

1988 No. 1911

**MERCHANT SHIPPING**

**The Merchant Shipping (Transitional Provisions – Fishing Vessels) Order 1988**

*Made - - - - - 2nd November 1988*

*Coming into force*

*article 4 on*

*17th November 1988*

*all other articles on*

*1st December 1988*

Whereas it appears to the Secretary of State for Transport that in connection with the coming into force of Part II of the Merchant Shipping Act 1988 (a) (hereinafter called “the principal Act”) it is necessary or expedient to make the transitional, incidental, supplemental and consequential provisions hereinafter appearing;

And whereas the said Part II comes into force on 1st December 1988 (“the commencement date”);

Now the Secretary of State for Transport, in exercise of powers conferred on him by section 58(4) of and paragraph 3 of Schedule 8 to the principal Act and of all other powers enabling him in that behalf, hereby orders as follows:

1. This Order may be cited as the Merchant Shipping (Transitional Provisions – Fishing Vessels) Order 1988 and shall come into force on 1st December 1988 except for article 4, which shall come into force on 17th November 1988.

2. Any reference, however worded, in a share agreement, mortgage, bill of sale or other document relating to a fishing vessel, to a share in a fishing vessel which, at the time the document was created, was in accordance with the law then applying divided into 16 shares, shall on and after the commencement date be construed as a reference to  $\frac{1}{16}$ th shares in that vessel.

3. Any reference, however worded, in any mortgage or other document by which a fishing vessel was made security for the repayment of a loan or discharge of any other obligation, to registration of the vessel under Part I or Part IV of the Merchant Shipping Act 1894(b) (hereinafter called “the 1894 Act”) shall on and after the commencement date be construed as follows:–

- (a) if it is a reference to registration under Part I of that Act it shall be construed as a reference to registration of the vessel under Part II of the principal Act as a vessel to which the provisions of the said Part II relating to transfers by bill of sale and the registration of mortgages apply; and
- (b) if it is a reference to registration under Part IV of the 1894 Act it shall be construed as a reference to registration under Part II of the principal Act as a vessel to which those provisions do not apply.

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(a) 1988 c.12.

(b) 1894 c.60.

4. 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(a)  
during the period 17th–30th November 1988 inclusive.

5. Notwithstanding that Part I of the 1894 Act remains in force and that existing registrations of fishing vessels thereunder continue in force after the commencement date to the extent provided by section 13(3) of the principal Act, no transfer of a fishing vessel or share therein, and no mortgage on a fishing vessel, or transfer or discharge of such a mortgage shall, on or after the commencement date, be registered in any register kept under the said Part I, nor shall any entry relating to a fishing vessel be made in any such register except entries made pursuant to section 21 of the said Part I (closure of the register).

Signed by authority of the Secretary of State

2nd November 1988

*Michael Portillo*

Minister of State, Department of Transport

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#### EXPLANATORY NOTE

*(This note is not part of the Order)*

Part II of the Merchant Shipping Act 1988, which establishes a new system for the registration of fishing vessels, comes into force on 1st December 1988.

This Order specifies how certain references in documents made under the law in force before commencement of the 1988 Act are to be construed after commencement. References in documents made before commencement to  $\frac{1}{16}$ th shares in fishing vessels are, after commencement, to be construed as references to  $\frac{1}{64}$ th shares; and references in mortgages and similar documents to registration of fishing vessels under Part I or Part IV of the Merchant Shipping Act 1894 ("the 1894 Act") are to be construed as references to registration under Part II of the 1988 Act.

The Order provides that no fishing vessels may be registered under the law in force before commencement during the period of 14 days immediately preceding commencement.

The Order also provides that no entries relating to fishing vessels are to be made in registers of ships kept under Part I of the 1894 Act except entries closing the registry.

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(a) 1886 c.53.

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