

SCHEDULES

SCHEDULE 4

Section 8(3)

PRE-CONSOLIDATION AMENDMENTS

Preliminary

- 1 (1) In this Schedule—
- “the 1894 Act” means the Merchant Shipping Act 1894, and so for any other Merchant Shipping Act of a specified year;
 - “the Merchant Shipping Acts” means the Merchant Shipping Acts 1894 to 1988 and this Act and also the Maritime Conventions Act 1911 and the Prevention of Oil Pollution Act 1971 except sections 2(1) and 3 (and so much of it as relates to them);
 - “the Oil Pollution Act” means the Prevention of Oil Pollution Act 1971; and
 - “United Kingdom ship” means a ship registered in the United Kingdom under this Act.
- (2) Any power under any provision in this Schedule to make regulations or orders shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

Terminology and construction

- 2 (1) Except as mentioned in sub-paragraph (2) below, in the Merchant Shipping Acts—
- (a) “ship” includes every description of vessel used in navigation;
 - (b) any reference to a vessel, except in the expression “fishing vessel”, shall be construed as a reference to a ship (as so defined);
 - (c) “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; and for the purposes of this definition “sea fish” includes shellfish, salmon and migratory trout (as defined by section 44 of the Fisheries Act 1981);
 - (d) 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;
 - (e) “foreign”, in relation to a ship, means that it is neither a United Kingdom ship nor a small ship (as defined in paragraph 1(2) of Schedule 3 to this Act) which is a British ship;
 - (f) “master”, in relation to a fishing vessel, means the skipper; and
 - (g) any reference to “home trade ships” shall be construed as a reference to ships employed in trading or going between places in the limited trading area,

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as defined for the time being in regulations; and similarly as respects any reference to a “home trade passenger ship”;

and any enactment in which “ship” or “vessel” has the same meaning as in the Merchant Shipping Acts shall be construed in accordance with (a) and (b) above.

- (2) Sub-paragraph (1)(a) and (b) above do not apply in relation to Part IX of the 1894 Act and sections 16 and 17 of the 1974 Act.
 - (3) In the Merchant Shipping Acts—
 - (a) “United Kingdom waters” means the sea or other waters within the seaward limits of the territorial sea of the United Kingdom;
 - (b) “national waters”, in relation to the United Kingdom, means United Kingdom waters landward of the baselines for measuring the breadth of its territorial sea;

and in section 544 of the 1894 Act the reference to British waters shall be construed as a reference to United Kingdom waters.
 - (4) In the Merchant Shipping Acts any reference to, or to any of, the tackle, equipments, furniture or apparel of a ship shall be construed as a reference to the equipment of a ship.
 - (5) In the Merchant Shipping Acts any reference to carriages, wagons or carts shall be construed as a reference to vehicles.
- 3 Without prejudice to the effect of any provision for the construction of any Act (“the Act in question”) included in the Merchant Shipping Acts 1894 to 1988 as one with the previous Acts so included, references in the Acts so previously included to the Merchant Shipping Acts shall be construed as including references to the Act in question.

Extent and application: generalised provisions

- 4 (1) Her Majesty may by Order in Council direct that any provision of the Merchant Shipping Acts and instruments made under them shall, with such exceptions, adaptations and modifications (if any) as may be specified in the Order, extend to any relevant British possession.
- (2) Her Majesty may, in relation to any relevant British possession, by Order in Council direct that, with such exceptions, adaptations and modifications (if any) as may be specified in the Order, any of the provisions of those Acts shall have effect as if references in them to the United Kingdom included a reference to that possession.
- (3) An Order in Council under this paragraph may make such transitional, incidental or supplementary provision as appears to Her Majesty to be necessary or expedient.
- (4) Without prejudice to the generality of sub-paragraph (3) above, an Order in Council under this paragraph may, in its application to any relevant British possession, provide for such authority in that possession as is specified in the Order to furnish the Secretary of State or the registrar with such information with respect to the registration of ships in that territory under its law 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.
- (5) In this paragraph “relevant British possession” means—

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- (a) the Isle of Man;
 - (b) any of the Channel Islands; and
 - (c) any colony.
- 5 (1) The Secretary of State may make regulations specifying any description of non-United Kingdom ships and directing that such of the provisions of the Merchant Shipping Acts and of instruments under those Acts as may be specified in the regulations—
- (a) shall extend to non-United Kingdom ships of that description and to masters and seamen employed in them, or
 - (b) shall so extend in such circumstances as may be so specified, with such modifications (if any) as may be so specified.
- (2) Regulations under this paragraph may contain such transitional, supplementary and consequential provisions as appear to the Secretary of State to be necessary or expedient.
- (3) In this paragraph “non-United Kingdom ships” means ships which are not registered in the United Kingdom.

Extent of application of Acts

- 6 (1) The following provisions of the Merchant Shipping Acts (which expressly or by implication apply to or in relation to British ships), namely—
- (a) in the 1894 Act—
 - section 458 (shipowner’s obligation as to seaworthiness);
 - section 544 (saving life outside United Kingdom waters);
 - section 689 (returns in cases of offences abroad);
 - section 723 (powers to require production of ship’s documents, etc.);
 - and
 - (b) section 18 of the 1979 Act (exclusion of liability),
- shall apply only to United Kingdom ships.
- (2) The following provisions of those Acts (duties of masters of ships to give assistance at sea), namely—
- (a) section 422 of the 1894 Act;
 - (b) section 6 of the Maritime Conventions Act 1911; and
 - (c) section 22 of the 1949 Act,
- shall apply in relation to United Kingdom ships and to foreign ships when in United Kingdom waters.
- (3) Sections 16 and 17 of the 1974 Act (regulations for submersible and supporting apparatus) shall have effect with the omission, in section 16(1)(b), of the words following “United Kingdom”.
- (4) Sections 21 and 22 of the 1979 Act (safety regulations) shall have effect with the substitution in section 21(1)(c), for the reference to a port in the United Kingdom, of a reference to United Kingdom national waters.

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Masters and seamen

- 7 In section 458 of the 1894 Act (obligation of shipowner to crew with respect to seaworthiness)—
- (a) in subsection (1), for the words “contract of service, express or implied” substitute “contract of employment”; and
 - (b) in subsection (2), omit paragraph (b).
- 8 In the 1970 Act omit the following provisions (for which corresponding provision is made by other enactments), namely, sections 6 (control of employment agencies), 19 (safety regulations) and 87 (uniform).
- 9 In section 11(1) of the 1970 Act (restriction on assignment of and charges upon wages), after paragraph (a) insert—
- “(aa) the wages shall not, in Scotland, be subject to any diligence other than those provided for in section 46(1) of the Debtors (Scotland) Act 1987;”.
- 10 In section 17 of the 1970 Act (claims against seamen’s wages for maintenance, etc), in subsection (10), omit “Ministry of Home Affairs for Northern Ireland” and substitute “that Department” for “either of those Ministries” and, in subsection (11), omit “the Ministry of Home Affairs for Northern Ireland or”.

Safety

- 11 (1) Omit sections 446 to 448 of the 1894 Act (provisions about dangerous goods substantially superseded by safety regulations).
- (2) Section 449 shall be amended as follows—
- (a) in subsection (1), for the words “as aforesaid” (in both places) substitute “as required by safety regulations”;
 - (b) in subsection (2), for the words “this Act” substitute “safety regulations”; and
 - (c) after subsection (2) insert—
- “(3) In this section—
- “dangerous goods” means goods that are designated as dangerous goods by safety regulations; and
 - “safety regulations” means regulations under section 21 of the Merchant Shipping Act 1979.”.
- 12 (1) Omit sections 459 to 461 of the 1894 Act (provisions for the detention of unsafe ships no longer reflected in modern practice).
- (2) After section 30 of the 1988 Act (offences where ship is unsafe), there shall be inserted the following section—

“30A Power to detain unsafe ship

- (1) Where a ship in a port in the United Kingdom appears to a relevant inspector to be an unsafe ship the ship may be detained.
- (2) The power of detention conferred by subsection (1) above is exercisable in relation to foreign ships as well as United Kingdom ships.

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- (3) The officer detaining the ship shall serve on the master of the ship a detention notice which shall—
- (a) state that the relevant inspector is of the opinion that the ship is an unsafe ship;
 - (b) specify the matters which, in the relevant inspector’s opinion, make the ship an unsafe ship; and
 - (c) prohibit the ship from going to sea until it is released by competent authority.
- (4) In the case of a ship which is not a British ship the officer detaining the ship shall cause a copy of the detention notice to be sent as soon as practicable to the nearest consular officer for the country to which the ship belongs.
- (5) In this section—
- “competent authority” means any officer mentioned in section 692(1) of the 1894 Act;
 - “relevant inspector” means any person mentioned in paragraph (a), (b) or (c) of section 76(1) of the Merchant Shipping Act 1970; and
 - “unsafe ship” means a ship which is not fit to go to sea as mentioned in section 30(1) of this Act;
- and the reference to going to sea shall be construed in accordance with subsection (9) of section 30.”.
- (3) Sections 4 and 5 of the 1984 Act (arbitration and compensation) shall apply in relation to a detention notice under section 30A of the 1988 Act and the matters specified in the notice as those sections apply in relation to a prohibition notice under section 2 of that Act and the matters specified in a prohibition notice, subject, however, to the following modifications.
- (4) The modifications referred to above are as follows:
- (a) the substitution of references to the relevant inspector (within the meaning of section 30A) for references to the inspector referred to in those sections;
 - (b) the right to refer a question to the arbitrator shall be available to the owner of the ship whether or not the master of the ship also exercises that right;
 - (c) the giving of the notice referring the question to the arbitrator shall not suspend the operation of the detention notice unless, on the application of the person referring the question, the arbitrator so directs;
 - (d) the arbitrator shall have regard, in coming to his decision, to any other matters not specified in the detention notice which appear to him to be relevant to whether the ship was or was not an unsafe ship;
 - (e) the arbitrator shall include in his decision a finding whether there was or was not a valid basis for the detention of the ship as an unsafe ship.
- (5) In the application of sub-paragraphs (3) and (4) above to Scotland any reference to an arbitrator shall be construed as a reference to an arbiter.
- (6) Any provision of the Merchant Shipping Acts which deems a ship to be an unsafe ship for the purposes of section 459 or 462 of the 1894 Act shall be construed as deeming the ship to be an unsafe ship for the purposes of section 30A of the 1988 Act.
- 13 (1) In section 21 of the 1979 Act (regulations to secure health and safety on ships) insert the following subsection—

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“(3A) The power to make regulations conferred by subsection (1)(a) above shall extend also to the making of regulations for the prevention of collisions between seaplanes on the surface of water and between ships and seaplanes and subsection (3)(k) above and subsections (4) to (6) below and section 22(1) shall have effect accordingly.”.

(2) In consequence of that extension of powers, omit sections 418 and 419 (collision regulations for seaplanes) and 421 (power to make local regulations) of the 1894 Act.

(3) In section 22(1) of the 1979 Act (provisions supplementary to s.21), at the end insert—

“(e) make provision for compensation to be paid, where a signal is used or displayed otherwise than in accordance with the regulations, for any expense or loss caused in consequence of the signal’s being taken for a signal of distress;

and any compensation falling to be paid by virtue of regulations under paragraph (e) above may, without prejudice to any other remedy, be recovered in the same manner as salvage.”.

Offences by and in relation to passengers

14 In section 287 of the 1894 Act (offences by passengers)—

- (a) in subsection (1), omit paragraphs (f) and (g);
- (b) in subsection (2), for “injure” substitute “damage”; and
- (c) in subsection (3), for the words from “convey” to the end substitute “deliver that person to a constable”.

15 In section 76(3) of the 1906 Act (false statements for returns of passengers), for “gives any false information for the purpose” substitute “, for that purpose, gives to the master information which he knows to be false or recklessly gives to him information which is false”.

Fishing vessel certificates: incidental offences

16 Sections 280 to 282(a) of the 1894 Act (delivery up and posting of certificates and penalty for falsity) as applied by section 3(4) of the Fishing Vessels (Safety Provisions) Act 1970 shall have effect—

- (a) with the substitution in section 281 of a reference to a copy of the certificate for the reference to a duplicate; and
- (b) with the omission in section 282(a) of the words “knowingly and”.

Pollution prevention: assimilation of inspection powers

17 For the purposes of the Oil Pollution Act other than sections 2(1) and 3—

- (a) the functions of inspectors under section 728 of the 1894 Act to report to the Secretary of State on the matters specified in that section shall include the function of reporting to him on the matters specified in section 18(1) (a) and (b) of the Oil Pollution Act, and the functions of inspectors under the said section 18 shall not include that function; and sections 18(2) and 30(3) shall have effect accordingly;

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- (b) the powers conferred by section 18(6) of the Oil Pollution Act (which are conferred on harbour masters as respects vessels in their harbours) shall not be available, but the corresponding powers conferred by section 27 of the 1979 Act shall be available to harbour masters in relation to ships in their harbours;
- (c) the extension of the power to test equipment effected, in relation to section 18 of the Oil Pollution Act, by section 29(5) of that Act shall be treated as an extension of the corresponding power in section 27 of the 1979 Act; and
- (d) for references in section 30 to the Department of Commerce for Northern Ireland substitute references to the Department of the Environment for Northern Ireland;

and, in section 18(1)(a), the reference to obligations shall be read as a reference to requirements and the reference to compliance as a reference to contravention.

- 18 The amendments made in the 1971 and 1974 Acts (liability and compensation for oil pollution damage) by section 34 of and Schedule 4 to the 1988 Act (in consequence of certain Conventions of 1984 which cannot now come into force) shall not have effect.

Wreck and salvage

- 19 Omit section 514 of the 1894 Act (receiver's power to suppress plunder and disorder by force).
- 20 In section 515 of the 1894 Act (liability for plundering vessel)—
- (a) omit the words “and tumultuously”; and
 - (b) for the words from “council” to “permit” substitute “regional or islands council within whose area, or nearest to whose area, the plundering, damage or destruction took place and as if entitlement to such compensation arose under section 10 of the Riotous Assemblies (Scotland) Act 1822.”.
- 21 In section 516 of the 1894 Act (exercise of powers of receiver in his absence)—
- (a) for subsection (1) substitute—
 - “(1) Where any function is conferred on the receiver by any of the preceding sections of this Act that function may be discharged by any officer of customs and excise or any principal officer of the coastguard.”; and
 - (b) in subsection (2) omit “and shall place the same in the custody of the receiver
- 22 In section 518 of the 1894 Act (duties of finder of wreck, etc)—
- (a) in paragraph (a), omit the words “of the district”;
 - (b) in paragraph (b), for the words following “thereof” substitute “give notice to the receiver that he has found or taken possession of it and, as directed by the receiver, either hold it to the receiver's order or deliver it to the receiver.”;
 - (c) after “recovered” insert “, except in Scotland.”;
 - (d) the existing words so amended shall be subsection (1) of the section; and
 - (e) after that subsection add—

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- “(2) In Scotland, any sum payable under subsection (1) above to the owner of the wreck or to the persons entitled to the wreck shall, for the purposes of the sum’s recovery, be regarded as a debt due to the owner or as the case may be to those persons.”.
- 23 In section 520 of the 1894 Act (notice of wreck), for paragraphs (a) and (b), substitute—
- “(a) make a record describing the wreck and any marks by which it is distinguished;
- (b) if, in his opinion, the value of the wreck exceeds £5,000 also transmit a similar description to the chief executive officer of Lloyds in London; and that officer shall cause it to be posted in some conspicuous place for inspection.
- The record made by the receiver under paragraph (a) above shall be kept by him available for inspection by any person during reasonable hours without charge.”.
- 24 In section 522 of the 1894 Act (immediate sale in certain cases)—
- (a) for “five pounds” substitute “£5,000”; and
- (b) for “warehousing” substitute “storage”.
- 25 In section 524 of the 1894 Act (notice of unclaimed wreck to person entitled), for the words from the beginning to “he” substitute “Any person who is entitled to unclaimed wreck found on any place in the United Kingdom or in United Kingdom waters”.
- 26 Omit section 528 of the 1894 Act (power of Secretary of State to purchase rights to wreck).
- 27 Omit section 529 of the 1894 Act (restriction on interfering with wreck by persons exercising Admiralty jurisdiction).
- 28 In section 537(2) of the 1894 Act (reward for information), for “five pounds” substitute “£100”.
- 29 Omit section 543 of the 1894 Act (marking of anchors).
- 30 In sections 552(3), 555(1) and 556 of the 1894 Act (detention where claim exceeds £200 and apportionment of salvage up to, or exceeding, £200) for “two hundred pounds” substitute “£5,000”.
- 31 (1) In section 566 of the 1894 Act (appointment of receivers of wreck for districts) for the words following “appoint” substitute “one or more persons to be receiver of wreck for the purposes of this Part of this Act and a receiver so appointed shall discharge such functions as are assigned to him by the Secretary of State.
- (2) Such public notice of appointments to the office of receiver shall be given as appears to the Secretary of State to be appropriate.”.
- 32 In section 567(1) of the 1894 Act (receivers' fees) for the words from “the several matters” to “as may be directed” substitute “such matters as may be prescribed by regulations made by the Secretary of State by statutory instrument such fees as may be so prescribed”.
- 33 In section 551(1) of the 1894 Act (valuation of property by receiver) omit the words from “of the district” to “made”.
- 34 Omit sections 558 to 564 of the 1894 Act (salvage by naval ships).

Lighthouses, etc

- 35 Omit sections 47 and 48 of the Malicious Damage Act 1861 (offences relating to false signals and damage, removal or concealment of buoys and other sea marks).
- 36 In section 634(1) of the 1894 Act (areas for which general lighthouse authorities exercise functions) omit “and the Channel Islands”, “and at Gibraltar” and “and the Isle of Man”.
- 37 In section 638 of the 1894 Act (general powers of lighthouse authorities), at the end, insert—
- “Any reference in this Part of this Act to a lighthouse, buoy or beacon includes its appurtenances.”.
- 38 In section 639(1) of the 1894 Act (land acquisition powers), for the words from “and for that purpose” to the end, substitute—
- “(1A) For the purpose of the acquisition of land by a general lighthouse authority under subsection (1) above the following provisions shall apply—
- (a) if the land is in England and Wales, the provisions of Part I of the Compulsory Purchase Act 1965 (so far as applicable) except sections 4 to 8, 27 and 31;
 - (b) if the land is in Scotland, the provisions of the Lands Clauses Acts (so far as applicable) except sections 120 to 125, 127, 142 and 143 of the Lands Clauses Consolidation (Scotland) Act 1845;
 - (c) if the land is in Northern Ireland, the provisions of the Land Clauses Acts (so far as applicable) except sections 16 to 18, 19, 20, 92 to 94, 123, 127 to 132, 150 and 151 of the Lands Clauses Consolidation Act 1845.”.
- 39 In section 642 of the 1894 Act (additions to lighthouses), insert “or beacon” after “light” in both places where it occurs.
- 40 In section 643 of the 1894 Act (general light dues), at the beginning, insert—
- “A general lighthouse authority may demand, take and recover dues in respect of lighthouses, buoys and beacons under their management (in this Part of this Act called light dues) in accordance with the following provisions of this Part of this Act and for that purpose appoint persons to collect them.”.
- 41 After section 643 of the 1894 Act insert—

“643A Information to determine light dues.

- (1) A general lighthouse authority may, for the purpose of determining whether any and, if so, what light dues are payable in respect of any ship, require any relevant authority or any person who is liable to pay light dues in respect of the ship, to furnish to the general lighthouse authority such information in that authority's or person's possession or control relating to the arrival or departure of the ship at or from any port within their area as they may reasonably require for that purpose.
- (2) A general lighthouse authority may require any relevant authority to furnish to them such information in the relevant authority's possession or control relating to the movements within the relevant authority's area of ships or

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ships of any class or description for the purpose of determining whether any and, if so, what light dues are payable in respect of the ships.

- (3) The powers conferred on a general lighthouse authority by subsections (1) and (2) above shall also be available to the person appointed by them to collect dues at a port.
- (4) It shall be the duty of a relevant authority or person of whom a requirement for information is made under subsection (1), (2) or (3) above to furnish information as soon as is reasonably practicable.
- (5) In this section “relevant authority” means—
- (a) a harbour authority;
 - (b) the Commissioners of Customs and Excise; and
 - (c) a conservancy authority.”.

42 For section 647 of the 1894 Act (light dues tables and regulations to be posted up in customs houses) substitute—

“647 Availability of light dues regulations for inspection.

A copy of the regulations in force under section 5(2) of the Merchant Shipping (Mercantile Marine Fund) Act 1898 (as substituted by section 36(2) of the Merchant Shipping Act 1979) in respect of light dues shall be kept at—

- (a) the principal office of the general lighthouse authority, and
- (b) the office of the appointed collector at every port where such dues are collected;

and shall be open for inspection there during reasonable hours by any person without charge.”.

43 In section 648(3) of the 1894 Act (accounts of light dues), for “and the authority receiving the dues” substitute “(4) A general lighthouse authority receiving dues (whether themselves or from a collector)”.

44 In section 649 of the 1894 Act (recovery of light dues)—

- (a) in subsection (1), after “dues may” insert “, except in Scotland,”; and
- (b) after subsection (1) insert—

“(1A) In Scotland light dues shall, for the purposes of their recovery, be regarded as a debt due to the general lighthouse authority.”.

45 In section 650 of the 1894 Act (distress on ship for light dues)—

- (a) in subsection (1), omit “guns”;
- (b) in subsection (2)—
 - (i) for “three” substitute “five”; and
 - (ii) for “appraised by two sufficient persons or sworn appraisers, and thereupon sell the same” substitute “independently appraised and thereupon sold by public auction”; and
- (c) at end add—

“(3) This section does not apply to Scotland.”.

46 In section 651 of the 1894 Act (detention of ship pending production of receipt for light dues)—

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- (a) for the words from “by the person” to “paying the same” substitute “to the person paying them by the authority or person receiving them from him”; and
 - (b) for the words from “where” to “for the light dues” substitute “until the receipt for any dues due in respect of the ship” and at the end insert “or the person appointed to collect light dues at the port”.
- 47 Section 655 of the 1894 Act (local light dues) shall, so far as it extends to Northern Ireland, cease to have effect.
- 48 In section 656(2) of the 1894 Act (account of local light dues), omit the words from “and shall” (where first occurring) to the end.
- 49 In section 664 of the 1894 Act (accounts of general lighthouse authorities)—
 - (a) for “their receipts from light dues” substitute “the light dues and other sums received by or accruing to them by virtue of, or in connection with, the discharge of their functions under this Part of this Act or Part IX of this Act”; and
 - (b) for “books of account” substitute “accounting records”.
- 50 For section 666(1) of the 1894 Act (offence of damaging, etc. lighthouses, etc.) substitute—
 - “(1) A person who, without lawful authority—
 - (a) intentionally or recklessly damages—
 - (i) any lighthouse or the lights exhibited in it, or
 - (ii) any lightship, buoy or beacon;
 - (b) removes, casts adrift or sinks any lightship, buoy or beacon; or
 - (c) conceals or obscures any lighthouse, buoy or beacon;commits an offence.
 - (1A) A person who, without reasonable excuse,—
 - (a) rides by,
 - (b) makes fast to, or
 - (c) runs foul of,any lightship, buoy or beacon commits an offence.”.
- 51 In section 667 of the 1894 Act (prevention of false lights)—
 - (a) omit “fire” and “burnt” wherever occurring together with the word “or” in conjunction with those words;
 - (b) in subsection (4), after “damage; and” insert “, except in Scotland,”; and
 - (c) after subsection (4) add—
 - “(4A) In Scotland any such expenses as are mentioned in subsection (4) above shall, for the purposes of their recovery, be regarded as a debt due by the owner or person on whom the notice has been served to the general lighthouse authority.”.
- 52 Omit section 669 of the 1894 Act (restriction on exercise of powers in Channel Islands).
- 53 For section 679 of the 1894 Act (auditing and laying before Parliament of accounts of General Lighthouse Fund) substitute—

“679 Auditing and laying before Parliament of accounts of General Lighthouse Fund.

(1) The accounts of the General Lighthouse Fund for each year shall be examined by the Comptroller and Auditor General who shall send a copy of the accounts certified by him to the Secretary of State.

(2) The Secretary of State shall lay copies of the accounts before each House of Parliament.”.

54 In the Merchant Shipping (Mercantile Marine Fund) Act 1898 omit the following provisions (relating to colonial lights)—

- (a) in section 2, subsections (3), (4) and (5);
- (b) section 7; and
- (c) in Schedule 3, the entry for the lighthouse on Cape Pembroke, Falkland Islands.

55 In section 30(2) of the Harbours Act 1964 (list of charges to be available to the public at price not exceeding 5p) for “a price not exceeding 5p. for each copy” substitute “such reasonable price (if any) as the authority determine”.

Enforcement powers: generalisation

56 In section 728 of the 1894 Act (Departmental inspectors to report on certain matters)

- (a) the repeal of paragraph (a) by the 1988 Act shall not have effect;
- (b) for paragraph (b) substitute—
 - “(b) whether any requirements, restrictions or prohibitions imposed by or under the Merchant Shipping Acts have been complied with or (as the case may be) contravened;”
 - and
- (c) at the end (instead of the amendment made in paragraph (b) by section 26 of the 1979 Act) insert “and the reference to requirements, restrictions or prohibitions under the Merchant Shipping Acts includes any such requirements, restrictions or prohibitions constituting the terms of any approval, licence, consent or exemption given in any document issued under those Acts”.

57 In section 27(1)(h)(iii) of the 1979 Act (powers of Departmental inspectors) for “regulations” substitute “instruments”.

Legal proceedings and offences: assimilation and modernisation

58 In section 681(2) of the 1894 Act (mode of enforcing recovery of certain sums), after “England” insert “or Northern Ireland”.

59 Section 683 of the 1894 Act (time limit for summary proceedings) shall apply in relation to offences under the Oil Pollution Act instead of section 19(4) of that Act (corresponding provision); and for the word “after” in section 683(1) substitute “beginning with” where that word first appears and, where that word secondly appears, substitute “beginning with the date on which”.

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60 Section 684 of the 1894 Act (jurisdiction in relation to offences) shall apply in relation to offences under the Oil Pollution Act instead of section 19(5) of that Act (corresponding provision).

61 Section 686(1) (jurisdiction over offences on board ship) shall—
(a) so far as it applies to British subjects, apply only to British citizens (within the meaning of the British Nationality Act 1981); and
(b) so far as it applies to British ships, apply only to United Kingdom ships.

62 For section 687 of the 1894 Act (offences by British seamen overseas) substitute—

“687 Offences committed by British seamen.

(1) Any act in relation to property or person done in or at any place (ashore or afloat) outside the United Kingdom by any master or seaman who at the time is employed in a United Kingdom ship, which, if done in any part of the United Kingdom, would be an offence under the law of any part of the United Kingdom, shall—

- (a) be an offence under that law, and
- (b) be treated for the purposes of jurisdiction and trial as if it had been done within the jurisdiction of the Admiralty of England.

(2) Subsection (1) above also applies in relation to a person who had been so employed within the period of three months expiring with the time when the act was done.

(3) Subsections (1) and (2) above apply to omissions as they apply to acts.”.

63 After section 687 of the 1894 Act insert the following—

“687A Offences by officers of bodies corporate.

(1) Where a body corporate is guilty of an offence under the Merchant Shipping Acts or any instrument made under those Acts, 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 such a 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.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) above 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.

687B Offences by partners, etc in Scotland

Where, in Scotland, a partnership or unincorporated association (other than a partnership) is guilty of an offence under the Merchant Shipping Acts or any instrument made under those Acts, 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 partner in the partnership or, as the case may be, a person concerned in the management or control of the association, he as well as the partnership or association shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.”.

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

- 64 In section 689 of the 1894 Act (return of offenders to the United Kingdom)—
- (a) in subsection (2), after “may” insert “, where no more convenient means of transport is available (or is available only at disproportionate expense),”; and
 - (b) in subsection (3), omit the words from “and that officer” to the end.
- 65 In section 693 of the 1894 Act (how sums ordered to be paid are leviable), for the words from “direct” to the end substitute—
- “—
- (a) except in Scotland, direct the amount remaining unpaid to be levied by distress,
 - (b) in Scotland, grant warrant authorising the arrestment and sale,
- of the ship and its equipment.”.
- 66 In section 20 of the Oil Pollution Act (enforcement and application of fines), for the words from “to direct” to the end substitute—
- “—
- (a) except in Scotland, to direct the amount remaining unpaid to be levied by distress,
 - (b) in Scotland, to grant warrant authorising the arrestment and sale,
- of the ship and its equipment.”.
- 67 In section 695 of the 1894 Act (certification of copies for evidence)—
- (a) in subsection (2) (provision of copies), for the reference to payment of a reasonable sum not exceeding an amount prescribed by regulations substitute a reference to payment of a reasonable price determined by the Secretary of State;
 - (b) in subsection (3) (offence) for “eighteen months” substitute “two years”; and
 - (c) after subsection (3) insert—
- “(3A) Without prejudice to section 6(1) of the Civil Evidence (Scotland) Act 1988 (production of copy documents), subsection (2) above shall not apply, for the purposes of civil proceedings in Scotland, as respects the admissibility of a copy document; but subsection (3) above shall apply to a person purporting to authenticate any such document and to authentication as it applies to an officer purporting to certify any such document and to certification.”.
- 68 For section 696 of the 1894 Act (service of documents) substitute the following—
- “696 Service of documents.**
- (1) Any document authorised or required to be served on any person may be served on that person—
- (a) by delivering it to him;
 - (b) by leaving it at his proper address; or
 - (c) by sending it by post to him at his proper address.

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

- (2) Any such document authorised or required to be served on the master of a ship may be served—
 - (a) where there is a master, by leaving it for him on board the ship with the person appearing to be in command or charge of the ship;
 - (b) where there is no master—
 - (i) on the managing owner of the ship; or
 - (ii) if there is no managing owner, on any agent of the owner; or
 - (iii) where no such agent is known or can be found, by leaving a copy of the document fixed to the mast of the ship.
- (3) Any document authorised or required to be served on any person may—
 - (a) in the case of a body corporate, be served on the secretary or clerk of that body;
 - (b) in the case of a partnership, be served on a partner or a person having the control or management of the partnership business or, in Scotland, on the firm.
- (4) Any notice authorised or required by, or by regulations under, the Merchant Shipping (Registration, etc.) Act 1993 to be served on the Secretary of State may be served by post.
- (5) Any notice authorised by Part I of the Merchant Shipping Act 1984 to be given to an inspector may be given by delivering it to him or by leaving it at, or sending it by post to, his office.
- (6) Any document authorised or required by or under any enactment to be served on the registered owner of a registered ship shall be treated as duly served on him if served on such person, in such circumstances and by such method, as may be specified in registration regulations.
- (7) For the purposes of this section and of section 7 of the Interpretation Act 1978 (service of documents by post) in its application to this section, the proper address of any person on whom any document is to be served shall be his last known address, except that—
 - (a) in the case of a body corporate or their secretary or clerk it shall be the address of the registered or principal office of that body;
 - (b) in the case of a partnership or a person having the control or management of the partnership business, it shall be the principal office of the partnership;and for the purposes of this subsection the principal office of a company registered outside the United Kingdom or of a partnership carrying on business outside the United Kingdom shall be their principal office in the United Kingdom.
- (8) If the person to be served with any notice has (whether in pursuance of registration regulations or otherwise) specified an address in the United Kingdom other than his proper address within the meaning of subsection (7) above as the one at which he or someone on his behalf will accept notices of the same description as that notice, that address shall also be treated for the purposes of this section and section 7 of the Interpretation Act 1978 as his proper address.
- (9) For the purposes of the said section 7 a letter containing—

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- (a) a notice to be served on any person in pursuance of subsection (6) above, or
- (b) a notice authorised or required to be served under registration regulations on a representative person (within the meaning of those regulations),

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 register; and a letter containing any other notice under registration regulations 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).”.

69 In section 697 of the 1894 Act (proof etc. of exemption), the existing words shall be subsection (1), and after that subsection add—

“(2) This section does not apply to Scotland.”.

70 In section 76 of the 1894 Act (proceedings on forfeiture of ship) omit—

- (a) in subsection (1), the words from “and may award” to the end; and
- (b) in subsection (2), the words “either” and “or criminally”.

71 For section 66 of the 1894 Act (forgery of documents: Scotland) substitute—

“66 Forgery of documents: Scotland

(1) In Scotland if any person forges or fraudulently alters—

- (a) any entry or endorsement in the register kept under section 1 of the Merchant Shipping (Registration, etc) Act 1993; or
- (b) subject to subsection (2) below, any other document as respects which provision is made by, under or by virtue of that Act or this Part of this Act (or any entry or endorsement, in or on such other document and as respects which provision is so made),

he shall be liable—

- (i) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding six months or to both; or
- (ii) on conviction on indictment, to a fine or to imprisonment or to both.

(2) Subsection (1)(b) above does not apply in respect of actings which constitute an offence under section 695(4) or 722(1) of this Act.”.

72 For section 695(4) of the 1894 Act (offences as respects documents admissible in evidence) substitute—

“(4) Subject to subsection (5) below, in Scotland if any person forges the seal, stamp or signature of any document (or copy document) declared by this Act to be admissible in evidence or tenders in evidence any such document (or copy document) with, and knowing it to have, a false or counterfeit seal, stamp or signature he shall be liable—

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

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(5) Subsection (4) above does not apply in respect of actings which constitute an offence under section 722(1) of this Act.”.

73 For section 722(1) of the 1894 Act (offences as to use of forms) substitute—

“(1) In Scotland, if any person forges any seal or distinguishing mark on any form issued under this Act or fraudulently alters any such form he shall be liable—

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

74 In any offence-creating provision of the Merchant Shipping Acts—

- (a) any reference to doing a thing “wilfully” shall be construed as a reference to doing it “intentionally”;
- (b) any reference to “suffering” or “allowing” a thing to be done shall be construed as a reference to “permitting” it to be done; and
- (c) any reference to the absence of a reasonable “cause” shall be construed as a reference to the absence of a reasonable “excuse”.

Procedure in Scotland

75 Omit sections 704 to 709 of the 1894 Act.

76 In section 710 (savings for Scots law), for the words “or punishment of offences at the instance or by the direction of the Lord Advocate” substitute “of offences at the instance or on the authority or with the concurrence of the Lord Advocate or on the authority of the High Court or to any punishment consequent on such prosecution”.

77 In paragraph 5 of Schedule 5 to the 1974 Act (provision as to regulations relating to submersible and supporting apparatus)—

- (a) in sub-paragraph (b), after “regulations” insert “(other than proceedings to which paragraph (bb) below applies)”; and
- (b) after sub-paragraph (b) insert—
 - “(bb) may provide that in any proceedings in Scotland for an offence under the regulations a statement in any complaint or indictment of any such fact as is mentioned in sub-paragraph (b) above shall, until the contrary is proved, be sufficient evidence of the fact as so stated.”.

Supplemental: surveyors

78 In section 724 of the 1894 Act (surveyors of ships) subsections (3) and (5) shall be omitted save, in (3), for the power of the Secretary of State to remove surveyors.

Generalised power to charge fees

79 (1) The Secretary of State may, with the consent of the Treasury, make regulations prescribing fees to be charged in respect of—

- (a) the issue or recording in pursuance of the Merchant Shipping Acts of any certificate, licence or other document; or
- (b) the doing of any other thing in pursuance of those Acts.

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

- (2) All fees received by the Secretary of State under those Acts shall be paid into the Consolidated Fund.