

SCHEDULES

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).

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.

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- (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

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- (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.