

SCHEDULES

SCHEDULE 5

Section 48.

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—
 - “(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”.

Status: This is the original version (as it was originally enacted).

- 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—

“658 Expenses of general lighthouse authorities to be paid out of General Lighthouse Fund

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)—
 - (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 (I) substitute—
 - “(I) 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”;

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- (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—

“1 Constitution of General Lighthouse Fund

- (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.
- (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).

Status: This is the original version (as it was originally enacted).

- 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—

“75A Inspection and admissibility in evidence of copies of certain documents

- (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.
- (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.
- (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)—

Status: This is the original version (as it was originally enacted).

- (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—
 - (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)—

Status: This is the original version (as it was originally enacted).

- (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.”