

1989 No. 1991

MERCHANT SHIPPING

SHIPS AND SHIPOWNERS

**The Merchant Shipping (Ministry of Defence Ships) Order
1989**

<i>Made - - - -</i>	<i>1st November 1989</i>
<i>Laid before Parliament</i>	<i>8th November 1989</i>
<i>Coming into force</i>	<i>30th November 1989</i>

At the Court at Buckingham Palace, the 1st day of November 1989

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by section 738 of the Merchant Shipping Act 1894(a), section 80 of the Merchant Shipping Act 1906(b), and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

Citation, commencement and revocation

1. This Order may be cited as the Merchant Shipping (Ministry of Defence Ships) Order 1989 and shall come into force on 30th November 1989.
2. The 1911 Order and article 3(1) of the Merchant Shipping (Registration of Government Ships) Order 1978(c) are hereby revoked.

Interpretation

3. In this Order—
 - “Ministry of Defence ship” means a Government ship in the service of the Ministry of Defence;
 - “the 1911 Order” means an Order in Council made on 22nd March 1911(d) making regulations as to registration as British ships of vessels in the service of the Ministry of Defence;
 - “the 1894 Act” means the Merchant Shipping Act 1894;
 - “Secretary of State” means the Secretary of State for Defence.

Regulations for Registry

4. An application for registry of a Ministry of Defence ship shall be made in writing under the hand of an Under Secretary of State of the Ministry of Defence to a registrar of

(a) 1894 c.60.

(b) 1906 c.48.

(c) S.I. 1978/1533.

(d) S.R.&O. 1911/338, amended by S.I. 1964/489, S.I. 1978/1533.

British ships. Such application shall contain the following particulars—

- (a) a statement of the name and description of the ship;
- (b) a statement of the time when and the place where the ship was built; or, if the ship was foreign built and the time and place of building are unknown, a statement to that effect and of her foreign name;
- (c) a statement of the nature of the title to the said ship, whether by original construction by or for the Ministry of Defence, or by purchase, capture, condemnation, or otherwise, and a list of the documents of title, if any, in case she was not originally constructed by or for the Ministry of Defence.

5. The registrar, on receiving such an application, shall enter in the register the following particulars—

- (a) a record of the ship as belonging to the Secretary of State;
- (b) the name of the port to which the ship belongs;
- (c) the particulars stated in the application for registry;
- (d) the details comprised in the surveyor's certificate.

6. On the registry of a Ministry of Defence ship the registrar shall retain in his possession the surveyor's certificate and the application for registry and any documents of title mentioned in such application.

7. The Secretary of State shall be deemed to be the managing owner of a Ministry of Defence ship within the meaning of section 59 of the 1894 Act and shall be registered as provided by subsection (1) of that section.

Exceptions and modifications to the Merchant Shipping Acts

8. The powers conferred by sections 530 to 534 of the 1894 Act (removal of wrecks) shall not be exercised in the case of Ministry of Defence ships without the consent of the Secretary of State except in regard to lights, buoys, and other matters or things necessary for the immediate protection of traffic.

9. Nothing in this Order shall be construed as excluding Ministry of Defence ships from the category of ships belonging to Her Majesty within the meaning of sections 557 to 564 of the 1894 Act (salvage by Her Majesty's ships).

10. Where any provision of the Merchant Shipping Acts 1894 to 1988 which, by virtue of the Merchant Shipping Act 1906 and this Order, is applicable to Ministry of Defence ships, imposes any duty or liability or confers any right or power upon or contemplates any act being performed by the owner of a ship, such duty, liability, right or power, shall, subject always to the other provisions of this Order, be carried out, borne or exercised by the Secretary of State.

11. Nothing contained in the Merchant Shipping Acts 1894 to 1988 providing that an owner of a ship shall be guilty of an offence or shall be subject to any penalty, or providing for the forfeiture, detention, distress or pouncing and sale of a ship or of anything on or belonging to a ship, shall, so far as it provides, have any application to a Ministry of Defence ship or anything on or belonging to such a ship.

12. Notwithstanding anything contained in the Merchant Shipping Acts 1894 to 1988 and this Order the master of, or any seaman employed on, a Ministry of Defence ship shall not be liable for any penalty, debt or damages under any provision of the Merchant Shipping Acts 1894 to 1988 in respect of anything done or omitted in pursuance of an order of the Secretary of State or of any member of Her Majesty's forces.

13. Nothing in the Merchant Shipping Acts 1894 to 1988 or this Order shall render the master or any other persons in charge of or on board a Ministry of Defence ship liable for displaying, or not displaying, any signal authorised by any regulations of the Secretary of State.

14. The provisions of the Merchant Shipping Acts 1894 to 1988, other than those specified in the Schedule to this Order, shall not apply to a Ministry of Defence ship registered in pursuance of the provisions of this Order.

15. A Ministry of Defence ship registered in pursuance of the provisions of the 1911 Order shall be deemed to be registered pursuant to the provisions of this Order and accordingly article 14 shall apply to such ship.

G. I. de Deney
Clerk of the Privy Council

SCHEDULE

Article 14

The provisions of the Merchant Shipping Acts 1894 to 1988 which apply to Ministry of Defence ships—

- 1.** The Merchant Shipping Act 1894(**a**):
Sections 4 to 6, 7(1) (2) and (4), 13 to 15, 17, 18, 20 to 22, 24 to 26, 47, 51, 53, 59(1), 60, 61(2), 63 to 65 and 67.
- 2.** The Merchant Shipping (International Labour Conventions) Act 1925(**b**):
The whole Act.
- 3.** The Merchant Shipping Act 1970(**c**):
Sections 1 to 5, 7 to 18, 27, 30, 32, 33, 39 to 41, 42(1), 43, 44, 46 to 48, 51 to 54, 56 to 64, 67 to 72, 75, 77 to 79, 87 and 97.
- 4.** The Merchant Shipping Act 1979(**d**):
Sections 17, 18, 27, 28 and 35(2).
- 5.** The Merchant Shipping Act 1988(**e**):
Sections 33, 44 and 45.

(a) 1894 c.60.

(b) 1925 c.42.

(c) 1970 c.36.

(d) 1979 c.39.

(e) 1988 c.12.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision for the registration under the Merchant Shipping Acts 1894–1988 of ships belonging to the Secretary of State for Defence and in the service of the Ministry of Defence, and for certain modifications and exceptions in the application of those Acts to such ships.

By section 47 of the Merchant Shipping Act 1988, this Order and the provisions of the Merchant Shipping Acts applied by it (both as modified by that section) apply also to United Kingdom registered ships in the service of the Ministry of Defence by reason of a charter by demise to the Crown.

The Order does not apply to ships forming part of Her Majesty's Navy.

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