable measures of reinstatement actually taken or to be taken.

(5) For the purposes of this Part of this Act—

(a) references to a discharge or escape of oil from a ship are references to such a discharge or escape wherever it may occur, and whether it is of oil carried in a cargo tank or of oil carried in a bunker fuel tank; and

(b) where more than one discharge or escape results from the same occurrence or from a series of occurrences having the same origin, they shall be treated as one.

(6) References in this Part of this Act to the area of any country include (in addition to its territorial sea)—

(a) in the case of the United Kingdom, any area within the British fishery limits set by or under the Fishery Limits Act 1976; and

(b) in the case of any other Fund Convention country, the exclusive economic zone of that country established in accordance with international law, or, if such a zone has not been established, such area adjacent to the territorial sea of that country and extending not more than 200 nautical miles from the baselines from which the breadth of that sea is measured as may have been determined by the State in question in accordance with international law;

and references to pollution damage in the United Kingdom shall be construed accordingly.”

16. In section 2 (contributions by importers of oil and others), in subsection (7), for paragraph (a) substitute—

“(a) be of such amount as may be determined by the Director of the Fund under Article 12 of the Fund Convention and notified to that person by the Fund;”.

17.—(1) Section 4 (liability of the Fund) shall be amended as follows.

(2) In subsection (1)—

(a) for “causing the damage” substitute “, or the relevant threat of contamination, by reason of which the damage was caused”; and

(b) for “left undone” substitute “omitted to be done”.

SCH. 4 (3) For subsections (8) and (9) substitute—

“(8) If the Fund proves that the pollution damage resulted wholly or partly—

- (a) from anything done or omitted to be done with intent to cause damage by the person who suffered the damage, or
- (b) from the negligence of that person,

the Fund may (subject to subsection (9A) below) be exonerated wholly or partly from its obligation to pay compensation to that person.

(9) Where the liability under section 1 of the Act of 1971 in respect of the pollution damage is limited to any extent by subsection (8) of that section (contributory negligence), the Fund shall (subject to subsection (9A) below) be exonerated to the same extent.

(9A) Subsections (8) and (9) above shall not apply where the pollution damage consists of the cost of preventive measures or any damage caused by such measures.”

(4) Omit subsections (10) to (13).

(5) After section 4 insert—

“Limitation of
Fund’s liability
under s. 4.

4A.—(1) The Fund’s liability under section 4 of this Act shall be subject to the limits imposed by paragraphs 4 and 5 of Article 4 of the Fund Convention (which impose an overall limit on the liabilities of the Fund and the text of which is set out in Schedule 1 to this Act); and in those provisions references to the 1984 Liability Convention are references to the Liability Convention within the meaning of this Part of this Act.

(2) A certificate given by the Director of the Fund stating that sub-paragraph (c) of paragraph 4 of Article 4 of the Fund Convention is applicable to any claim under section 4 of this Act shall be conclusive evidence for the purposes of this Part of this Act that it is so applicable.

(3) For the purpose of giving effect to paragraphs 4 and 5 of Article 4 of the Fund Convention a court giving judgment against the Fund in proceedings under section 4 of this Act shall notify the Fund, and—

- (a) no steps shall be taken to enforce the judgment unless and until the court gives leave to enforce it,
- (b) that leave shall not be given unless and until the Fund notifies the court either that the amount of the claim is not to be reduced under those paragraphs, or that it is to be reduced to a specified amount, and
- (c) in the latter case the judgment shall be enforceable only for the reduced amount.

(4) Any steps taken to obtain payment of an amount or a reduced amount in pursuance of such a judgment as is mentioned in subsection (3) 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—

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(i) the relevant day, namely the day on which the Assembly of the Fund decide the date for the first payment of compensation in respect of the incident, or

(ii) if no sum has been so fixed for the relevant day, the last day before that day for which a sum has been so fixed; and

(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 relevant day, or

(ii) that no sum has been so fixed for the relevant 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 relevant day,

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

(5) The Secretary of State may by order made by statutory instrument make such amendments of this section and of Schedule 1 to this Act as appear to him to be appropriate for the purpose of giving effect to the entry into force of any amendment of the provisions set out in that Schedule.

(6) Any document purporting to be such a certificate as is mentioned in subsection (2) or (4)(b) above shall, in any legal proceedings, be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.”

18. Omit section 5 (indemnification of shipowners).

19. In section 6 (jurisdiction and effect of judgments)—

(a) in subsection (4), omit “or 5”; and

(b) in subsection (5)(a), omit “as amended”.

20. In section 7 (extinguishment of claims)—

(a) in subsection (2), after “escape” insert “, or (as the case may be) in the relevant threat of contamination,”; and

(b) omit subsection (3).

21. In section 8 (subrogation and rights of recourse)—

(a) omit subsection (2); and

(b) for subsection (3) substitute—

“(3) In respect of any sum paid under section 4(1)(a) or (c) of this Act (exclusion or limitation of liability for pollution damage) the Fund shall acquire by subrogation any rights of recourse in respect of the damage in question which the recipient has against any person other than the owner or guarantor.”

22. After section 8 insert—

“Supplementary provisions as to proceedings involving the Fund.

8A.—(1) Any proceedings by or against the Fund may either be instituted by or against the Fund in its own name or be instituted by or against the Director of the Fund as the Fund’s representative.

(2) Evidence of any instrument issued by any organ of the Fund or of any document in the custody of the Fund, or any entry in or extract from such a document, may be given in any legal proceedings by production of a copy certified as a true copy by an official of the Fund; and any document purporting

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to be such a copy shall, in any such proceedings, be received in evidence without proof of the official position or handwriting of the person signing the certificate.”

23. In section 23(2) (construction etc.), omit the words from “, and references” onwards.

24. For Schedule 1 substitute—

“SCHEDULE 1

OVERALL LIMIT ON LIABILITY OF FUND

Article 4 — paragraphs 4 and 5

4. (a) Except as otherwise provided in sub-paragraphs (b) and (c) of this paragraph, the aggregate amount of compensation payable by the Fund under this Article shall in respect of any one incident be limited, so that the total sum of that amount and the amount of compensation actually paid under the 1984 Liability Convention for pollution damage within the scope of application of this Convention as defined in Article 3 shall not exceed 135 million units of account.

(b) Except as otherwise provided in sub-paragraph (c), the aggregate amount of compensation payable by the Fund under this Article for pollution damage resulting from a natural phenomenon of an exceptional, inevitable and irresistible character shall not exceed 135 million units of account.

(c) The maximum amount of compensation referred to in sub-paragraphs (a) and (b) shall be 200 million units of account with respect to any incident occurring during any period when there are three Parties to this Convention in respect of which the combined relevant quantity of contributing oil received by persons in the territories of such Parties, during the preceding calendar year, equalled or exceeded 600 million tons.

(d) Interest accrued on a fund constituted in accordance with Article V, paragraph 3, of the 1984 Liability Convention, if any, shall not be taken into account for the computation of the maximum compensation payable by the Fund under this Article.

(e) The amounts mentioned in this Article shall be converted into national currency on the basis of the value of that currency by reference to the Special Drawing Right on the date of the decision of the Assembly of the Fund as to the first date of payment of compensation.

5. Where the amount of established claims against the Fund exceeds the aggregate amount of compensation payable under paragraph 4, the amount available shall be distributed in such a manner that the proportion between any established claim and the amount of compensation actually recovered by the claimant under this Convention shall be the same for all claimants.”

Section 48.

SCHEDULE 5

MISCELLANEOUS AMENDMENTS OF MERCHANT SHIPPING ACTS

MERCHANT SHIPPING LAW AMENDMENT ACT 1853 (c. 131)

Omit section 13 (power to commute pensions and grant superannuation allowances).

MERCHANT SHIPPING ACT 1894 (c. 60)

1. Omit section 463 (survey of ship alleged to be unseaworthy in proceedings for desertion of seaman).

2. In section 531 (power of lighthouse authority to remove wreck), for subsection (2) substitute—

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“(2) Where a general lighthouse authority have incurred expenses in the exercise of their powers under this section in relation to any vessel, then—

- (a) if the proceeds of any sale made under section 530 of this Act in connection with the exercise of those powers in relation to the vessel are insufficient to reimburse the authority for the full amount of those expenses, the authority may recover the amount of the deficiency from the relevant person, or
- (b) if there is no such sale, the authority may recover the full amount of those expenses from the relevant person.

(3) Any expenses so incurred which are not recovered by the authority either out of the proceeds of any such sale or in accordance with subsection (2) of this section shall be paid out of the General Lighthouse Fund, but section 660 of this Act shall apply to those expenses as if they were expenses of the authority falling within subsection (1) of that section other than establishment expenses.

(4) In this section “the relevant person”, in relation to any vessel, means the owner of the vessel at the time of the sinking, stranding or abandonment of the vessel.”

3. At the end of section 546 (salvage of cargo or wreck) add—

“(2) In this section “tidal water” means—

- (a) any waters within the ebb and flow of the tide at ordinary spring tides; or
- (b) the waters of any dock which is directly, or (by means of one or more other docks) indirectly, connected with any such waters.”;

and the existing provisions of section 546 shall accordingly constitute subsection (1) of that section.

4. In section 634(1)(a) (management of lighthouses etc.), omit “and at Gibraltar”.

5. In section 648 (application and collection of light dues)—

- (a) omit subsection (1); and
- (b) in subsection (2), after “so appointed” insert “or (as the case may be) such of those dues as he is so appointed to collect”.

6. In section 652(4) (inspection of local lighthouses), omit the words from “; and those reports” onwards.

7. For section 658 substitute—

“Expenses of general lighthouse authorities to be paid out of General Lighthouse Fund. 658. Any expenses incurred by the general lighthouse authorities in connection with the discharge of their functions under this Part of this Act shall be paid out of the General Lighthouse Fund.”

8. In section 659 (establishments of general lighthouse authorities)—

- (a) in subsection (1), for “Her Majesty may by Order in Council fix” substitute “the Secretary of State may determine”;
- (b) in subsection (2), for “Her Majesty may by Order in Council fix” substitute “the Secretary of State may determine”; and
- (c) in subsection (3), for “fixed” substitute “determined”.

9. In section 676 (sums payable to Mercantile Marine Fund)—

- (a) in subsection (1)—

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(i) for the words from the beginning to “that fund—” substitute “The following sums (being sums which, in accordance with this subsection as originally enacted, were required to be paid to the former Mercantile Marine Fund) shall be paid into the Consolidated Fund—”,

(ii) omit paragraph (i), and

(iii) for paragraph (l) substitute—

“(l) any other sums which are by virtue of any enactment (as it has effect in accordance with subsection (1A) of this section) required to be paid into the Consolidated Fund in accordance with this section.”; and

(b) after subsection (1) insert—

“(1A) References (however phrased) in any enactment not contained in this section to the payment of sums into, or to the carrying of sums to the account of, the Mercantile Marine Fund shall be construed as references to the payment of sums into, or to the carrying of sums to the account of, the Consolidated Fund in accordance with this section, and connected phrases shall be construed accordingly.”

10. In section 677 (application of Mercantile Marine Fund)—

(a) for the words from the beginning to “the following expenses” substitute “The following expenses and other amounts (being expenses and amounts which, in accordance with this section as originally enacted, were payable out of the former Mercantile Marine Fund) shall be payable out of money provided by Parliament”;

(b) omit paragraph (i);

(c) for paragraph (o) substitute—

“(o) any other amounts which are by virtue of any enactment (as it has effect in accordance with subsection (2) of this section) payable out of money provided by Parliament in accordance with this section.”; and

(d) at the end add—

“(2) References (however phrased) in any enactment not contained in this section or in Part XI of this Act to the charging of amounts on, or to the payment of amounts out of, the Mercantile Marine Fund shall be construed as references to the payment of amounts out of money provided by Parliament in accordance with this section, and connected phrases shall be construed accordingly.”;

and accordingly the existing provisions of section 677, as amended by subparagraphs (a) to (c) above, shall constitute subsection (1) of that section.

11. In section 731 (exemption from rates)—

(a) for “Mercantile Marine Fund” substitute “General Lighthouse Fund”;
and

(b) omit “or by the Board of Trade” and “or of the Board of Trade”.

12. Omit section 744 (application of Act to vessels fishing for whales, etc.).

MERCHANT SHIPPING (MERCANTILE MARINE FUND) ACT 1898 (c. 44)

For section 1 substitute—

“Constitution of
General
Lighthouse Fund.

1.—(1) There shall continue to be a fund called the General Lighthouse Fund.

(2) All light dues and other sums received by or accruing to any of the general lighthouse authorities by virtue of, or in

connection with the discharge of their functions under, Part XI of the Merchant Shipping Act 1894 shall be accounted for and paid to the General Lighthouse Fund. SCH. 5
1894 c.60.

(3) The General Lighthouse Fund shall be applied to the payment of such expenses of the general lighthouse authorities and the Secretary of State as are, by virtue of any enactment, payable out of the Fund.

(4) References to the Mercantile Marine Fund in Part XI and section 679 of the Merchant Shipping Act 1894 shall be construed as references to the General Lighthouse Fund.”

MERCHANT SHIPPING ACT 1906 (c. 48)

Omit section 52 (provisions with respect to mortgages of ships sold to foreigners).

MERCHANT SHIPPING ACT 1970 (c. 36)

1. Omit section 23 (power of seamen to complain to master or proper officer about master, other seamen or conditions).

2. In section 30 (continued or concerted disobedience, neglect of duty etc. by seamen), omit paragraphs (a) and (b).

3. In section 42 (trade disputes involving seamen), omit subsection (2).

4. In section 56 (formal investigation into shipping casualty or incident), for subsections (5) and (6) substitute—

“(5) The wreck commissioner or sheriff may make such awards as he thinks just with regard to the costs of the investigation and of any parties at the investigation, and with regard to the parties by whom those costs are to be paid; and any such award of the wreck commissioner may, on the application of any party named in it, be made an order of the High Court.

(6) Any costs directed by an award to be paid shall be taxable—

(a) in the High Court, or

(b) where the investigation was held in Scotland, by the auditor of the sheriff court in which it was held and in accordance with the table of fees regulating the taxation of solicitors' accounts.

(6A) The wreck commissioner or sheriff shall make a report on the investigation to the Secretary of State.”

5. Omit sections 65 and 66 (custody and disposal of property of deceased seamen).

6. After section 75 insert—

“Inspection and admissibility in evidence of copies of certain documents.

75A.—(1) Where under any enactment a document is open to public inspection when in the custody of the Registrar General of Shipping and Seamen—

(a) there may be supplied for public inspection a copy or other reproduction of the document instead of the original; but

(b) the original shall nevertheless be made available for public inspection if the copy or other reproduction is illegible.

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(2) Where the Registrar General of Shipping and Seamen destroys any document which has been sent to him under or by virtue of any enactment, and keeps a copy or other reproduction of that document, then—

(a) any enactment providing for the document to be admissible in evidence or open to public inspection, and

(b) in the case of a document falling within subsection (1), that subsection,

shall apply to the copy or other reproduction as if it were the original.

1894 c. 60.

(3) For the purposes of this section, and of section 695(2) of the Merchant Shipping Act 1894 in its application to documents in the custody of the Registrar General of Shipping and Seamen, a copy is to be taken to be the copy of a document notwithstanding that it is taken from a copy or other reproduction of the original.”

7. Omit section 89 (return of deserters under reciprocal arrangements).

8. In section 92 (unregistered British ships)—

(a) omit “British”; and

(b) after “employed in them,” insert “or shall so extend in such circumstances as may be so specified, in either case”.

9. In section 96 (non-sea-going ships)—

(a) in subsection (1)—

(i) after “20,” insert “27, 32 (in its application in relation to section 27),”, and

(ii) after “60,” insert “76,”; and

(b) for subsection (2) substitute—

“(2) In relation to ships which are not sea-going ships—

(a) section 32 of this Act shall (in its application in relation to section 27) have effect as if the words “goes to sea in a ship” were omitted and the words “is on board a ship while it is on a voyage or excursion” were inserted after “to give it”; and

(b) section 45 of this Act shall have effect as if for the words “goes to sea or attempts to go to sea” there were substituted the words “goes on a voyage or excursion or attempts to do so” and the words “if in the United Kingdom” were omitted.”

MERCHANT SHIPPING (OIL POLLUTION) ACT 1971 (c. 59)

In section 10(6) (compulsory insurance against liability for pollution), for “£35,000” substitute “£50,000”.

MERCHANT SHIPPING ACT 1979 (c. 39)

1. In section 46(1) (offences by officers of bodies corporate), for the words from “such an” to “of this Act” substitute “an offence under—

(a) section 23(6) or 28(1) of this Act, or

(b) any Order in Council made by virtue of section 20(1) of this Act, or

(c) any regulations made by virtue of section 20(4) or 21(1) of this Act,”.

2. In section 49 (orders and regulations), as amended by section 11(3) of the Safety at Sea Act 1986—

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1986 c. 23.

- (a) in subsection (4A), at the beginning insert “Except where subsection (4B) of this section applies,”; and
- (b) after that subsection insert—

“(4B) Regulations falling within paragraphs (a) to (c) of subsection (4A) of this section, if contained in the same instrument as any regulations requiring to be approved in draft by virtue of that subsection, shall also require to be so approved.”

MERCHANT SHIPPING ACT 1983 (c. 13)

Omit sections 1 to 3 (measurement of small ships for length instead of tonnage).

MERCHANT SHIPPING ACT 1984 (c. 5)

In section 2 (prohibition notices)—

- (a) in subsection (1) (notices in respect of activities which are, or are about to be, carried on and involve a risk of serious personal injury or pollution), for “about”, in both places where it occurs, substitute “likely”; and
- (b) for subsection (4) (notices to have immediate effect only if the risk is imminent) substitute—

“(4) A direction contained in a prohibition notice in pursuance of subsection (3)(d) shall take effect—

- (a) at the end of a period specified in the notice, or
- (b) if the direction is given in pursuance of subsection (3)(d)(ii) or the notice so declares, immediately.”

SCHEDULE 6

Section 57(4).

MINOR AND CONSEQUENTIAL AMENDMENTS

SEA FISHERIES ACT 1868 (c.45)

For section 26 substitute—

“Registered fishing boats and foreign fishing boats within British waters to have official papers.

26.—(1) The master of every sea-fishing boat which is registered under Part II of the Merchant Shipping Act 1988 shall (whether his boat is within British waters or not) have on board the certificate of registration issued in pursuance of that Part of that Act.

(2) The master of every foreign sea-fishing boat within British waters shall have on board official papers evidencing its nationality.

(3) If any person, without reasonable excuse (the proof of which lies on him), contravenes subsection (1) or (2) of this section, he shall be liable on summary conviction to a fine not exceeding the second level on the standard scale; and where a fine is imposed under this subsection on the master of a foreign sea-fishing boat the court may order the boat to be detained for a period not exceeding three months from the date of the conviction or until the fine is paid (whichever period is the shorter).

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1968 c. 77.

(4) Section 8(4) of the Sea Fisheries Act 1968 (power of British sea-fishery officer to take fishing boat to nearest port and detain it there) shall apply in relation to a contravention of subsection (1) or (2) of this section as it applies in relation to such a contravention as is mentioned in that provision.

(5) In this section—

“British waters” means waters within the seaward limits of the territorial sea adjacent to the United Kingdom, the Channel Islands and the Isle of Man;

“foreign sea-fishing boat” means a sea-fishing boat which—

(a) is not registered in the United Kingdom, the Channel Islands or the Isle of Man, and

(b) is not excluded from registration by regulations under section 13 of the Merchant Shipping Act 1988, and

(c) is not wholly owned by persons qualified to be owners of British ships for the purposes of Part I of the Merchant Shipping Act 1894;

1894 c. 60.

“master” includes, in relation to any sea-fishing boat, a person for the time being in command or charge of the boat.”

MERCHANT SHIPPING ACT 1894 (c.60)

1. In section 459 (power to detain unsafe ships, and procedure for detention)—

(a) in subsection (1), for the words from “the defective condition” to “improper loading” substitute “any of the matters mentioned in subsection (1A) of this section”;

(b) after that subsection insert—

“(1A) The matters referred to in subsection (1) of this section are—

(a) the condition, or the unsuitability for its purpose, of—

(i) the ship or its machinery or equipment, or

(ii) any part of the ship or its machinery or equipment;

(b) undermanning;

(c) overloading or unsafe or improper loading;

(d) any other matter relevant to the safety of the ship;

and the reference in that subsection to proceeding to sea shall, in a case where the service for which the ship is intended consists of going on voyages or excursions that do not involve going to sea, be construed as a reference to going on such a voyage or excursion.”; and

(c) in subsection (5), for “British register being subsequently closed” substitute “subsequently ceasing to be a British ship”.

2. In section 462 (application to foreign ships of provisions as to detention), for the words from “by reason of” (where first occurring) to “the provisions” substitute “by reason of any of the matters mentioned in section 459(1A) of this Act, the provisions”.

3. In section 692 (enforcing detention of ship), at the end add—

“(5) Any reference in this section to proceeding to sea includes a reference to going on a voyage or excursion that does not involve going to sea, and references to sending or taking to sea shall be construed accordingly.”

MERCHANT SHIPPING ACT 1906 (c.48)

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Omit section 51 (power of Commissioners of Customs and Excise to inquire into the title of a registered ship to be registered).

MERCHANT SHIPPING (AMENDMENT) ACT 1920 (c.2)

In section 1 (amendment of s.659 of the 1894 Act)—

- (a) for the words from “His Majesty” to “fix” substitute “the Secretary of State under section 659 of the Merchant Shipping Act 1894 to determine”; and 1894 c. 60.
- (b) for “fixing” and “fixed” substitute “determining” and “determined” respectively.

CONTRACTS OF EMPLOYMENT AND REDUNDANCY PAYMENTS ACT
(NORTHERN IRELAND) 1965 (c.19)

In section 6(1)(c) (excluded categories of employees), for the words from “required” to “Act” substitute “registered under Part II of the Merchant Shipping Act 1988”.

MERCHANT SHIPPING ACT 1965 (c.47)

In section 1(4) (tonnage regulations), for the words from “section 83” to “the Exchequer” substitute “sections 83 and 676 of the principal Act as require the payment of fees into the Consolidated Fund”.

SEA FISH (CONSERVATION) ACT 1967 (c.84)

In section 1(9) (size limits, etc. for fish), for the words from “exempted” to “that Act)” substitute “excluded from registration by regulations under section 13 of the Merchant Shipping Act 1988 or owned wholly by a person who is (within the meaning of Part I of the Merchant Shipping Act 1894)”.

SEA FISHERIES ACT 1968 (c.77)

In section 19(1) (interpretation), in the definition of “British fishing boat”, for the words from “exempted from” to “1894” (where first occurring) substitute “excluded from registration by regulations under section 13 of the Merchant Shipping Act 1988”, and for “so exempted” substitute “so excluded”.

FISHING VESSELS (SAFETY PROVISIONS) ACT 1970 (c.27)

In section 9(1) (interpretation), for the definition of “fishing vessel” substitute—

““fishing vessel” means a fishing vessel within the meaning of Part II of the Merchant Shipping Act 1988;”.

MERCHANT SHIPPING ACT 1970 (c.36)

1. In section 33 (defence of drug taken for medical purposes), after “27” insert “(2)”.

2. In section 56 (formal investigation into shipping casualty)—

(a) for subsection (1) substitute—

“(1) Where any accident has occurred, the Secretary of State may (whether or not an investigation into it has been carried out under section 33 of the Merchant Shipping Act 1988) cause a formal investigation into the accident to be held—

SCH. 6

(a) if in England, Wales or Northern Ireland, by a wreck commissioner, and

(b) if in Scotland, by the sheriff;

and in this section “accident” means any accident to which regulations under that section apply or any incident or situation to which any such regulations apply by virtue of subsection (5) of that section.

(1A) A wreck commissioner or sheriff holding a formal investigation shall conduct it in accordance with rules under section 58(1) of this Act; and those rules shall require the assistance of one or more assessors and, if any question as to the cancellation or suspension of an officer’s certificate is likely, the assistance of not less than two assessors.”; and

(b) in subsection (4), for “casualty” substitute “accident”.

3. In section 58(1) (rules as to inquiries etc.), for “55” substitute “56”.

4. In section 67 (application of sections 62 to 66 to masters), for “66” substitute “64”.

5. In section 95 (fishing vessels)—

(a) in subsection (1), for “sections 6 and 30(a) and (b)” substitute “section 6”; and

(b) for subsection (6) substitute—

“(6) In this Act “fishing vessel” means a fishing vessel within the meaning of Part II of the Merchant Shipping Act 1988.”

FISHERY LIMITS ACT 1976 (c.86)

In section 8 (interpretation), in the definition of “foreign fishing boat”, for paragraphs (b) and (c) substitute—

“(b) excluded from registration by regulations under section 13 of the Merchant Shipping Act 1988; or

(c) owned wholly by one or more qualified persons or companies within the meaning of section 14 of the Merchant Shipping Act 1988.”.

EMPLOYMENT PROTECTION (CONSOLIDATION) ACT 1978 (c.44)

In section 144(1)(b) (mariners), for the words from “required to be” to “1894” substitute “registered under Part II of the Merchant Shipping Act 1988”.

CUSTOMS AND EXCISE MANAGEMENT ACT 1979 (c.2)

In section 81(7) (power to regulate small craft), for the words from “fishing boat” (where first occurring) to “1894” substitute “fishing vessel registered under Part II of the Merchant Shipping Act 1988”.

MERCHANT SHIPPING ACT 1979 (c.39)

1. In section 20(3)(a) (prevention of pollution from ships etc.), for “55” substitute “56”.

2. In section 28(7)(b) (supplementary provisions about inspectors), for “sections 55(2) and” substitute “section”.

3. In section 47(2) (power to extend Act to certain countries, etc.) for “to 44” substitute “, 43”.

Section 57 (5).

SCHEDULE 7

REPEALS

Chapter	Short title	Extent of repeal
1853 c. 131.	Merchant Shipping Law Amendment Act 1853.	Section 13.
1886 c. 53.	Sea Fishing Boats (Scotland) Act 1886.	The whole Act.
1894 c. 60.	Merchant Shipping Act 1894.	<p>Sections 1 to 3.</p> <p>Section 4(2).</p> <p>In section 6, the word "British".</p> <p>In section 7, in subsection (1) the word "British", and subsection (2).</p> <p>Section 9(iii).</p> <p>In section 11, the word "book".</p> <p>In section 13, the word "British".</p> <p>Section 19.</p> <p>In section 23, the words "or to the governor of a British possession" and "or the governor".</p> <p>In section 26, the word "book", wherever occurring.</p> <p>In section 27, subsection (1)(b), and in subsection (2) the word "book".</p> <p>In sections 32 and 33, the word "book", wherever occurring.</p> <p>In section 38, in subsection (1) the word "marriage," and in subsection (2) the word "book".</p> <p>Sections 39 to 46.</p> <p>In sections 47(4) and (5) and 48(1), the word "book", wherever occurring.</p> <p>Sections 54 and 55.</p> <p>In sections 56 and 57, the word "book", wherever occurring.</p> <p>Section 61(1).</p> <p>In section 62, the words " , if taken in any part of the United Kingdom," and the words from "if taken in a British possession" onwards.</p>

Chapter	Short title	Extent of repeal
1894 c. 60. —cont.	Merchant Shipping Act 1894. —cont.	<p>In section 63, in subsection (1) the words “in the United Kingdom” and the words from “and every” to “Seamen”, and in subsection (2) the words “at a port in the United Kingdom”.</p> <p>In section 64(2), paragraph (a), and in paragraph (d) the words “in respect of a British ship”.</p> <p>In section 65, in subsection (1) the words from “, and also” to “schedule”, in subsections (2) and (4) the word “book”, wherever occurring, and subsection (3).</p> <p>Section 71.</p> <p>In section 73, in subsection (1) the words “or boats” and “or boat”, in subsection (2) the words “or boat” (where last occurring), and in subsection (3) the words “or boat”.</p> <p>In section 76(1), the words from “and elsewhere” to “dominions”.</p> <p>Section 85.</p> <p>Sections 88 to 91.</p> <p>Sections 370 and 372 to 374.</p> <p>Section 463.</p> <p>In section 634(1)(a), the words “and at Gibraltar”.</p> <p>Section 648(1).</p> <p>In section 652(4), the words from “; and those reports” onwards.</p> <p>Section 663.</p> <p>In section 676(1), paragraph (i).</p> <p>In section 677, paragraph (i).</p> <p>Section 695(2)(a).</p> <p>Section 728(a).</p> <p>In section 731, the words “or by the Board of Trade” and “or of the Board of Trade”.</p> <p>Section 744.</p> <p>In Schedule 1, Part I, and in Part II the words “Certificate of mortgage”, “Certificate of sale” and “Revocation of certificate of sale or mortgage”.</p>

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Chapter	Short title	Extent of repeal
1897 c. 59.	Merchant Shipping Act 1897.	In section 1, in subsection (1) the words from "as if" (where first occurring) to "machinery", and", and subsection (2).
1898 c. 44.	Merchant Shipping (Mercantile Marine Fund) Act 1898.	Section 2(4).
1906 c. 48.	Merchant Shipping Act 1906.	In section 2, paragraph (1) and the "(2)" immediately following it. Sections 51 and 52. Section 83.
1923 c. 4.	Fees (Increase) Act 1923.	Section 2(1).
1950 c. 9.	Merchant Shipping Act 1950.	Section 4.
1965 c. 47.	Merchant Shipping Act 1965.	Section 1(2)(c). In Schedule 1, the entry relating to section 85 of the 1894 Act.
1968 c. 13.	National Loans Act 1968.	In Schedule 4, in paragraph 2, the words from "Section 663" onwards.
1968 c. 77.	Sea Fisheries Act 1968.	In Schedule 1, paragraphs 23, 32 and 33.
1970 c. 36.	Merchant Shipping Act 1970.	Section 23. In section 30, paragraphs (a) and (b). In section 32, "30(b)". Section 42(2). In sections 52(3) and 54(2), the words from "and the persons" onwards. Section 55. Sections 65 and 66. Section 73. Section 75(1)(c). Section 89. In section 92, the word "British". In section 95(1), "89".
1971 c. 59.	Merchant Shipping (Oil Pollution) Act 1971.	In section 10, in subsection (1) the word "persistent", and subsection (4). In section 15(1), the word "persistent".
1974 c. 43.	Merchant Shipping Act 1974.	Section 4(10) to (13). Section 5. In section 6, in subsection (4), the words "or 5," and in subsection (5)(a) the words "as amended". Section 7(3).

Chapter	Short title	Extent of repeal
1974 c. 43. —cont.	Merchant Shipping Act 1974. —cont.	Section 8(2). In section 23(2), the words from “, and references” onwards.
1974 c. 52.	Trade Union and Labour Relations Act 1974.	In Schedule 3, in paragraph 14 the words from “in subsection (2)” to “1974” and”.
1976 c. 86.	Fishery Limits Act 1976.	Section 2(8)(b). In Schedule 2, paragraph 3.
1979 c. 39.	Merchant Shipping Act 1979.	In section 28(7)(a), “463(5),”. Section 31. Section 32(2) and (3). In section 37, subsection (4), and in subsection (6) the word “British”. In section 38, subsections (1) and (3) and, in subsection (4), paragraphs (a) and (b) and (d) to (g). In section 40, in subsection (1) paragraphs (a), (c) and (d), and subsection (2). Section 44. Section 45(1). In Schedule 6— (a) in Part I, the entries relating to section 373(4) of the 1894 Act and section 89(4) of the Merchant Shipping Act 1970, (b) in Part II, the entries relating to section 44(11) of the 1894 Act and section 23(3) of the Merchant Shipping Act 1970, (c) in Part IV, the entry relating to section 73(2) of that Act, (d) in Part VI, paragraph 1, and (e) in Part VII, paragraph 19.
1983 c. 8.	British Fishing Boats Act 1983.	Section 11(2).
1983 c. 13.	Merchant Shipping Act 1983.	Sections 1 to 4. In section 5(5), the word “book”. Section 6.

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Chapter	Short title	Extent of repeal
1983 c. 13. — <i>cont.</i>	Merchant Shipping Act 1983. — <i>cont.</i>	In section 9(1), the words “any registered ship measured for length or”.
1984 c. 5.	Merchant Shipping Act 1984.	Section 12(2).
1984 c. 26.	Inshore Fishing (Scotland) Act 1984.	In Schedule 1, the entry relating to the 1894 Act.

Section 58(4).

SCHEDULE 8

TRANSITIONAL PROVISIONS AND SAVINGS

1. The amendments and repeals made by this Act do not—

- (a) (unless an Order in Council under section 56 of this Act, or under any other enactment, so provides) extend to any country outside the United Kingdom; or
- (b) affect any Order in Council providing for the extension of any enactments to any such country.

2.—(1) This paragraph shall have effect in relation to any relevant overseas territory to which the provisions of sections 2 to 7 of this Act have not been extended by an Order in Council under section 56.

(2) Where—

- (a) by virtue of section 2(2) of the 1894 Act (obligation to register British ship) as in force in any such territory, any ship is (apart from this paragraph) a British ship that is not to be recognised as such, but
- (b) the ship is a British ship by virtue of section 2 of this Act,

the ship shall nevertheless be recognised as a British ship for the purposes of the Merchant Shipping Acts as in force in that territory.

(3) Where—

- (a) by virtue of section 2(2) of the 1894 Act as in force in any such territory, any ship is a British ship that is not to be recognised as such, and
- (b) the ship is not a British ship by virtue of section 2 of this Act,

the ship shall, notwithstanding section 2(3) of that Act (as so in force), not be liable to detention under that provision.

(4) Where—

- (a) any ship is not wholly owned by such persons as are mentioned in section 1 of the 1894 Act (qualification for owning British ships) as in force in any such territory, but
- (b) the ship is a British ship by virtue of section 2 of this Act,

the ship shall nevertheless be recognised as a British ship for the purposes of the Merchant Shipping Acts as in force in that territory, and the following provisions of the 1894 Act (as so in force), namely—

- (i) section 69 (penalty for unduly assuming British character), and
- (ii) section 71 (penalty for acquiring ownership if unqualified),

shall not apply in relation to the ship.

3. If the Secretary of State by order made by statutory instrument so provides, no registration of a fishing boat shall be effected—

- (a) under Part IV of the 1894 Act, or

(b) under the Sea Fishing Boats (Scotland) Act 1886,
during such period not exceeding one month and ending with the commencement
of Part II of this Act as is specified in the order.

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1886 c. 53.

4. Section 4(6) of this Act shall not have effect at any time before the commencement of Part II of this Act, and shall not affect the operation of section 13(3) of this Act in relation to fishing vessels which are registered under Part I of the 1894 Act immediately before the commencement of Part II of this Act.

5. In section 72(1) of the 1894 Act as amended by Schedule 1 to this Act (liabilities of unregistered ships), the reference to Part I of that Act shall, in relation to any time before the end of the period referred to in section 13(3)(b) of this Act, be construed as including a reference to Part IV of that Act.

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