



# Merchant Shipping (Registration, etc.) Act 1993

## 1993 CHAPTER 22

An Act to amend and restate the law relating to the registration of ships and related matters, to make provision in relation to ships on bareboat charter and to make amendments designed to facilitate, or otherwise desirable in connection with, the consolidation of the enactments relating to shipping and seamen. [1st July 1993]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### *Registration of British ships*

#### **1 Central register of British ships.**

- (1) There shall be established, for all registrations of ships in the United Kingdom under this Act, a register of British ships which shall be available for public inspection.
- (2) The register shall be maintained by the Registrar General of Shipping and Seamen as registrar.
- (3) The Secretary of State may designate any person to discharge, on behalf of the registrar, all his functions or such of them as the Secretary of State may direct.
- (4) The Secretary of State may give to the registrar directions of a general nature as to the discharge of any of his functions.
- (5) The register shall be so constituted as to distinguish, in a separate part, registrations of fishing vessels and may be otherwise divided into parts so as to distinguish between classes or descriptions of ships.

*Status: Point in time view as at 01/01/1995.*

*Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping (Registration, etc.) Act 1993 (repealed 1.1.1996). (See end of Document for details)*

- (6) The register shall be maintained in accordance with registration regulations and the private law provisions for registered ships and any directions given by the Secretary of State under subsection (4) above.
- (7) On the appointed day for the opening of the new register established under subsection (1) above the following existing registers shall close, that is to say—
- (a) the register of British ships maintained under Part I of the <sup>M1</sup>Merchant Shipping Act 1894;
  - (b) the register of small British ships maintained under section 5 of the <sup>M2</sup>Merchant Shipping Act 1983; and
  - (c) the register of British fishing vessels maintained under section 13 of the <sup>M3</sup>Merchant Shipping Act 1988;
- and all registrations in those registers in force on that day shall become registrations in the new register.

#### Marginal Citations

- M1** 1894 c.60  
**M2** 1983 c.13  
**M3** 1988 c.12

## 2 Registration of ships: basic provisions.

- (1) A ship is entitled to be registered if—
- (a) it is owned, to the prescribed extent, by persons qualified to own British ships; and
  - (b) such other conditions are satisfied as are prescribed under subsection (2)(b) below;
- (and any application for registration is duly made).
- (2) It shall be for registration regulations—
- (a) to determine the persons who are qualified to be owners of British ships, or British ships of any class or description, and to prescribe the extent of the ownership required for compliance with subsection (1)(a) above;
  - (b) to prescribe other requirements designed to secure that, taken in conjunction with the requisite ownership, only ships having a British connection are registered.
- (3) The registrar may, if registration regulations so provide, refuse to register a ship or terminate the registration of a ship if, having regard to any relevant requirements of the Merchant Shipping Acts he considers it would be inappropriate for the ship to be or, as the case may be, to remain registered.
- (4) The registrar may, if registration regulations so provide, register a fishing vessel notwithstanding that the requirement of subsection (1)(a) above is not satisfied in relation to a particular owner of a share in the vessel if the vessel otherwise has a British connection.
- (5) Where a ship becomes registered at a time when it is already registered under the law of a country other than the United Kingdom, the owner of the ship shall take all

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reasonable steps to secure the termination of the ship's registration under the law of that country.

- (6) Subsection (5) above does not apply to a ship which becomes registered on a transfer of registration to the register from a relevant British possession.
- (7) Any person who contravenes subsection (5) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (8) In subsection (3) above "the relevant requirements of the Merchant Shipping Acts" means the requirements of those Acts (including requirements falling to be complied with after registration) relating to—
  - (a) the condition of ships or their equipment so far as relevant to their safety or any risk of pollution; and
  - (b) the safety, health and welfare of persons employed or engaged in them.
- (9) In this Act references to a ship's having a British connection are references to compliance with the conditions of entitlement imposed by subsection (1)(a) and (b) above and "declaration of British connection" is to be construed accordingly.

### **3 Registration regulations.**

- (1) The Secretary of State shall by regulations (to be known as "registration regulations") make provision for and in connection with the registration of ships as British ships.
- (2) Without prejudice to the generality of subsection (1) above, registration regulations may, in particular, make provision with respect to any of the following matters—
  - (a) the persons by whom and the manner in which applications in connection with registration are to be made;
  - (b) the information and evidence (including declarations of British connection) to be provided in connection with such applications and such supplementary information or evidence as may be required by any specified authority;
  - (c) the shares in the property in, and the number of owners (including joint owners) of, a ship permitted for the purposes of registration and the persons required or permitted to be registered in respect of a ship or to be so registered in specified circumstances;
  - (d) the issue of certificates (including provisional certificates) of registration, their production and surrender;
  - (e) restricting and regulating the names of ships registered or to be registered;
  - (f) the marking of ships registered or to be registered, including marks for identifying the port to which a ship is to be treated as belonging;
  - (g) the period for which registration is to remain effective without renewal;
  - (h) the production to the registrar of declarations of British connection or other information relating thereto, as respects registered ships, at specified intervals or at his request;
  - (i) the survey and inspection of ships registered or to be registered and the recording of their tonnage as ascertained (or re-ascertained) under the tonnage regulations;
  - (j) the refusal, suspension and termination of registration in specified circumstances;
  - (k) matters arising out of the expiration, suspension or termination of registration (including the removal of marks and the cancellation of certificates);

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- (l) the charging of fees in connection with registration or registered ships;
- (m) the transfer of the registration of ships to and from the register from and to registers or corresponding records in countries other than the United Kingdom;
- (n) inspection of the register;
- (o) any other matter which is authorised or required by this Act to be prescribed in registration regulations;

but no provision determining, or providing for determining, the fees to be charged or prescribing any arrangements for their determination by other persons shall be made without the approval of the Treasury.

- (3) Registration regulations may—
  - (a) make different provision for different classes or descriptions of ships and for different circumstances;
  - (b) without prejudice to paragraph (a) above, make provision for the granting of exemptions or dispensations by the Secretary of State from specified requirements of the regulations, subject to such conditions (if any) as he thinks fit to impose; and
  - (c) make such transitional, incidental or supplementary provision as appears to the Secretary of State to be necessary or expedient, including provision authorising investigations and conferring powers of inspection for verifying the British connection of a ship.
- (4) Registration regulations—
  - (a) may make provision for the registration of any class or description of ships to be such as to exclude the application of the private law provisions for registered ships and, if they do, may regulate the transfer, transmission or mortgaging of ships of the class or description so excluded;
  - (b) may make provision for any matter which is authorised or required by those provisions to be prescribed by registration regulations; and
  - (c) shall make provision precluding notice of any trust being entered in the register or being receivable by the registrar except as respects specified classes or descriptions of ships or in specified circumstances.
- (5) Registration regulations may create offences subject to the limitation that no offence shall be punishable with imprisonment or punishable on summary conviction with a fine exceeding level 5 on the standard scale.
- (6) Registration regulations may provide for—
  - (a) the approval of forms by the Secretary of State; and
  - (b) the discharge of specified functions by specified authorities or persons.
- (7) Registration regulations may provide for any of their provisions to extend to places outside the United Kingdom.
- (8) The power to make registration regulations shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (9) Any document purporting to be a copy of any information contained in an entry in the register and to be certified as a true copy by the registrar shall be evidence (and, in Scotland, sufficient evidence) of the matters stated in the document.

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- (10) Any fees received by the Secretary of State in pursuance of registration regulations shall be paid into the Consolidated Fund.

#### **4 Offences relating to a ship's British connection.**

- (1) Any person who, in relation to any matter relevant to the British connection of a ship—
- (a) makes to the registrar a statement which he knows to be false or recklessly makes a statement which is false; or
  - (b) furnishes to the registrar information which is false,
- shall be guilty of an offence.
- (2) If at any time there occurs, in relation to a registered ship, any change affecting the British connection of the ship the owner of the ship shall, as soon as practicable after the change occurs, notify the registrar of that change; and if he fails to do so he shall be guilty of an offence.
- (3) Any person who intentionally alters, suppresses, conceals or destroys a document which contains information relating to the British connection of a ship and which he has been required to produce to the registrar in pursuance of registration regulations shall be guilty of an offence.
- (4) A person guilty of an offence under this section shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.
- (5) This section applies to things done outside, as well as to things done within, the United Kingdom.

#### **5 Supplementary provisions as respects fishing vessels.**

- (1) Subject to subsection (2) below, if a fishing vessel which—
- (a) is either—
    - (i) entitled to be registered, or
    - (ii) wholly owned by persons qualified to be owners of British ships, but
  - (b) is registered neither under this Act in the part of the register relating to fishing vessels nor under the law of any country outside the United Kingdom,
- fishes for profit the vessel shall be liable to forfeiture and the skipper, the owner and the charterer of the vessel shall each be guilty of an offence.
- (2) Subsection (1) above does not apply to fishing vessels of such classes or descriptions or in such circumstances as may be specified in regulations made by the Secretary of State by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) If the skipper or owner of a fishing vessel which is not registered in the United Kingdom does anything, or permits anything to be done, for the purpose of causing the vessel to appear to be a vessel registered in the United Kingdom, then, subject to subsection (4) below, the vessel shall be liable to forfeiture and the skipper, the owner and any charterer of the vessel shall each be guilty of an offence.

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- (4) Where the registration of a fishing vessel has terminated by virtue of any provision of registration regulations, any marks prescribed by registration regulations displayed on the fishing vessel within the period of 14 days beginning with the date of termination of that registration shall be disregarded for the purposes of subsection (3) above.
- (5) Any person guilty of an offence under this section shall be liable—
- (a) on summary conviction, to a fine not exceeding £50,000;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.
- (6) Proceedings for an offence under this section shall not be instituted—
- (a) in England and Wales, except by or with the consent of the Attorney General, the Secretary of State or the Minister; or
  - (b) in Northern Ireland, except by or with the consent of the Attorney General for Northern Ireland, the Secretary of State or the Minister.
- (7) In subsection (6) above “the Minister”—
- (a) in relation to England and Wales, means the Minister of Agriculture, Fisheries and Food; and
  - (b) in relation to Northern Ireland, means the Secretary of State concerned with sea fishing in Northern Ireland.
- (8) This section applies to things done outside, as well as to things done within, the United Kingdom.
- (9) Sections 8 and 9 of the <sup>M4</sup>Sea Fisheries Act 1968 (general powers of British sea-fishery officers and powers of sea-fishery officers to enforce conventions) shall apply in relation to any provision of this section or of registration regulations in their application to fishing vessels or fishing vessels of any class or description as they apply in relation to any order mentioned in section 8 of that Act and in relation to any convention mentioned in section 9 of that Act respectively; and sections 10 to 12 and 14 of that Act (offences and supplemental proceedings as to legal proceedings) shall apply accordingly.

**Modifications etc. (not altering text)**

C1 S. 5(1) restricted (21.3.1994) by S.I. 1993/3138, reg.17.

**Marginal Citations**

M4 1968 c.77

**6 Private law provisions for registered ships and liability as owner.**

- (1) Schedule 1 (which makes provision relating to the title to, and the registration of mortgages over, ships) shall have effect.
- (2) Schedule 1 does not apply in relation to ships which are excluded from its application by registration regulations under section 3(4)(a).
- (3) Where any person is beneficially interested, otherwise than as mortgagee, in any ship or share in a ship registered in the name of some other person as owner, the person so interested shall, as well as the registered owner, be liable to any pecuniary penalties

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imposed by or under the Merchant Shipping Acts or any other Act on the owners of registered ships.

- (4) Where the registration of any ship terminates by virtue of any provision of registration regulations, the termination of that registration shall not affect any entry made in the register so far as relating to any undischarged registered mortgage of that ship or of any share in it.
- (5) In subsection (4) above “registered mortgage” has the same meaning as in that Schedule.
- (6) In this Act “the private law provisions for registered ships” means the provisions of Schedule 1 and registration regulations made for the purposes of that Schedule or the provisions of registration regulations made under section 3(4)(a).

*Special provisions for ships on bareboat charter*

**7 Ships bareboat chartered-in by British charterers.**

- (1) This section applies to any ship which—
  - (a) is registered under the law of a country other than the United Kingdom (“the country of original registration”),
  - (b) is chartered on bareboat charter terms to a charterer who is a person qualified to own British ships, and
  - (c) is so chartered in circumstances where the conditions of entitlement to registration prescribed under section 2(2)(b), read with the requisite modifications, are satisfied as respects the charterer and the ship.
- (2) The “requisite modifications” of those conditions are the substitution for any requirement to be satisfied by or as respects the owner of a ship of a corresponding requirement to be satisfied by or as respects the charterer of the ship.
- (3) A ship to which this section applies is entitled to be registered if an application for registration is duly made, but section 2(3) applies also in relation to registration by virtue of this section.
- (4) The registration of a ship registered by virtue of this section shall remain in force (unless terminated earlier by virtue of registration regulations and subject to any suspension thereunder) until the end of the charter period and shall then terminate by virtue of this subsection.
- (5) Section 2(5) does not apply to a ship registered by virtue of this section but registration regulations shall include provision for securing that the authority responsible for the registration of ships in the country of original registration is notified of the registration of the ship and of the termination of its registration whether by virtue of subsection (4) above or registration regulations.
- (6) Accordingly, throughout the period for which a ship is registered by virtue of this section—
  - (a) the ship shall, as a British ship, be entitled to fly the British flag;
  - (b) the Merchant Shipping Acts shall, subject to subsections (7) and (8) below, apply to the ship as a British ship or as a registered ship as those Acts apply to other British ships and to registered ships; and

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- (c) any other enactment applicable to British ships or ships registered under those Acts shall, subject to subsection (8) below, apply to the ship as a British ship or as a registered ship.
- (7) The private law provisions for registered ships shall not apply to a ship registered by virtue of this section and any matters or questions corresponding to those for which the private law provisions for registered ships make provision shall be determined by reference to the law of the country of original registration.
- (8) Her Majesty may, subject to subsection (9) below, by Order in Council, provide that any enactment falling within subsection (6)(b) or (c) above—
  - (a) shall not have effect in accordance with that subsection in relation to a ship registered by virtue of this section, or
  - (b) shall so have effect subject to such modifications (if any) as may be specified in the Order.
- (9) No provision shall be made by an Order in Council under subsection (8) above which would have the effect of relaxing the relevant requirements of the Merchant Shipping Acts (within the meaning of section 2(3)) in their application to a ship to which this section applies.
- (10) An Order in Council under subsection (8) above—
  - (a) may make such transitional, incidental or supplementary provision as appears to Her Majesty to be necessary or expedient (including provision divesting or providing for the divestment of ownership in the ship); and
  - (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (11) In this section—
  - “bareboat charter terms”, in relation to a ship, means the hiring of the ship for a stipulated period on terms which give the charterer possession and control of the ship, including the right to appoint the master and crew; and
  - “the charter period” means the period during which the ship is chartered on bareboat charter terms.

*Supplementary and pre-consolidation provisions*

**8 Amendments and repeals including those for purposes of consolidation.**

- (1) Schedule 2 to this Act shall have effect for making amendments consequential on the provisions of this Act.
- (2) Schedule 3 to this Act (which substantially re-enacts certain provisions of the Merchant Shipping Acts relating to British ships and the British flag) shall have effect.
- (3) Schedule 4 to this Act shall have effect for making amendments designed to facilitate, or otherwise desirable in connection with, the consolidation of the enactments relating to merchant shipping.
- (4) The enactments mentioned in Schedule 5 to this Act (which include enactments which are spent or are of no practical utility) are hereby repealed to the extent specified in the third column of that Schedule, subject, however, to the saving at the end of the Schedule.



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### Commencement Information

- II** S. 8 wholly in force; s. 8 not in force at Royal Assent see s. 10(2); s. 8(1)(2) wholly in force and s. 8(4) in force so far as relating to Sch. 5 Pt. I at 21.3.1994 by S.I. 1993/3137 art. 3(1), Sch. 1; s. 8(3) wholly in force and s. 8(4) in force so far as relating to Sch. 5 Pt. II at 1.5.1994 by S.I. 1993/3137, art. 3(2), Sch. 2.

## 9 Interpretation, etc.

- (1) This Act shall be construed as one with the Merchant Shipping Acts 1894 to 1988.
- (2) In this Act—
- “British connection” and “declaration of British connection” have the meaning given in section 2(9);
  - “the Merchant Shipping Acts” means the Merchant Shipping Acts 1894 to 1988 and this Act;
  - “the private law provisions for registered ships” has the meaning given in section 6;
  - “the register” means the register maintained for the United Kingdom under section 1 and “registered” (except with reference to the law of another country) is to be construed accordingly;
  - “the registrar” means the Registrar General of Shipping and Seamen in his capacity as registrar or, as respects functions of his being discharged by another authority or person, that authority or person;
  - “registration regulations” means regulations under section 3;
  - “relevant British possession” means—
    - (a) the Isle of Man,
    - (b) the Channel Islands, or
    - (c) any colony; and
  - “the tonnage regulations” means regulations under section 1 of the<sup>M5</sup>Merchant Shipping Act 1965.
- (3) Where, for the purposes of any enactment, the question arises whether a ship is owned by persons qualified to own British ships, the question shall be determined by reference to registration regulations made under section 2(2)(a).
- (4) Any reference in any other Act or in any instrument made under any other Act to the registration of a ship (or fishing vessel) under any of the enactments mentioned in section 1(7) shall be construed, unless the context otherwise requires, as, or as including, a reference to registration under this Act; and connected phrases shall be construed accordingly.
- (5) Registration regulations may provide that any reference in any other Act or in any instrument made under any other Act to the port of registry of a ship or the port to which a ship belongs shall be construed as a reference to the port identified by the marks required for the purpose by registration regulations.
- (6) The Secretary of State may, by order made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament, make such amendments of any local Act or instrument so far as it provides for the registration

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of ships in local registers as appear to him to be appropriate in view of the provision made by section 1.

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**Marginal Citations**

**M5** [1965 c.47](#)

**10 Short title, commencement and extent.**

- (1) This Act may be cited as the Merchant Shipping (Registration, etc.) Act 1993; and this Act and the Merchant Shipping Acts 1894 to 1988 may be cited together as the Merchant Shipping Acts 1894 to 1993.
- (2) This Act shall come into force on such day as the Secretary of State may appoint by order made by statutory instrument, and different days may be appointed for different provisions or different purposes.
- (3) An order under subsection (2) above may include such transitional, saving and supplementary provision (including modifications of any enactment) as appear to the Secretary of State to be appropriate in connection with the transition to the new register or the partial operation of section 1 or in connection with the amendments made by Schedule 4 to this Act.
- (4) This Act extends to England and Wales, Scotland and Northern Ireland.

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**Subordinate Legislation Made**

**P1** [S. 10\(2\)](#) power partly exercised (14.12.1993): different dates appointed for specified provisions by [S.I. 1993/3137](#).

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## SCHEDULES

### SCHEDULE 1

Section 6

#### PRIVATE LAW PROVISIONS FOR REGISTERED SHIPS

##### **Modifications etc. (not altering text)**

**C2** Sch. 1 restricted (21.3.1994) by S.I. 1993/3138, reg.91.

##### *General*

- 1 (1) Subject to any rights and powers appearing from the register to be vested in any other person, the registered owner of a ship or of a share in a ship shall have power absolutely to dispose of it provided the disposal is made in accordance with this Schedule and registration regulations.
- (2) Sub-paragraph (1) above does not imply that interests arising under contract or other equitable interests cannot subsist in relation to a ship or a share in a ship; and such interests may be enforced by or against owners and mortgagees of ships in respect of their interest in the ship or share in the same manner as in respect of any other personal property.
- (3) The registered owner of a ship or of a share in a ship shall have power to give effectual receipts for any money paid or advanced by way of consideration on any disposal of the ship or share.

##### *Transfers etc. of registered ships*

- 2 (1) Any transfer of a registered ship, or a share in such a ship, shall be effected by a bill of sale satisfying the prescribed requirements, unless the transfer will result in the ship ceasing to have a British connection.
- (2) Where any such ship or share has been transferred in accordance with sub-paragraph (1) above, the transferee shall not be registered as owner of the ship or share unless—
  - (a) he has made the prescribed application to the registrar; and
  - (b) the registrar is satisfied that the ship retains a British connection and that he would not refuse to register the ship.
- (3) If an application under sub-paragraph (2) above is granted by the registrar, the registrar shall register the bill of sale in the prescribed manner.
- (4) Bills of sale shall be registered in the order in which they are produced to the registrar for the purposes of registration.

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- 3 (1) Where a registered ship, or a share in a registered ship, is transmitted to any person by any lawful means other than a transfer under paragraph 2 above and the ship continues to have a British connection, that person shall not be registered as owner of the ship or share unless—
  - (a) he has made the prescribed application to the registrar; and
  - (b) the registrar is satisfied that the ship retains a British connection and that he would not refuse to register the ship.(2) If an application under sub-paragraph (1) is granted by the registrar, the registrar shall cause the applicant's name to be registered as owner of the ship or share.
  
- 4 (1) Where the property in a registered ship or share in a registered ship is transmitted to any person by any lawful means other than a transfer under paragraph 2 above, but as a result the ship no longer has a British connection, the High Court or the Court of Session may, on application by or on behalf of that person, order a sale of the property so transmitted and direct that the proceeds of sale, after deducting the expenses of the sale, shall be paid to that person or otherwise as the court direct.
  - (2) The court may require any evidence in support of the application they think requisite, and may make the order on any terms and conditions they think just, or may refuse to make the order, and generally may act in the case as the justice of the case requires.
  - (3) Every such application must be made within the period of 28 days beginning with the date of the occurrence of the event on which the transmission has taken place, or within such further time (not exceeding one year) as the court may allow.
  - (4) If—
    - (a) such an application is not made within the time allowed by or under sub-paragraph (3) above; or
    - (b) the court refuse an order for sale,the ship or share transmitted shall be liable to forfeiture.
  
- 5 (1) Where any court (whether under paragraph 4 above or otherwise) order the sale of any registered ship or share in a registered ship, the order of the court shall contain a declaration vesting in some named person the right to transfer the ship or share.
  - (2) The person so named shall be entitled to transfer the ship or share in the same manner and to the same extent as if he were the registered owner of the ship or share.
  - (3) The registrar shall deal with any application relating to the transfer of the ship or share made by the person so named as if that person were the registered owner.
  
- 6 (1) The High Court or Court of Session may, if they think fit (without prejudice to the exercise of any other power), on the application of any interested person, make an order prohibiting for a specified time any dealing with a registered ship or share in a registered ship.
  - (2) The court may make the order on any terms or conditions they think just, or may refuse to make the order, or may discharge the order when made (with or without costs or, in Scotland, expenses) and generally may act in the case as the justice of the case requires.

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- (3) The order, when a copy is served on the registrar, shall be binding on him whether or not he was made a party to the proceedings.

#### *Mortgages of registered ships*

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- (1) A registered ship, or share in a registered ship, 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 the following provisions of this Schedule as a “mortgage”) shall be in the form prescribed by or approved under registration regulations.
- (3) Where a mortgage executed in accordance with sub-paragraph (2) above is produced to the registrar, he shall register the mortgage in the prescribed manner.
- (4) Mortgages shall be registered in the order in which they are produced to the registrar for the purposes of registration.

#### *Priority of registered mortgages*

- 8
- (1) Where two or more mortgages are registered in respect of the same ship or share, the priority of the mortgagees between themselves shall, subject to sub-paragraph (2) below, be determined by the order in which the mortgages were registered (and not by reference to any other matter).
- (2) Registration regulations may provide for the giving to the registrar by intending mortgagees of “priority notices” in a form prescribed by or approved under the regulations which, when recorded in the register, determine the priority of the interest to which the notice relates.

#### *Registered mortgagee’s power of sale*

- 9
- (1) Subject to sub-paragraph (2) below, every registered mortgagee shall have power, if the mortgage money or any part of it is due, to sell the ship 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 ship or share, a subsequent mortgagee shall not, except under an order of a court of competent jurisdiction, sell the ship or share without the concurrence of every prior mortgagee.

#### *Protection of registered mortgagees*

- 10
- Where a ship or share is subject to a registered mortgage—
- (a) except so far as may be necessary for making the ship or share available as a security for the mortgage debt, the mortgagee shall not by reason of the mortgage be treated as owner of the ship or share; and

*Status: Point in time view as at 01/01/1995.*

*Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping (Registration, etc.) Act 1993 (repealed 1.1.1996). (See end of Document for details)*

- (b) the mortgagor shall be treated as not having ceased to be owner of the ship or share.

*Transfer of registered mortgage*

- 11 (1) A registered mortgage may be transferred by an instrument made in the form prescribed by or approved under registration regulations.
- (2) Where any such instrument is produced to the registrar, the registrar shall register the transferee in the prescribed manner.

*Transmission of registered mortgage by operation of law*

- 12 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 11 above, the registrar shall, on production of the prescribed evidence, cause the name of that person to be entered in the register as mortgagee of the ship or share in question.

*Discharge of registered mortgage*

- 13 Where a registered mortgage has been discharged, the registrar shall, on production of the mortgage deed and such evidence of the discharge of the mortgage as may be prescribed, cause an entry to be made in the register to the effect that the mortgage has been discharged.

*Definitions*

- 14 In this Schedule—
- “mortgage” shall be construed in accordance with paragraph 7(2) above;
- “prescribed” means prescribed in registration regulations; and
- “registered mortgage” means a mortgage registered under paragraph 7(3) above.

SCHEDULE 2

Section 8(1)

CONSEQUENTIAL AMENDMENTS

- 1 (1) Section 26 of the <sup>M6</sup>Sea Fisheries Act 1868 (sea fishing boats within British waters to have official papers) shall be amended as follows.
- (2) In subsection (1)—
- (a) for the words “Part II of the Merchant Shipping Act 1988” there shall be substituted the words “ the Merchant Shipping (Registration, etc.) Act 1993 ”; and

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- (b) for the words “that Part of that Act” there shall be substituted the words “registration regulations under section 3 of that Act”.
- (3) In subsection (5), in the definition of “foreign sea-fishing boat”, for paragraphs (a), (b) and (c) there shall be substituted the following—
- “(a) is not registered in the United Kingdom, the Channel Islands or the Isle of Man, and
- (b) is not wholly owned by persons qualified to own British ships for the purposes of the Merchant Shipping (Registration, etc.) Act 1993.”.

**Marginal Citations**

M6 1868 c.45

- 2 In the <sup>M7</sup>Merchant Shipping Act 1894—
- (a) in section 82 (tonnage on registration to be registered tonnage of ship), for the words from “the same” to the end there shall be substituted the words “ that tonnage shall be treated as the tonnage of the ship except so far as registration regulations provide, in specified circumstances, for the ship to be re-measured and the register amended accordingly. ”; and
- (b) in section 742 (definitions), there shall be inserted as the first two definitions the following—
- ““the register” means the register of British ships kept under section 1 of the Merchant Shipping (Registration, etc.) Act 1993;
- “registration regulations” means regulations under section 3 of that Act;”.

**Marginal Citations**

M7 1894 c.60

- 3 In section 80(1) of the <sup>M8</sup>Merchant Shipping Act 1906 (power to register Government ships)—
- (a) for the words from “for the purpose” to “those Acts” there shall be substituted the words “ in the United Kingdom under the Merchant Shipping (Registration, etc.) Act 1993, and the Merchant Shipping Acts, ”; and
- (b) for the words “in manner provided by those Acts” there shall be substituted the words “ in accordance with that Act ”.

**Marginal Citations**

M8 1906 c.48

*Status: Point in time view as at 01/01/1995.*

*Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping (Registration, etc.) Act 1993 (repealed 1.1.1996). (See end of Document for details)*

- 4 In section 6(1)(c) of the <sup>M9</sup>Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965 (excluded categories of employees), from the word “registered” to the end there shall be substituted the words “ registered under the Merchant Shipping (Registration, etc.) Act 1993 ”.

**Marginal Citations**

**M9** [1965 c.19 \(N.I.\)](#)

- 5 (1) In section 163(3) of the <sup>M10</sup>Fisheries Act (Northern Ireland) 1966 (names of owners to be painted on fishing boats registered under Part IV of the 1894 Act) for the words “Part IV of the Merchant Shipping Act 1894” there shall be substituted the words “ the Merchant Shipping (Registration, etc.) Act 1993 ”.
- (2) In section 174(4) of that Act (examination of certificates for fishing boats) for the words from “Part IV” to the end there shall be substituted the words “ the Merchant Shipping (Registration, etc.) Act 1993 ”.

**Marginal Citations**

**M10** [1966 c.17 \(N.I.\)](#)

- 6 In section 1 of the <sup>M11</sup>Sea Fish (Conservation) Act 1967 (size, limits, etc. for fish) for subsection (9) (definitions) there shall be substituted the following subsection—

“(9) In this section—

“British fishing boat” means a fishing boat which either is registered in the United Kingdom under the Merchant Shipping (Registration, etc.) Act 1993 or is owned wholly by persons qualified to own British ships for the purposes of that Act; and

“foreign fishing boat” means any fishing boat other than a British fishing boat.”.

**Marginal Citations**

**M11** [1967 c.84](#)

- 7 In section 5(8) of the Sea Fish (Conservation) Act 1967 (restriction on scope of certain orders), in paragraph (b), for the words “Merchant Shipping Act 1894” there shall be substituted the words “ Merchant Shipping (Registration, etc.) Act 1993 ”.

- 8 In section 22(1) of the Sea Fish (Conservation) Act 1967 (definitions), in the definition of “British-owned”, for the words “(within the meaning of the Merchant Shipping Act 1894)” and “(within the meaning of that Act)” there shall be substituted the words “ for the purposes of the Merchant Shipping (Registration, etc.) Act 1993 ” and “ for those purposes ” respectively.



*Status: Point in time view as at 01/01/1995.*

*Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping (Registration, etc.) Act 1993 (repealed 1.1.1996). (See end of Document for details)*

- 9 In section 19(1) of the <sup>M12</sup>Sea Fisheries Act 1968 (definitions)—
- (a) for the definitions of “British fishing boat” and “foreign fishing boat” there shall be substituted the following definition—
- ““British fishing boat” means a fishing boat which either is registered in the United Kingdom under the Merchant Shipping (Registration, etc.) Act 1993 or is wholly British-owned”; and
- (b) in the appropriate places there shall be inserted the following definitions—
- ““foreign fishing boat” means any fishing boat other than a British fishing boat;”
- ““wholly British-owned” means wholly owned by persons qualified to own British ships for the purposes of the Merchant Shipping (Registration, etc.) Act 1993;”.

**Marginal Citations**

**M12** [1968 c.77](#)

- 10 In section 8 of the <sup>M13</sup>Fishery Limits Act 1976 (definitions)—
- (a) for the definition of “foreign fishing boat” there shall be substituted the following definition—
- ““foreign fishing boat” means a fishing boat which is not—
- (a) registered in the United Kingdom, the Channel Islands or the Isle of Man; or
- (b) wholly British-owned;” and
- (b) in the appropriate place there shall be inserted the following definition—
- ““wholly British-owned” means wholly owned by persons qualified to own British fishing boats for the purposes of the Merchant Shipping (Registration, etc.) Act 1993;”.

**Marginal Citations**

**M13** [1976 c.86](#)

- 11 In section 144(1)(b) of the <sup>M14</sup>Employment Protection (Consolidation) Act 1978 (mariners), for the words following “registered”, there shall be substituted the words “ under the Merchant Shipping (Registration, etc.) Act 1993 ”.

**Marginal Citations**

**M14** [1978 c.44](#)

- 12 In section 81(7) of the <sup>M15</sup>Customs and Excise Management Act 1979 (power to regulate small craft), for the words from “fishing vessel” to “1988”, there shall

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be substituted the words “ fishing vessel registered under the Merchant Shipping (Registration, etc.) Act 1993 ”.

**Marginal Citations**

**M15** [1979 c.2](#)

- 13 In section 9 of the <sup>M16</sup>British Fishing Boats Act 1983 (definitions)—
- (a) for the definition of “British fishing boat” there shall be substituted the following definition—
- ““British fishing boat” means a fishing boat which either is registered in the United Kingdom under the Merchant Shipping (Registration, etc.) Act 1993 or is wholly British-owned”; and
- (b) in the appropriate place there shall be inserted the following definition—
- ““wholly British-owned” means wholly owned by persons qualified to own British ships for the purposes of the Merchant Shipping (Registration, etc.) Act 1993;”.

**Marginal Citations**

**M16** [1983 c.8](#)

- 14 In section 9(1) of the <sup>M17</sup>Inshore Fishing (Scotland) Act 1984 (definitions)—
- (a) for the definition of “British fishing boat” there shall be substituted the following definition—
- ““British fishing boat” means a fishing boat which either is registered in the United Kingdom under the Merchant Shipping (Registration, etc.) Act 1993 or is wholly British-owned;” and
- (b) in the appropriate place there shall be inserted the following definition—
- ““wholly British-owned” means wholly owned by persons qualified to own British ships for the purposes of the Merchant Shipping (Registration, etc.) Act 1993;”.

**Marginal Citations**

**M17** [1984 c.26](#)

- 15 (1) The <sup>M18</sup>Merchant Shipping Act 1988 shall be amended as follows.
- (2) In section 11 (regulation of registration in British territories overseas)—
- (a) in subsection (1), for the words from “of ships” to “territories” there shall be substituted the words “ in relevant British possessions of ships other than small ships and fishing vessels ”;
- (b) in subsection (2)—

*Status: Point in time view as at 01/01/1995.*

*Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping (Registration, etc.) Act 1993 (repealed 1.1.1996). (See end of Document for details)*

- (i) in paragraph (a) for the words “under Part I of the 1894 Act” there shall be substituted the words “in such possessions”;
  - (ii) in paragraphs (b) and (c), for the words “overseas territory” there shall be substituted the words “British possession”; and
  - (iii) in paragraph (c), for the words from “Part I” to the end there shall be substituted the words “the law of that possession”;
- (c) in subsection (3)—
- (i) for the word “territory” there shall be substituted the word “possession”; and
  - (ii) the words “under Part I of the 1894 Act” shall be omitted; and
- (d) at the end insert—
- “(5) In this section—
- “relevant British possession” has the meaning given in paragraph 4 of Schedule 4 to the Merchant Shipping (Registration, etc.) Act 1993; and
  - “small ship” has the meaning given in paragraph 1(2) of Schedule 3 to that Act”.
- (3) In section 47 (application of Merchant Shipping Acts to ships chartered by demise to the Crown)—
- (a) in subsections (3) and (5), for the words “registration enactments” there shall be substituted the words “Merchant Shipping (Registration, etc.) Act 1993”;
  - (b) in subsection (7)—
    - (i) after the definition of “Government ship” there shall be inserted the following definition—

““the Merchant Shipping Acts” means the Merchant Shipping Acts 1894 to 1986, this Act and the Merchant Shipping (Registration, etc.) Act 1993;”; and
    - (ii) the definition of “the registration enactments” shall be omitted.
- (4) In section 52 (disclosure of information to the Secretary of State by other government departments)—
- (a) in subsection (1), after paragraph (a), there shall be inserted—

“(aa) to the registrar of British ships (within the meaning of the Merchant Shipping (Registration, etc.) Act 1993), or”; and
  - (b) in subsections (1) and (3), for the words “Part I or Part II” there shall be substituted the words “the Merchant Shipping (Registration, etc.) Act 1993”.

**Marginal Citations**

M18 1988 c.12

*Status: Point in time view as at 01/01/1995.*

*Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping (Registration, etc.) Act 1993 (repealed 1.1.1996). (See end of Document for details)*

## SCHEDULE 3

Section 8(2)

### BRITISH SHIPS

#### *British ships*

- 1 (1) A ship is a British ship if—
- (a) the ship is registered in the United Kingdom under this Act; or
  - (b) the ship is registered in the United Kingdom in pursuance of an Order in Council under section 80 of the <sup>M19</sup>Merchant Shipping Act 1906 (Government ships); or
  - (c) the ship is registered under the law of a relevant British possession; or
  - (d) the ship is a small ship other than a fishing vessel and—
    - (i) is not registered under this Act, but
    - (ii) is wholly owned by qualified owners, and
    - (iii) is not registered under the law of a country outside the United Kingdom.
- (2) For the purposes of sub-paragraph (1)(d) above—
- “qualified owners” means persons of such description qualified to own British ships as is prescribed by regulations made by the Secretary of State for the purposes of that sub-paragraph; and
- “small ship” means a ship less than 24 metres in length (“length” having the same meaning as in the tonnage regulations).
- (3) The power to make regulations for the purposes of sub-paragraph (1)(d) above shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Marginal Citations

M19 1906 c.48

#### *The British flag*

- 2 (1) The flag which every British ship is entitled to fly is the red ensign (without any defacement or modification) and, subject to sub-paragraphs (2) and (3) below, no other colours.
- (2) Sub-paragraph (1) above does not apply to Government ships within the meaning of section 80 of the <sup>M20</sup>Merchant Shipping Act 1906.
- (3) The following are also proper national colours, that is to say—
- (a) any colours allowed to be worn in pursuance of a warrant from Her Majesty or from the Secretary of State;
  - (b) in the case of British ships registered in a relevant British possession, any colours consisting of the red ensign defaced or modified whose adoption for

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ships registered in that possession is authorised or confirmed by Her Majesty by Order in Council.

**Marginal Citations**

M20 1906 c.48

*Penalty for carrying improper colours*

- 3 (1) If any of the following colours, namely—
- (a) any distinctive national colours except—
    - (i) the red ensign,
    - (ii) the Union flag (commonly known as the Union Jack) with a white border, or
    - (iii) any colours authorised or confirmed under paragraph 2(3)(b) above;or
  - (b) any colours usually worn by Her Majesty’s ships or resembling those of Her Majesty, or
  - (c) the pendant usually carried by Her Majesty’s ships or any pendant resembling that pendant,
- are hoisted on board any British ship without warrant from Her Majesty or from the Secretary of State, the master of the ship, or the owner of the ship (if on board) and every other person hoisting them shall be guilty of an offence.
- (2) A person guilty of an offence under sub-paragraph (1) above shall be liable—
- (a) on conviction on indictment, to a fine;
  - (b) on summary conviction, to a fine not exceeding the statutory maximum.
- (3) If any colours are hoisted on board a ship in contravention of sub-paragraph (1) above, any of the following, namely—
- (a) any commissioned naval or military officer,
  - (b) any officer of customs and excise, and
  - (c) any British consular officer,
- may board the ship and seize and take away the colours.
- (4) Any colours seized under sub-paragraph (3) above shall be forfeited to Her Majesty.
- (5) In this paragraph—
- “colours” includes any pendant;
  - “commissioned naval officer” means a commissioned officer in Her Majesty’s navy on full pay and “commissioned military officer” has a corresponding meaning.

*Duty to show British flag*

- 4 (1) Subject to sub-paragraph (2) below, a British ship, other than a fishing vessel, shall hoist the red ensign or other proper national colours—

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- (a) on a signal being made to the ship by one of Her Majesty's ships (including any ship under the command of a commissioned naval officer); and
  - (b) on entering or leaving any foreign port; and
  - (c) in the case of ships of 50 or more tons gross tonnage, on entering or leaving any British port.
- (2) Sub-paragraph (1)(c) above does not apply to a small ship (as defined in paragraph 1(2) above) registered under this Act.
- (3) In this paragraph "commissioned naval officer" has the same meaning as in paragraph 3 above.

*Offences relating to British character of ship*

- 5 (1) If the master or owner of a ship which is not a British ship does anything, or permits anything to be done, for the purpose of causing the ship to appear to be a British ship then, except as provided by sub-paragraphs (2) and (3) below, the ship shall be liable to forfeiture and the master, the owner and any charterer shall each be guilty of an offence.
- (2) No liability arises under sub-paragraph (1) above where the assumption of British nationality has been made for the purpose of escaping capture by an enemy or by a foreign ship of war in the exercise of some belligerent right.
- (3) Where the registration of any ship has terminated by virtue of any provision of registration regulations, any marks prescribed by registration regulations displayed on the ship within the period of 14 days beginning with the date of termination of that registration shall be disregarded for the purposes of sub-paragraph (1) above.
- (4) If the master or owner of a British ship does anything, or permits anything to be done, for the purpose of concealing the nationality of the ship, the ship shall be liable to forfeiture and the master, the owner and any charterer of the ship shall each be guilty of an offence.
- (5) Without prejudice to the generality of sub-paragraphs (1) and (4) above, those sub-paragraphs apply in particular to acts or deliberate omissions as respects—
- (a) the flying of a national flag;
  - (b) the carrying or production of certificates of registration or other documents relating to the nationality of the ship; and
  - (c) the display of marks required by the law of any country.
- (6) Any person guilty of an offence under this paragraph shall be liable—
- (a) on summary conviction, to a fine not exceeding £50,000;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.
- (7) This paragraph applies to things done outside, as well as to things done within, the United Kingdom.

*Status: Point in time view as at 01/01/1995.*

*Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping (Registration, etc.) Act 1993 (repealed 1.1.1996). (See end of Document for details)*

*Duty to declare national character of ship*

- 6 (1) An officer of customs and excise shall not grant a clearance or transire for any ship until the master of such ship has declared to that officer the name of the nation to which he claims that the ship belongs, and that officer shall thereupon enter that name on the clearance or transire.
- (2) If a ship attempts to proceed to sea without such clearance or transire, the ship may be detained until the declaration is made.

*Status of certificate of registration*

- 7 The certificate of registration of a British ship shall be used only for the lawful navigation of the ship, and shall not be subject to detention to secure any private right or claim.

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 <sup>M21</sup>Maritime Conventions Act 1911 and the <sup>M22</sup>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.

**Marginal Citations**

**M21** 1911 c.57

**M22** 1971 c.60

*Status: Point in time view as at 01/01/1995.*

*Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping (Registration, etc.) Act 1993 (repealed 1.1.1996). (See end of Document for details)*

### *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 <sup>M23</sup>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, 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;
- F1 . . . .
- (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.

#### **Textual Amendments**

- F1** Words in [Sch. 4 para. 2\(3\)](#) repealed (1.1.1995) by 1994 c. 28, s. 10(3), [Sch. 4](#); S.I. 1994/2971, art. 2, [Sch. 4](#) (which amending Act was repealed (1.1.1996) by 1995 c. 21, s. 314(1), [Sch. 12](#))



*Status: Point in time view as at 01/01/1995.*

*Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping (Registration, etc.) Act 1993 (repealed 1.1.1996). (See end of Document for details)*

### Marginal Citations

M23 1981 c.29

- 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—
- (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.

*Status: Point in time view as at 01/01/1995.*

*Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping (Registration, etc.) Act 1993 (repealed 1.1.1996). (See end of Document for details)*

- (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);
- F2 . . .
- 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) F2 . . .
- (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.

**Textual Amendments**

F2 Words in Sch. 4 para. 6(1)(a)(2)(b) repealed (1.1.1995) by 1994 c. 28, s. 10(3), Sch. 4; S.I. 1994/2971, art. 2, Sch. 4 (which amending Act was repealed (1.1.1996) by 1995 c. 21, s. 314(1), Sch. 12)

*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

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*Status: Point in time view as at 01/01/1995.*

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(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.

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*Status: Point in time view as at 01/01/1995.*

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- (2) The power of detention conferred by subsection (1) above is exercisable in relation to foreign ships as well as United Kingdom ships.
- (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.

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- (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—
- “(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 <sup>M24</sup>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

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- (b) with the omission in section 282(a) of the words “knowingly and”.

**Marginal Citations**

M24 1970 c.27

*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;
  - (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

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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—
    - “(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

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- 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 <sup>M25</sup>Malicious Damage Act 1861 (offences relating to false signals and damage, removal or concealment of buoys and other sea marks).



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### Marginal Citations

M25 1861 c.97

- 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

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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 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."

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- 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)—
- (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,

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- (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 <sup>M26</sup>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.

#### Commencement Information

**I2** Sch. 4 para. 54: in force 1.5.1994 save as mentioned in S.I. 1993/3137, art. 3(2), Sch. 2, Appendix para. 1(d).

#### Marginal Citations

**M26** 1898 c.44

*Status: Point in time view as at 01/01/1995.*

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- 55 In section 30(2) of the <sup>M27</sup>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 ”.

**Marginal Citations**

**M27** 1964 c.40

*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 ”.

- 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—

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- (a) so far as it applies to British subjects, apply only to British citizens (within the meaning of the <sup>M28</sup>British Nationality Act 1981); and
- (b) so far as it applies to British ships, apply only to United Kingdom ships.

#### Marginal Citations

M28 1981 c.61

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

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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.”.

- 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.”.

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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.
- (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



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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—

(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.

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(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.

(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 ”.

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

SCHEDULE 5

Section 8(4)

REPEALS

PART I

REPEALS CONSEQUENTIAL ON THIS ACT

| Chapter    | Short title                 | Extent of repeal   |
|------------|-----------------------------|--|
| 1894 c.60. | Merchant Shipping Act 1894. | Section 4(1) and (3).Sections 5 to 18.Sections 20 to 38.Sections 47 to 53B.Sections 56 to 60.Section 61(2).Sections 62 to 65.Sections 67 to 70.Sections 72 to 74.In section 422(1)(b), the words “of the port to which she |

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|             |  |  |
|-------------|--|--|
|             |  | belongs, and also”.Section 694.Section 698.Schedule 1 Part II.   |
| 1898 c. 44. | Merchant Shipping (Mercantile Marine Fund) Act 1898. | Section 3.   |
| 1906 c.48.  | Merchant Shipping Act 1906.                          | Sections 50 and 53.  |
| 1921 c. 8.  | Merchant Shipping Act 1921.                          | Section 1(1)(3).   |
| 1983 c.13.  | Merchant Shipping Act 1983.                          | Section 5.Sections 7 and 8.Section 9(1).Sections 10 and 11.The Schedule.   |
| 1988 c.12.  | Merchant Shipping Act 1988.                          | Sections 1 to 10.In section 11(3), the words “under Part I of the 1894 Act”.Sections 12 to 25.In section 47(7), the definition of “the registration enactments”.Schedule 1 except paragraph 48.Schedules 2 and 3.In Schedule 6, the entries relating to the—Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965;Sea Fish (Conservation) Act 1967;Sea Fisheries Act 1968;Fishing Vessels (Safety Provisions) Act 1970;Fishery Limits Act 1976;Employment Protection (Consolidation) Act 1978;Customs and Excise Management Act 1979;British Fishing Boats Act 1983;Merchant Shipping Act 1983;Inshore Fishing (Scotland) Act 1984; andSafety at Sea Act 1986. |

## PART II

### PRE-CONSOLIDATION REPEALS

#### Commencement Information

**I3** Sch. 5 Pt. II: in force 1.5.1994 save as mentioned in S.I. 1993/3137, Sch. 2, Appendix para. 2.

| Chapter | Short title | Extent of repeal |
|---------|-------------|------------------|
|---------|-------------|------------------|

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|             |                                    |  |
|-------------|------------------------------------|--|
| 1854 c.120. | Merchant Shipping Repeal Act 1854. | Section 7.   |
| 1861 c.97.  | Malicious Damage Act 1861.         | Sections 47 and 48.  |
| 1894 c.60.  | Merchant Shipping Act 1894.        | Section 75. In section 76, in subsection (1), the words from “and may award” to the end and, in subsection (2), the words “either” and “or criminally”. Sections 83, 86 and 87. Section 126. In section 282(a) the words “knowingly and”. Section 284 to 286. In section 287(1), paragraphs (f) and (g). Section 356. Section 359. Sections 366 and 367. Sections 418 and 419. Section 421. Sections 427 to 433. Section 436. Sections 446 to 448 and 450. Section 458(2)(b). Sections 459 to 462. Section 478. Sections 480 to 490. Section 514. In section 515, the words “and tumultuously”. In section 516(2), the words “and shall place the same in the custody of the receiver”. Section 517. In section 518(a), the words “of the district”. Section 526. Sections 528 and 529. Section 543. Sections 547 to 549. Section 550. In section 551(1), the words from “of the district” to “made”. Section 554. Sections 558 to 565. In section 634(1), the words “and the Channel Islands”, “and at Gibraltar” and “and the Isle of Man”. In section 650(1), the word “guns”. Section 655 (so far as in force in Northern Ireland). In section 656(2), the words from “and shall” (where first occurring) to the end. In section 667, the words “fire” and “burnt” wherever occurring together with the word “or” in conjunction with either of those words. Section |

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|             |  |  |
|-------------|--|--|
|             |  | 669. Section 676(1)(c). In section 677(1)(f), the words “on account of the property of deceased seamen or”, Section 686(2). In section 689(3), the words from “and that officer” to the end. Section 694. Sections 698 to 700. In section 702, the words “Subject to section 703 of this Act”, the words from “or criminal” to “sheriff court”, and “and with imprisonment in default of payment” and the words from “or in the case” to the end. Sections 704 to 709. Section 716. Section 719. Section 724(3) and (5) except, in subsection (3), the words “may remove any surveyors of ships”. Sections 733 and 734. Section 737. Schedule 20 so far as unrepealed. |
| 1898 c.44.  | Merchant Shipping (Mercantile Marine Fund) Act 1898.           | Section 2(3), (4) and (5). Section 7. In Schedule 3, the entry for the lighthouse on Cape Pembroke, Falkland Islands.  |
| 1906 c.48.  | Merchant Shipping Act 1906.                                    | Sections 2 and 6. Sections 15 and 16. Section 27. Section 44. Section 49. Section 58. Section 77.  |
| 1923 c. 4.  | Fees (Increase) Act 1923.                                      | The whole Act.   |
| 1925 c. 37. | Merchant Shipping (Equivalent Provisions) Act 1925.            | The whole Act.   |
| 1932 c.9.   | Merchant Shipping (Safety and Load Line Conventions) Act 1932. | Section 12. Section 27. Sections 29 to 31. Section 36.   |
| 1934 c. 18. | Illegal Trawling (Scotland) Act 1934.                          | Section 2. In section 6, the definitions of “fishing boat” and “voyage”.   |
| 1949 c.43.  | Merchant Shipping (Safety Convention) Act 1949.                | Sections 1 to 6. Section 19. Section 21. Section 23. Sections 27 to 30. Section 33. Section 35(4) and (6). In section 36(1), the   |

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|             |  |   |
|-------------|--|---|
|             |  | definitions of “collision regulations”, “construction rules”, “principal Act”, “radio navigational aid”, “radio rules”, “rules for direction finders”, “rules for life-saving equipment”, and “United Kingdom ship”.Schedule 2.   |
| 1958 c.62.  | Merchant Shipping (Liability of Shipowners and Others) Act 1958. | Section 11 so far as applying to the Merchant Shipping (Liability of Shipowners and Others) Act 1900 (c.32).  |
| 1964 c. 47. | Merchant Shipping Act 1964.                                      | Section 2.Section 8.Section 10.Section 15.  |
| 1965 c.47.  | Merchant Shipping Act 1965.                                      | Section 6.  |
| 1967 c.27.  | Merchant Shipping (Load Lines) Act 1967.                         | Sections 26, 27(2), 28 and 29.  |
| 1967 c. 64. | Anchors and Chain Cables Act 1967.                               | The whole Act.  |
| 1970 c.27.  | Fishing Vessels (Safety Provisions) Act 1970.                    | Section 4(4).Section 6.Section 8.In section 9(1), the definitions of “collision regulations”, “fishing vessel”, “radio rules”, “rules for direction finders”, “rules for life-saving appliances” and “rules for radio navigational aids”.                                     |
| 1970 c.36.  | Merchant Shipping Act 1970.                                      | Section 6.In section 17, in subsection (10), the words “Ministry of Home Affairs for Northern Ireland” and, in subsection (11), the words “the Ministry of Home Affairs for Northern Ireland or”.Section 19.Section 84.Section 87.Section 90.Sections 92 to 94.Section 95(6). |
| 1971 c.59.  | Merchant Shipping (Oil Pollution) Act 1971.                      | Sections 11(3)(a).Section 18.   |
| 1971 c.60.  | Prevention of Oil Pollution Act 1971.                            | Section 18 except in its application to sections 2(1) and 3.Section 22.Section 25(1).   |
| 1974 c.43.  | Merchant Shipping Act 1974.                                      | Section 20.Section 22.In Schedule 5, in paragraph   |

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|             |   |  |
|-------------|---|--|
|             |   | 5(g), the words from “including” to the end.   |
| 1977 c. 24. | Merchant Shipping (Safety Convention) Act 1977. | The whole Act.   |
| 1979 c.39.  | Merchant Shipping Act 1979.                     | Section 19(2) and (3).In section 20(3)(b), the words from “and the payment” to the end.Section 21(3) (r).Sections 46 and 47. |
| 1981 c.10.  | Merchant Shipping Act 1981.                     | In section 4(2) the words from the beginning to “that section; and”.   |
| 1984 c.5.   | Merchant Shipping Act 1984.                     | Section 13.  |
| 1986 c.23.  | Safety at Sea Act 1986.                         | Sections 1 to 6.Section 9(4).In section 13(1), the definition of “fishing vessel”.Section 14.                                |
| 1988 c.12.  | Merchant Shipping Act 1988.                     | Section 34.Sections 50 and 51.Section 54.Section 56.Schedule 4.In Schedule 5, paragraph 4 of the amendments of the 1894 Act. |

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### *Saving*

Notwithstanding the repeal by this Act of the following provisions, instruments in force immediately before the repeal under the provisions specified in the left-hand column shall continue in force until superseded by regulations under section 21 of the 1979 Act (safety regulations) and the related provisions specified in the right-hand column shall continue in force for the purposes of those instruments:

| <i>Empowering provision</i>       | <i>Related provisions</i>                       |
|-----------------------------------|---|
| 1894 Act: section 427             | Section 430.                                    |
| 1949 Act: section 3<br>section 21 | Sections 3(5) and (6) and 28.<br>Section 21(3). |
| 1964 Act: section 2               |   |
| 1967 Act (c.64): section 1        | Section 1(2) and (3).                           |
| 1977 Act: section 2               |   |

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**Changes to legislation:**

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