



# Merchant Shipping Act 1894

1894 CHAPTER 60 57 and 58 Vict

An Act to consolidate Enactments relating to Merchant Shipping. [25th August 1894]

## Modifications etc. (not altering text)

- C1** Power to extend Act conferred by: Merchant Shipping Act 1906 (c. 48), s. 80; (1.5.1994) by 1993 c. 22, s. 8(3), Sch. 4 paras. 4(2)(3)(4), 5(1); S.I. 1993/3137, art. 3(2)  
Power to amend Act conferred (1.5.1994) by 1993 c. 22, s. 8(3), Sch. 4 para. 4(2)(3)(4); S.I. 1993/3137, art. 3(2)
- C2** Act amended by Employment of Women, Young Persons, and Children Act 1920 (c. 65), s. 1 and Merchant Shipping Act 1965 (c. 47), s. 1
- C3** Power to adapt provisions of Act conferred by Merchant Shipping Act 1970 (c. 36), s. 90  
Power to modify Act conferred (21.3.1994) by 1993 c. 22, s. 7(8)(9); S.I. 1993/3137, art. 3(1)
- C4** Functions of the Board of Trade which became exercisable concurrently by Secretary of State: S.I. 1970/1537, art. 2(1) have ceased to be exercisable by the Board of Trade: S.I. 1983/1127, art. 2(4)
- C5** Act amended by S.I. 1983/708, regs. 1(3)(4)(b), 2
- C6** Act amended by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 2 (with s. 58(4), Sch. 8 para. 1)  
Act amended (1.5.1994) by 1993 c. 22, s. 8(3), Sch. 4 paras. 2(1)(3)(5), 3, 12(6); S.I. 1993/3137, art. 3(2)  
Act amended (1.5.1994) by 1993 c. 22, s. 8(3), Sch. 4 para. 74; S.I. 1993/3137, art. 3(2)
- C7** Act modified by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 47(2)(b) (with s. 58(4), Sch. 8 para. 1) and by S.I. 1989/1991, art. 10
- C8** Act excluded by S.I. 1989/1991, arts. 11–13
- C9** Act extended by Happisburgh Lighthouse Act 1990 (c.xvi), s. 4
- C10** Act (other than certain provisions) excluded by S.I. 1989/1991, art. 14, Sch. 1
- C11** Definitions applied (25.7.1991) by Ports Act 1991 (c. 52, SIF 58), s. 34(2)
- C12** Act applied (E.W.) (1.12.1991) by Water Industry Act 1991 (c. 56, SIF 130), ss. 121(6), 223(2) (with ss. 82(3), 186(1), 222(1), Sch. 14 para. 6)  
Act applied (E.W.) (1.12.1991) by Water Resources Act 1991 (c. 57, SIF 130), ss. 221(1), 225(2) (with ss. 179, 222(3), Sch. 22 para. 1, Sch. 23 para. 6)  
Act applied (21.3.1994) by 1993 c. 22, s. 7(6)(b)(8)(9); S.I. 1993/3137, art. 3(1)  
Definitions applied (E.W.) (1.12.1991) by Land Drainage Act 1991 (c. 59, SIF 73:1), ss. 72(1), 76(2) (with ss. 67(3)(5)(8), 72(6), 74(3)(4))
- C13** Act excluded (13.6.1992) by S.I. 1992/1293, art. 11
- C14** Act modified (12.6.1992) by S.I. 1992/1294, art. 10

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*Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1894. (See end of Document for details)*

- C15** Act excluded (12.6.1992) by [S.I. 1992/1294, arts. 10-13](#)  
**C16** Act modified (21.3.1994) by [S.I. 1994/744, art. 3](#)

## PART I

### REGISTRY

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

- C17** Pt. I extended by [Merchant Shipping Act 1921 \(c. 28\), s. 1](#)  
**C18** Pt. I (ss. 1–91) excluded by [Merchant Shipping Act 1983 \(c. 13, SIF 111\), s. 5\(2\)](#)  
**C19** Pt. I (ss. 1–91) excluded by [Merchant Shipping Act 1988 \(c. 12, SIF 111\), s. 13\(2\)\(a\)](#), (with s. 58(4), Sch. 8 para. 1)  
**C20** Pt. I (ss. 1–91) amended by [Merchant Shipping Act 1988 \(c. 12, SIF 111\), ss. 3\(1\), 4, 10\(2\)](#), (with s. 58(4), Sch. 8 para. 1)  
**C21** Pt. I (ss. 1–91) excluded by [S.I. 1988/1911, art. 5](#)  
**C22** Pt. I (down to and including s. 67) applied with modifications by [Merchant Shipping Act 1988 \(c. 12, SIF 111\), s. 47\(3\)\(7\)](#), (with s. 58(4), Sch. 8 para. 1)  
**C23** Pt. I (ss. 1–91) extended by [S.I. 1988/1926, reg. 45](#)  
**C24** Pt. I (ss. 1–91) restricted by [S.I. 1991/770, art. 3\(1\)](#).  
**C25** Pt. I (ss. 1–91) restricted (13.8.1992) by [S.I. 1992/1736, art. 3](#)

**1–3** ..... <sup>F1</sup>

#### Textual Amendments

- F1** Ss. 1–3 repealed and superseded by [Merchant Shipping Act 1988 \(c. 12, SIF 111\), ss. 1, 10, 57\(5\), Sch. 1 para. 1, Sch. 7](#), (with s. 58(4), Sch. 8 para. 1)

#### *Procedure for Registration*

#### **4 Registrars of British ships.**

[<sup>F2</sup>(1) The registrar of British ships at any port in the United Kingdom approved by the Commissioners of Customs and Excise for the registry of ships shall be any officer (whether at that port or elsewhere) appointed for the purpose by the Commissioners.]

(2) ..... <sup>F3</sup>

(3) A registrar shall not be liable to damages or otherwise for any loss accruing to any person by reason of any act done or default made by him in his character of registrar, unless the same has happened through his neglect or wilful act.

#### Textual Amendments

- F2** S. 4(1) substituted by [Merchant Shipping Act 1988 \(c. 12, SIF 111\), s. 10, Sch. 1 para. 2\(a\)](#), (with s. 58(4), Sch. 8 para. 1)

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- F3** S. 4(2) repealed by Merchant Shipping Act 1988 (c. 12, SIF 111), ss. 10, 57(5), Sch. 1 para. 2(b), Sch. 7, (with s. 58(4), Sch. 8 para. 1)

## 5 Register book.

Every registrar of British ships shall keep [<sup>F4</sup>a register of such ships (referred to in this Part of this Act as “the register”), and entries in the register] shall be made in accordance with the following provisions:—

- (i) The property in a ship shall be divided into sixty-four shares:
- (ii) Subject to the provisions of this Act with respect to joint owners or owners by transmission, not more than sixty-four individuals shall be entitled to be registered at the same time as owners of any one ship; but this rule shall not affect the beneficial title of any number of persons or of any company represented by or claiming under or through any registered owner or joint owner:
- (iii) A person shall not be entitled to be registered as owner of a fractional part of a share in a ship; but any number of persons not exceeding five may be registered as joint owners of a ship or of any share or shares therein:
- (iv) Joint owners shall be considered as constituting one person only as regards the persons entitled to be registered, and shall not be entitled to dispose in severalty of any interest in a ship, or in any share therein in respect of which they are registered:
- (v) A corporation may be registered as owner by its corporate name.

### Textual Amendments

- F4** Words substituted by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 10, Sch. 1 para. 3, (with s. 58(4), Sch. 8 para. 1)

## 6 Survey and measurement of ship.

Every . . . <sup>F5</sup>ship shall before registry be surveyed by a surveyor of ships and her tonnage ascertained in accordance with the tonnage regulations of this Act, and the surveyor shall grant his certificate specifying the ship’s tonnage and build, and such other particulars descriptive of the identity of the ship as may for the time being be required by the Board of Trade, and such certificate shall be delivered to the registrar before registry.

### Textual Amendments

- F5** Word repealed by Merchant Shipping Act 1988 (c. 12, SIF 111), ss. 10, 57(5), Sch. 1 para. 4, Sch. 7, (with s. 58(4), Sch. 8 para. 1)

### Modifications etc. (not altering text)

- C26** S. 6 excluded by Merchant Shipping Act 1965 (c. 47), s. 1(4)  
**C27** S. 6 applied with modifications by S.I. 1988/1926, reg. 60, Sch. 6

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## 7 Marking of ship.

(1) Every . . . <sup>F6</sup> ship shall before registry be marked permanently and conspicuously to the satisfaction of the Board of Trade as follows:—

(a) Her name shall be marked on each of her bows, and her name and the name of her port of registry must be marked on her stern, on a dark ground in white or yellow letters, or on a light ground in black letters, such letters to be of a length not less than [<sup>F7</sup>one decimetre], and of proportionate breadth:

(b) Her official number and the number denoting her registered tonnage shall be cut in on her main beam:

(c) [<sup>F8</sup>In the case of every such ship registered before the 1st day of January 1974] A scale of feet denoting her draught of water shall be marked on each side of her stem and of her stern post in Roman capital letters or in figures, not less than six inches in length, the lower line of such letters or figures to coincide with the draught line denoted thereby, and those letters or figures must be marked by being cut in and painted white or yellow on a dark ground, or in such other way as the Board of Trade approve.

[<sup>F9</sup>(d) In the case of every such ship registered on or after that date, a scale of decimetres, or of metres and decimetres, denoting a draught of water shall be marked on her stem and of her stern post—

(i) in figures at two-decimetre intervals, if the scale is in decimetres; and

(ii) in figures at each metre interval and at intervening two-decimetre intervals, if the scale is in metres and decimetres;

the capital letter “M” being placed after each metre figure; the top figure on the scale showing both the metre and (except where it marks a full metre interval) the decimetre figure; the lower line of figures, or figures and letters (as the case may be), coinciding with the draught line denoted thereby; the figures and letters being not less than one decimetre in length and being marked by being cut in and painted white or yellow on a dark ground, or in such other way as the Secretary of State approves.

(e) In the case of every such ship registered after that date but before the 31st day of December 1974 a scale shall be marked either in accordance with paragraph (c) of this sub-section, or in accordance with paragraph (d) of this sub-section.]

(2) . . . . . <sup>F10</sup>

(3) If the scale . . . <sup>F11</sup> showing the ship’s draught of water is in any respect inaccurate, so as to be likely to mislead, the owner of the ship shall be liable to a fine not exceeding one hundred pounds.

(4) The marks required by this section shall be permanently continued, and no alteration shall be made therein, except in the event of any of the particulars thereby denoted being altered in the manner provided by this Act.

(5) If an owner or master of a [<sup>F12</sup>registered ship neglects to keep his ship marked as required by this section], or if any person conceals, removes, alters, defaces, or obliterates, or suffers any person under his control to conceal, remove, alter, deface, or obliterate any of the said marks, except in the event aforesaid, or except for the purpose of escaping capture by an enemy, that owner, master, or person shall for each offence be liable to a fine not exceeding [<sup>F13</sup>£200][<sup>F14</sup>level 3 on the standard scale], and on a certificate from a surveyor of ships, or Board of Trade inspector under this Act, that a ship is insufficiently or inaccurately marked the ship may be detained until the insufficiency or inaccuracy has been remedied.

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### Textual Amendments

- F6** Word repealed by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), ss. 10, 57(5), [Sch. 1 para. 5\(a\)](#), [Sch. 7](#), (with s. 58(4), [Sch. 8 para. 1](#))
- F7** Words substituted by [S.I. 1973/1979](#), [reg. 2\(1\)\(a\)](#)
- F8** Words inserted by [S.I. 1973/1979](#), [reg. 2\(1\)\(b\)](#)
- F9** [S. 7\(1\)\(d\)\(e\)](#) inserted by [S.I. 1973/1979](#), [reg. 2\(2\)](#)
- F10** [S. 7\(2\)](#) repealed (with saving by [S.I. 1989/353](#), [art. 3](#)) by [Merchant Shipping Act 1988 \(c.12, SIF 111\)](#), ss. 10, 57(5), [Sch. 1 para. 5\(b\)](#), [Sch. 7](#), (with s. 58(4), [Sch. 8 para. 1](#))
- F11** Words repealed by [S.I. 1973/1979](#), [reg. 2\(3\)](#)
- F12** Words substituted by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 10, [Sch. 1 para. 5\(c\)](#), (with s. 58(4), [Sch. 8 para. 1](#))
- F13** Words “level 3 on the standard scale” substituted (E.W.S) for “£200” by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [s. 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c.21, SIF 39:1\)](#), [s. 289G](#)
- F14** Word substituted by virtue of [Merchant Shipping Act 1979 \(c. 39\)](#), s. 43(1), [Sch. 6 Pt. II](#)

## 8 Application for registry.

An application for registry of a ship shall be made in the case of individuals by the person requiring to be registered as owner, or by some one or more of the persons so requiring if more than one, or by his or their agent, and in the case of corporations by their agent, and the authority of the agent shall be testified by writing, if appointed by individuals, under the hands of the appointors, and, if appointed by a corporation, under the common seal of that corporation.

### Modifications etc. (not altering text)

- C28** [Ss. 8-12](#) restricted (13.6.1992) by [S.I. 1992/1293](#), [art. 12](#), [Sch.](#)

## 9 Declaration of ownership on registry.

A person shall not be entitled to be registered as owner of a ship or of a share therein until he, or in the case of a corporation the person authorised by this Act to make declarations on behalf of the corporation, has made and signed a declaration of ownership, referring to the ship as described in the certificate of the surveyor, and containing the following particulars:—

- (i) A statement of his qualification to own a British ship, or in the case of a corporation, of such circumstances of the constitution and business thereof as prove it to be qualified to own a British ship:
- (ii) A statement of the time when and the place where the ship was built, or, if the ship is foreign built, and the time and place of building unknown, a statement that she is foreign built, and that the declarant does not know the time or place of her building; and, in addition thereto, in the case of a foreign ship, a statement of her foreign name, or, in the case of a ship condemned, a statement of the time, place, and court at and by which she was condemned:
- (iii) F15  
.....
- (iv) A statement of the number of shares in the ship [F16 the legal title to which is vested in him (or as the case may be) the corporation, whether alone or jointly with any other person or persons:]

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- [<sup>F17</sup>(v) A declaration that, to the best of his knowledge and belief, a majority interest in the ship is owned by persons qualified to be owners of British ships, and the ship is otherwise entitled to be registered]
- [<sup>F18</sup>(vi) In the case of a ship which is for the time being registered under the law of any country outside the United Kingdom, a declaration that, if the ship is still so registered at the time when it becomes registered under this Part of this Act, he will take all reasonable steps to secure the termination of the ship's registration under the law of that country.

In the application of this section to a ship which is not wholly owned by persons qualified to be owners of British ships, paragraph (i) above shall have effect only in relation to persons who are so qualified.]

#### Textual Amendments

- F15** S. 9(iii) repealed by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), ss. 10, 57(5), Sch. 1 para. 6(a), [Sch. 7](#), (with s. 58(4), Sch. 8 para. 1)
- F16** Words substituted by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 10, [Sch. 1 para. 6\(b\)](#), (with s. 58(4), Sch. 8 para. 1)
- F17** S. 9(v) substituted by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 10, [Sch. 1 para. 6\(c\)](#), (with s. 58(4), Sch. 8 para. 1)
- F18** S. 9(vi) added by [Merchant Shipping Act 1988 \(c.12, SIF 111\)](#), s. 10, [Sch. 1 para. 6\(d\)](#), (with s. 58(4), Sch. 8 para. 1)

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

- C29** Ss. 8-12 restricted (13.6.1992) by [S.I. 1992/1293](#), art. 12, [Sch.](#)

## 10 Evidence on first registry.

- (1) On the first registry of a ship the following evidence shall be produced in addition to the declaration of ownership:—
- (a) In the case of a British-built ship, a builder's certificate, that is to say, a certificate signed by the builder of the ship, and containing a true account of the proper denomination and of the tonnage of the ship, as estimated by him, and of the time when and the place where she was built, and of the name of the person (if any) on whose account the ship was built, and if there has been any sale, the bill of sale under which the ship, or a share therein, has become vested in the applicant for registry:
  - (b) In the case of a foreign-built ship, the same evidence as in the case of a British-built ship, unless the declarant who makes the declaration of ownership declares that the time and place of her building are unknown to him, or that the builder's certificate cannot be procured, in which case there shall be required only the bill of sale under which the ship, or a share therein, became vested in the applicant for registry:
  - (c) In the case of a ship condemned by any competent court, an official copy of the condemnation.
- (2) The builder shall grant the certificate required by this section, and such person as the [<sup>F19</sup>Commissioners of Customs and Excise] recognise as carrying on the business of the builder of a ship, shall be included, for the purposes of this section, in the expression "builder of the ship."

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- (3) If the person granting a builder's certificate under this section wilfully makes a false statement in that certificate he shall for each offence be liable to a fine not exceeding [F20[F21 £500]] [F20 level 4 on the standard scale].

#### Textual Amendments

- F19** Words substituted by virtue of [Customs and Excise Management Act 1979 \(c. 2\), Sch. 4 para. 1](#)
- F20** Words “level 4 on the standard scale” substituted (E.W.S.) for “£500” by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289G](#)
- F21** Word substituted by virtue of [Merchant Shipping Act 1979 \(c. 39\), s. 43\(1\), Sch. 6 Pt. III](#)

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

- C30** [Ss. 8-12](#) restricted (13.6.1992) by [S.I. 1992/1293, art. 12](#), Sch.

## 11 Entry of particulars in register.

As soon as the requirements of this Act preliminary to registry have been complied with the registrar shall enter in the register . . . <sup>F22</sup>the following particulars respecting the ship:—

- (a) The name of the ship and the name of the port to which she belongs:
- (b) The details comprised in the surveyor's certificate:
- (c) The particulars respecting her origin stated in the declaration of ownership:  
and
- (d) The name and description of her registered owner or owners, and if there are more owners than one, the proportions in which they are interested in her.

#### Textual Amendments

- F22** Word repealed by [Merchant Shipping Act 1988 \(c. 12, SIF 111\), ss. 10, 57\(5\), Sch. 1 para. 7, Sch. 7](#), (with s. 58(4), Sch. 8 para. 1)

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

- C31** [Ss. 8-12](#) restricted (13.6.1992) by [S.I. 1992/1293, art. 12](#), Sch.

## 12 Documents to be retained by registrar.

On the registry of a ship the registrar shall retain in his possession the following documents; namely, the surveyor's certificate, the builder's certificate, any bill of sale of the ship previously made, the copy of the condemnation (if any), and all declarations of ownership.

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

- C32** [Ss. 8-12](#) restricted (13.6.1992) by [S.I. 1992/1293, art. 12](#), Sch.

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### 13 Port of registry.

The port at which a . . . <sup>F23</sup>ship is registered for the time being shall be deemed her port of registry and the port to which she belongs.

#### Textual Amendments

**F23** Word repealed by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), ss. 10, 57(5), Sch. 1 para. 8, **Sch. 7**, (with s. 58(4), Sch. 8 para. 1)

### Certificate of Registry

### 14 Certificate of registry.

On completion of the registry of a ship, the registrar shall grant a certificate of registry comprising the particulars respecting her entered in the register [<sup>F24</sup>in pursuance of section 11 of this Act.]

#### Textual Amendments

**F24** Words substituted by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 10, **Sch. 1 para. 8**, (with s. 58(4), Sch. 8 para. 1)

### 15 Custody of certificate.

- (1) The certificate of registry shall be used only for the lawful navigation of the ship, and shall not be subject to detention by reason of any title, lien, charge, or interest whatever had or claimed by any owner, mortgagee, or other person to, on, or in the ship.
- (2) If any person, whether interested in the ship or not, refuses on request to deliver up the certificate of registry when in his possession or under his control to the person entitled to the custody thereof for the purposes of the lawful navigation of the ship, or to any registrar, [<sup>F25</sup>officer of customs and excise], or other person entitled by law to require such delivery, any justice by warrant under his hand and seal, or any court capable of taking cognizance of the matter, may summon the person so refusing to appear before such justice or court, and to be examined touching such refusal, and unless it is proved to the satisfaction of such justice or court that there was reasonable cause for such refusal, the offender shall be liable to a fine not exceeding [<sup>F26</sup>£200][<sup>F27</sup>level 3 on the standard scale], but if it is shown to such justice or court that the certificate is lost, the person summoned shall be discharged, and the justice or court shall certify that the certificate of registry is lost.
- (3) If the person so refusing is proved to have absconded so that the warrant of a justice or process of a court cannot be served on him, or if he persists in not delivering up the certificate, the justice or court shall certify the fact, and the same proceedings may then be taken as in the case of a certificate mislaid, lost, or destroyed, or as near thereto as circumstances permit.

#### Textual Amendments

**F25** Words substituted by virtue of [Customs and Excise Management Act 1979 \(c. 2\)](#), **Sch. 4 para. 1**



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- F26** Words “level 3 on the standard scale” substituted (E.W.S) for “£200” by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c.21, SIF 39:1\), s. 289G](#)
- F27** Word substituted by virtue of [Merchant Shipping Act 1979 \(c. 39\), s. 43\(1\), Sch. 6 Pt. II](#)

## 16 Penalty for use of improper certificate.

If the master or owner of a ship uses or attempts to use for her navigation a certificate of registry not legally granted in respect of the ship, he shall, in respect of each offence, be guilty of a misdemeanor, and the ship shall be subject to forfeiture under this Act.

## 17 Power to grant new certificate.

The registrar of the port of registry of a ship may, with the approval of the <sup>[F28]</sup>Commissioners of Customs and Excise], and on the delivery up to him of the certificate of registry of a ship, grant a new certificate in lieu thereof.

### Textual Amendments

- F28** Words substituted by virtue of [Customs and Excise Management Act 1979 \(c. 2\), Sch. 4 para. 1](#)

## 18 Provision for loss of certificate.

- (1) In the event of the certificate of registry of a ship being mislaid, lost, or destroyed, the registrar of her port of registry shall grant a new certificate of registry in lieu of her original certificate.

<sup>[F29]</sup>(2) If—

- (a) the port where the ship is at the time of the event (or, as the case may be, where it first arrives thereafter) is a port in a country outside the British Islands, and
- (b) the master of the ship, or some other person having knowledge of the facts of the case, makes a declaration before the appropriate person stating—
  - (i) the facts of the case, and
  - (ii) the names and descriptions of the registered owners of the ship to the best of the declarant’s knowledge and belief,

the appropriate person may thereupon grant a provisional certificate containing a statement of the circumstances under which it is granted.]

- (3) The provisional certificate shall within ten days after the first subsequent arrival of the ship at <sup>[F30]</sup>a port in the United Kingdom], be delivered up to the registrar of her port of registry, and the registrar shall thereupon grant the new certificate of registry; and if the master without reasonable cause fails to deliver up the provisional certificate within the ten days aforesaid, he shall be liable to a fine not exceeding <sup>[F31]</sup><sup>[F32]</sup>£200]]<sup>[F31]</sup>level 3 on the standard scale].

<sup>[F33]</sup>(4) In this section “the appropriate person”, in relation to a port in a country outside the British Islands, means—

- (a) any British consular officer within whose consular district the port lies, or
- (b) where Her Majesty’s Government in the United Kingdom is represented in that country by a High Commissioner, any member of the High

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Commissioner’s official staff nominated by him for the purposes of this Part of this Act, or

- (c) where that country is a colony, the Governor of the colony or any person appointed by him for those purposes;

and in this subsection “High Commissioner” includes an acting High Commissioner and “Governor” includes an acting Governor.]

#### Textual Amendments

- F29** S. 18(2) substituted by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 10, **Sch. 1 para. 10(a)**, (with s. 58(4), Sch. 8 para. 1)
- F30** Words substituted by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 10, **Sch. 1 para. 10(b)**, (with s. 58(4), Sch. 8 para. 1)
- F31** Words “level 3 on the standard scale” substituted (E.W.S) for “£200” by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 46 and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c.21, SIF 39:1\)](#), s. 289G
- F32** Word substituted by virtue of [Merchant Shipping Act 1979 \(c. 39\)](#), s. 43(1), **Sch. 6 Pt. II**
- F33** S. 18(4) added by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 10, **Sch. 1 para. 10(c)**, (with s. 58(4), Sch. 8 para. 1)

19

F34

#### Textual Amendments

- F34** S. 19 repealed by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), ss. 10, 57(5), Sch. 1 para. 11, **Sch. 7**, (with s. 58(4), Sch. 8 para. 1)

## 20 Endorsement of change of ownership on certificate.

- (1) Whenever a change occurs in the registered ownership of a ship, the change of ownership shall be endorsed on her certificate of registry either by the registrar of the ship’s port of registry, or by the registrar of any port at which the ship arrives who has been advised of the change by the registrar of the ship’s port of registry.
- (2) The master shall, for the purpose of such endorsement by the registrar of the ship’s port of registry, deliver the certificate of registry to the registrar, forthwith after the change if the change occurs when the ship is at her port of registry, and if it occurs during her absence from that port and the endorsement under this section is not made before her return then upon her first return to that port.
- (3) The registrar of a ny port, not being the ship’s port of registry, who is required to make an endorsement under this section may for that purpose require the master of the ship to deliver to him the ship’s certificate of registry, so that the ship be not thereby detained, and the master shall deliver the same accordingly.
- (4) If the master fails to deliver to the registrar the certificate of registry as required by this section he shall, for each offence, be liable to a fine not exceeding [<sup>F35</sup>£200][<sup>F35</sup>level 3 on the standard scale].

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**Changes to legislation:** There are currently no known outstanding effects for the Merchant Shipping Act 1894. (See end of Document for details)

### Textual Amendments

- F35** Words “level 3 on the standard scale” substituted (E.W.S) for “£200” by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c.21, SIF 39:1\), s. 289G](#)
- F36** Word substituted by virtue of [Merchant Shipping Act 1979 \(c. 39\), s. 43\(1\), Sch. 6 Pt. II](#)

## 21 Delivery up of certificate of ship lost or ceasing to be British owned.

(1) In the event of a registered ship being either actually or constructively lost, taken by the enemy, burnt, or broken up, or <sup>F37</sup> in the event of such a ship —

- (a) ceasing to be entitled to be registered (whether because a majority interest in the ship is no longer owned by persons qualified to be owners of British ships or for any other reason), or
- (b) becoming registered, otherwise than under this Part of this Act, in the United Kingdom,

every registered owner]of the ship or any share in the ship shall, immediately on obtaining knowledge of the event, if no notice thereof has already been given to the registrar, give notice thereof to the registrar at her port of registry, and that registrar shall make an entry thereof in the register <sup>F38</sup> and the registry of the ship shall terminate forthwith.]

<sup>F39</sup>(2) Except where the ship’s certificate of registry is lost or destroyed, the master of the ship shall, as soon as practicable after the event, deliver up the certificate—

- (a) to the registrar of the ship’s port of registry, or
- (b) if the port where the ship is at the time of the event (or, as the case may be, where it first arrives thereafter) is a port in a country outside the British Islands, to the appropriate person (as defined by section 18(4) of this Act);

and any person receiving a certificate in pursuance of paragraph (b) above shall forthwith forward it to the registrar of the ship’s port of registry.]

(3) If any such owner or master fails, without reasonable cause, to comply with this section, he shall for each offence be liable to a fine not exceeding <sup>F40</sup> <sup>F41</sup>£200] <sup>F40</sup> level 3 on the standard scale]

<sup>F42</sup>(4) The registry of a registered ship shall also terminate if—

- (a) the owner of the ship gives notice to the registrar of the ship’s port of registry that he desires to terminate the ship’s registry, and
- (b) the registrar records the giving of that notice in the register.

(5) Where the registry of a ship terminates by reason of—

- (a) any notice given in pursuance of subsection (4) of this section, or
- (b) any direction given by the Secretary of State under section 7(5) of the Merchant Shipping Act 1988 (power to direct removal from register in certain cases),

subsections (2) and (3) of this section shall have effect in relation to the delivering up and forwarding of the ship’s certificate of registry as if the giving of that notice or direction were the event referred to in subsection (2).

(6) Where the registry of a ship terminates—

- (a) under subsection (1) or (4) of this section, or

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- (b) as mentioned in subsection (5)(b) of this section, the termination of its registry shall not affect any entry made in the register so far as relating to any undischarged registered mortgage, or any existing certificate of mortgage, of that ship or of any share in it.
- (7) Subsection (6) of this section shall not apply to an entry in the register in a case where—
- (a) the mortgage in question becomes registered under Part II of the Merchant Shipping Act 1988, or
  - (b) the registrar is satisfied that every person appearing on the register to be interested as a mortgagee under the mortgage in question has consented to the entry ceasing to have effect.]

#### Textual Amendments

- F37** Words substituted by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 10, **Sch. 1 para. 12(a)(i)**, (with s. 58(4), Sch. 8 para. 1)
- F38** Words substituted by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 10, **Sch. 1 para. 12(a)(ii)**, (with s. 58(4), Sch. 8 para. 1)
- F39** [S. 21\(2\)](#) substituted by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 10, **Sch. 1 para. 12(b)**, (with s. 58(4), Sch. 8 para. 1)
- F40** Words “level 3 on the standard scale” substituted (E.W.S) for “£200” by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 46 and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c.21, SIF 39:1\)](#), s. 289G
- F41** Word substituted by virtue of [Merchant Shipping Act 1979 \(c. 39\)](#), s. 43(1), **Sch. 6 Pt. II**
- F42** [S. 21 \(4\)–\(7\)](#) added by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 10, **Sch. 1 para. 12(c)**, (with s. 58(4), Sch. 8 para. 1)

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

- C33** [S. 21\(1\)](#) amended by [Merchant Shipping Act 1906 \(c. 48\)](#), s. 52(2)

### [<sup>F43</sup>22] **Provisional certificate for ship becoming entitled to be registered while abroad.**

- (1) If a ship becomes entitled to be registered while at a port in a country outside the British Islands, then (subject to the following provisions of this section) the appropriate person (as defined by section 18(4) of this Act) may, on the application of the master of the ship, grant to him a provisional certificate stating the matters specified in subsection (2) of this section, and shall forward a copy of the certificate at the first convenient opportunity to the Registrar-General of Shipping and Seamen.
- (2) Those matters are—
  - (a) the name of the ship;
  - (b) the time and place of the purchase of the ship and the names of the purchasers; and
  - (c) the best particulars respecting the tonnage, build and description of the ship which the person granting the certificate is able to obtain.
- (3) No provisional certificate shall be granted by any person under this section unless he is satisfied that an application under section 8 of this Act for registry of the ship has been made or is intended.
- (4) A provisional certificate shall have the effect of a certificate of registry until—

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- (a) the expiration of three months from its date, or
  - (b) the ship's arrival at a port where there is a registrar,
- whichever happens first, and shall then cease to be of any effect.

- (5) Where a provisional certificate has been granted for a ship under this section, no further provisional certificate shall be so granted for the ship within one year from the date of that certificate except with the consent of the Secretary of State.]

#### Textual Amendments

- F43** S. 22 substituted by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 10, **Sch. 1 para. 13**, (with s. 58(4), Sch. 8 para. 1)

### 23 Temporary passes in lieu of certificates of registry.

Where it appears to the [<sup>F44</sup>Commissioners of Customs and Excise] . . . <sup>F45</sup>that by reason of special circumstances it would be desirable that permission should be granted to any British ship to pass, without being previously registered, from [<sup>F46</sup>one port in the United Kingdom to another], the Commissioners . . . <sup>F47</sup>may grant a pass accordingly, and that pass shall, for the time and within the limits therein mentioned, have the same effect as a certificate of registry.

#### Textual Amendments

- F44** Words substituted by virtue of Customs and Excise Management Act 1979 (c. 2), **Sch. 4 para. 1**
- F45** Words repealed by Merchant Shipping Act 1988 (c. 12, SIF 111), ss. 10, 57(5), Sch. 1 para. 14(a), **Sch. 7**, (with s. 58(4), Sch. 8 para. 1)
- F46** Words substituted by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 10, **Sch. 1 para. 14(b)**, (with s. 58(4), Sch. 8 para. 1)
- F47** Words repealed by Merchant Shipping Act 1988 (c. 12, SIF 111), ss. 10, 57(5), Sch. 1 para. 14(c), **Sch. 7**, (with s. 58(4), Sch. 8 para. 1)

### *Transfers and Transmissions*

### 24 Transfer of ships or shares.

[<sup>F48</sup>(1) Any transfer of—

- (a) a registered ship, or
- (b) a share in any such ship,

shall be effected by a bill of sale, unless the transfer will result in a majority interest in the ship no longer being owned by persons qualified to be owners of British ships.]

#### Textual Amendments

- F48** S. 24(1) substituted by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 10, **Sch. 1 para. 15**, (with s. 58(4), Sch. 8 para. 1)

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## 25 Declaration of transfer.

Where a registered ship or a share therein is transferred [<sup>F49</sup>in accordance with section 24(1) of this Act], the transferee shall not be entitled to be registered as owner thereof until he, or, in the case of a corporation, the person authorised by this Act to make declarations on behalf of the corporation, has made and signed a declaration (in this Act called a declaration of transfer) referring to the ship, and containing—

- (a) a statement of the qualification of the transferee to own a British ship, or if the transferee is a corporation, of such circumstances of the constitution and business thereof as prove it to be qualified to own a British ship; and
- [<sup>F50</sup>(b) a declaration that, to the best of his knowledge and belief, a majority interest in the ship is owned by persons qualified to be owners of British ships, and the ship is otherwise entitled to be registered.]

[<sup>F51</sup>In the application of this section to a ship which is not wholly owned by persons qualified to be owners of British ships, paragraph (a) above shall have effect only in relation to persons who are so qualified.]

### Textual Amendments

**F49** Words inserted by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 10, [Sch. 1 para. 16\(a\)](#), (with s. 58(4), Sch. 8 para. 1)

**F50** [S. 25\(b\)](#) substituted by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 10, [Sch. 1 para. 16\(b\)](#), (with s. 58(4), Sch. 8 para. 1)

**F51** Words added by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 10, [Sch. 1 para. 16\(c\)](#), (with s. 58(4), Sch. 8 para. 1)

## 26 Registry of transfer.

- (1) Every bill of sale for the transfer of a registered ship or of a share therein, when duly executed, shall be produced to the registrar of her port of registry, with the declaration of transfer, and the registrar shall thereupon enter in the register . . . <sup>F52</sup>the name of the transferee as owner of the ship or share, and shall endorse on the bill of sale the fact of that entry having been made, with the day and hour thereof.
- (2) Bills of sale of a ship or of a share therein shall be entered in the register . . . <sup>F52</sup>in the order of their production to the registrar.

### Textual Amendments

**F52** Word repealed by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), ss. 10, 57(5), [Sch. 1 para. 17](#), [Sch. 7](#), (with s. 58(4), Sch. 8 para. 1)

## 27 Transmission of property in ship on death, bankruptcy, marriage, &c.

- (1) Where the property in a registered ship or share therein is transmitted to [<sup>F53</sup>any person by any lawful means other than a transfer under section 24 of this Act and a majority interest in the ship remains in the ownership of persons qualified to be owners of British ships—]
  - (a) That person shall authenticate the transmission by making and signing a declaration (in this Act called a declaration of transmission) identifying the ship and containing the several statements herein-before required to be

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contained in a declaration of transfer, or as near thereto as circumstances admit, and also a statement of the manner in which and the person to whom the property has been transmitted.

- (b) ..... <sup>F54</sup>
- (c) If the transmission is consequent on bankruptcy, the declaration of transmission shall be accompanied by such evidence as is for the time being receivable in courts of justice as proof of the title of persons claiming under a bankruptcy.
- (d) If the transmission is consequent on death, the declaration of transmission shall be accompanied by the instrument of representation, or an official extract therefrom.

- (2) The registrar, on receipt of the declaration of transmission so accompanied, shall enter in the register . . . <sup>F55</sup> the name of the person entitled under the transmission as owner of the ship or share the property in which has been transmitted, and, where there is more than one such person, shall enter the names of all such persons, but those persons, however numerous, shall, for the purpose of the provision of this Act with respect to the number of persons entitled to be registered as owners, be considered as one person.

#### Textual Amendments

- F53** Words substituted by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 10, **Sch. 1 para. 18(a)(1)**, (with s. 58(4), Sch. 8 para. 1)
- F54** [S. 27\(1\)\(b\)](#) repealed by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), ss. 10, 57(5), [Sch. 1 para. 18\(a\)\(ii\)](#), **Sch. 7**, (with s. 58(4), Sch. 8 para. 1)
- F55** Word repealed by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), ss. 10, 57(5), [Sch. 1 para. 18\(b\)](#), **Sch. 7**, (with s. 58(4), Sch. 8 para. 1)

## 28 Order for sale on transmission to unqualified person.

[<sup>F56</sup>(1) Where the property in a registered ship or share therein is transmitted to any person by any lawful means other than a transfer under section 24 of this Act, but as a result a majority interest in the ship no longer remains in the ownership of persons qualified to be owners of British ships, then#

(a) if the ship is registered in England and Wales or in Northern Ireland, the High Court, or

(b) if the ship is registered in Scotland, the Court of Session,

may, on an 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 for sale must be made within four weeks after the occurrence of the event on which the transmission has taken place, or within such further time (not exceeding in the whole one year from the date of the occurrence) as the court allow.
- (4) If such an application is not made within the time aforesaid, or if the court refuse an order for sale, the ship or share transmitted shall thereupon be subject to forfeiture under this Act.

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#### Textual Amendments

**F56** S. 28(1) substituted by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 10, **Sch. 1 para. 19**, (with s. 58(4), Sch. 8 para. 1)

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

**C34** S. 28(1) applied with modifications by S.I. 1988/1926, reg. 60, **Sch. 6**

**C35** S. 281(2)(4) applied by S.I. 1988/1926, reg. 60, **Sch. 6**

### 29 Transfer of ship or sale by order of court.

Where any court, whether under the preceding sections of this Act or otherwise, order the sale of any ship or share therein, the order of the court shall contain a declaration vesting in some person named by the court the right to transfer that ship or share, and that person shall thereupon be entitled to transfer the ship or share in the manner and to the same extent as if he were the registered owner thereof; and every registrar shall obey the requisition of the person so named in respect of any such transfer to the same extent as if such person were the registered owner.

### 30 Power of court to prohibit transfer.

Each of the following courts; namely,—

- [<sup>F57</sup>(a) in England and Wales or in Northern Ireland, the High Court; and
- (b) in Scotland, the Court of Session,]

may, if the court think fit (without prejudice to the exercise of any other power of the court), on the application of any interested person make an order prohibiting for a time specified any dealing with a ship or any share therein, and 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, and generally may act in the case as the justice of the case requires; and every registrar, without being made a party to the proceeding, shall on being served with the order or an official copy thereof obey the same.

#### Textual Amendments

**F57** S. 30(a)(b) substituted by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 10, **Sch. 1 para. 20**, (with s. 58(4), Sch. 8 para. 1)

## *Mortgages*

### 31 Mortgage of ship or share.

[<sup>F58</sup>(1) A registered ship, or a share in any such ship, may be made a security for the repayment of a loan or the discharge of any other obligation; and on production of the instrument creating any such security (referred to in this Act as a mortgage) the registrar of the ship's port of registry shall record it in the register.]

(2) Mortgages shall be recorded by the registrar in the order in time in which they are produced to him for that purpose, and the registrar shall by memorandum under his



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hand notify on each mortgage that it has been recorded by him, stating the day and hour of that record.

#### Textual Amendments

**F58** S. 31(1) substituted by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 10, Sch. 1 para. 21, (with s. 58(4), Sch. 8 para. 1)

### 32 Entry of discharge of mortgage.

Where a registered mortgage is discharged, the registrar shall, on the production of the mortgage deed, with a receipt for the mortgage money endorsed thereon, duly signed and attested, make an entry in the register . . . <sup>F59</sup> to the effect that the mortgage has been discharged, and on that entry being made the estate (if any) which passed to the mortgagee shall vest in the person in whom (having regard to intervening acts and circumstances, if any,) it would have vested if the mortgage had not been made.

#### Textual Amendments

**F59** Word repealed by Merchant Shipping Act 1988 (c. 12, SIF 111), ss. 10, 57(5), Sch. 1 para. 22, Sch. 7, (with s. 58(4), Sch. 8 para. 1)

### 33 Priority of mortgages.

If there are more mortgages than one registered in respect of the same ship or share, the mortgagees shall, notwithstanding any express, implied, or constructive notice, be entitled in priority, one over the other, according to the date at which each mortgage is recorded in the register . . . <sup>F60</sup>, and not according to the date of each mortgage itself.

#### Textual Amendments

**F60** Word repealed by Merchant Shipping Act 1988 (c. 12, SIF 111), ss. 10, 57(5), Sch. 1 para. 22, Sch. 7, (with s. 58(4), Sch. 8 para. 1)

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

**C36** S. 33 amended by S.I. 1988/1926, reg. 46

### 34 Mortgagee not treated as owner.

Except as far as may be necessary for making a mortgaged ship or share available as a security for the mortgage debt, the mortgagee shall not by reason of the mortgage be deemed the owner of the ship or share, nor shall the mortgagor be deemed to have ceased to be owner thereof.

### 35 Mortgagee to have power of sale.

Every registered mortgagee shall have power absolutely to dispose of the ship or share in respect of which he is registered, and to give effectual receipts for the purchase money; but where there are more persons than one registered as mortgagees of the same ship or share, a subsequent mortgagee shall not, except under the order of a court

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of competent jurisdiction, sell the ship or share, without the concurrence of every prior mortgagee.

### [<sup>F61</sup>36 Mortgage not affected by bankruptcy.

A registered mortgage of a ship or share shall not be affected by any act of bankruptcy committed by the mortgagor after the date of the record of the mortgage, notwithstanding that the mortgagor at the commencement of his bankruptcy had the ship or share in his possession, order, or disposition, or was reputed owner thereof, and the mortgage shall be preferred to any right, claim, or interest therein of the other creditors of the bankrupt or any trustee or assignee on their behalf.]

#### Textual Amendments

**F61** S. 36 repealed (E.W.) by [Insolvency Act 1985 \(c. 65, SIF 66\)](#), s. 235, Sch. 9 para. 11, **Sch. 10 Pt. III**; repealed (S.) by [Bankruptcy \(Scotland\) Act 1985 \(c. 66, SIF 66\)](#), s. 75(2), **Sch. 8**; repealed (N.I.) (*prosp.*) by [S.I. 1989/2405 \(N.I. 19\)](#), art. 382, **Sch. 10**

### 37 Transfer of mortgages.

A registered mortgage of a ship or share may be transferred to any person, [<sup>F62</sup>and on production of the instrument effecting the transfer the registrar shall record it by entering in the register]the name of the transferee as mortgagee of the ship or share, and shall by memorandum under his hand notify on the instrument of transfer that it has been recorded by him, stating the day and hour of the record.

#### Textual Amendments

**F62** Words substituted by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 10, **Sch. 1 para. 23**, (with s. 58(4), Sch. 8 para. 1)

### 38 Transmission of interest in mortgage by death, bankruptcy, . . . <sup>F63</sup>&c.

- (1) Where the interest of a mortgagee in a ship or share is transmitted on . . . <sup>F63</sup>, death, or bankruptcy, or by any lawful means, other than by a transfer under this Act, the transmission shall be authenticated by a declaration of the person to whom the interest is transmitted, containing a statement of the manner in which and the person to whom the property has been transmitted, and shall be accompanied by the like evidence as is by this Act required in case of a corresponding transmission of the ownership of a ship or share.
- (2) The registrar on the receipt of the declaration, and the production of the evidence aforesaid, shall enter the name of the person entitled under the transmission in the register . . . <sup>F64</sup>as mortgagee of the ship or share.

#### Textual Amendments

**F63** Word repealed by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), ss. 10, 57(5), Sch. 1 para. 24(a), **Sch. 7**, (with s. 58(4), Sch. 8 para. 1)

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**F64** Word repealed by Merchant Shipping Act 1988 (c. 12, SIF 111), ss. 10, 57(5), Sch. 1 para. 24(b), Sch. 7, (with s. 58(4), Sch. 8 para. 1)

**39–46** ..... **F65**

**Textual Amendments**

**F65** Ss. 39–46 repealed by Merchant Shipping Act 1988 (c. 12, SIF 111), ss. 10, 57(5), Sch. 1 para. 25, Sch. 7, (with s. 58(4), Sch. 8 para. 1)

*Name of Ship*

**47 Rules as to name of ship.**

- (1) A ship shall not be described by any name other than that by which she is for the time being registered.
- (2) A change shall not be made in the name of a ship without the previous written permission of the Board of Trade.
- (3) Application for that permission shall be in writing, and if the Board are of opinion that the application is reasonable they may entertain it, and thereupon require notice thereof to be published in such form and manner as they think fit.
- (4) On permission being granted to change the name, the ship's name shall forthwith be altered in the register . . . <sup>F66</sup>, in the ship's certificate of registry, and on her bows and stern.
- (5) If it is shown to the satisfaction of the Board of Trade that the name of any ship has been changed without their permission they shall direct that her name be altered into that which she bore before the change, and the name shall be altered in the register . . . <sup>F66</sup>, in the ship's certificate of registry, and on her bows and stern accordingly.
- (6) Where a ship having once been registered has ceased to be so registered no person unless ignorant of the previous registry (proof whereof shall lie on him) shall apply to register, and no registrar shall knowingly register, the ship, except by the name by which she was previously registered, unless with the previous written permission of the Board of Trade.
- (7) Where a foreign ship, not having at any previous time been registered as a British ship, becomes a British ship, no person shall apply to register, and no registrar shall knowingly register, the ship, except by the name which she bore as a foreign ship immediately before becoming a British ship unless with the previous written permission of the Board of Trade.
- (8) If any person acts, or suffers any person under his control to act, in contravention of this section, or omits to do, or suffers any person under his control to omit to do, anything required by this section, he shall for each offence be liable to a fine not exceeding [<sup>F67</sup> [<sup>F68</sup> £200]] [<sup>F67</sup> level 3 on the standard scale] and (except in the case of an application being made under the section with respect to a foreign ship which not having at any

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previous time been registered as a British ship has become a British ship) the ship may be detained until this section is complied with.

#### Textual Amendments

- F66** Word repealed by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), ss. 10, 57(5), Sch. 1 para. 26, **Sch. 7**, (with s. 58(4), Sch. 8 para. 1)
- F67** Words “level 3 on the standard scale” substituted (E.W.S) for “£200” by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 46 and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c.21, SIF 39:1\)](#), s. 289G
- F68** Word substituted by virtue of [Merchant Shipping Act 1979 \(c. 39\)](#), s. 43(1), **Sch. 6 Pt. II**

### *Registry of Alterations, Registry anew, and Transfer of Registry*

#### 48 Registry of alterations.

- (1) When a registered ship is so altered as not to correspond with the particulars relating to her tonnage or description contained in the register . . .<sup>F69</sup>, then, if the alteration is made at any port having a registrar, that registrar, or, if it is made elsewhere, the registrar of the first port having a registrar at which the ship arrives after the alteration, shall, on application being made to him, and on receipt of a certificate from the proper surveyor stating the particulars of the alteration, either cause the alteration to be registered, or direct that the ship be registered anew.
- [<sup>F70</sup>(2) If default is made in registering anew a ship, or in registering an alteration of a ship so altered as aforesaid, the owner of the ship shall be liable on summary conviction to a fine not exceeding [<sup>F71</sup>[<sup>F72</sup>two hundred pounds]][<sup>F71</sup>level 3 on the standard scale], and, in addition, to a fine not exceeding [<sup>F72</sup>twenty pounds] for every day during which the offence continues after conviction.]

#### Textual Amendments

- F69** Word repealed by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), ss. 10, 57(5), Sch. 1 para. 26, **Sch. 7**, (with s. 58(4), Sch. 8 para. 1)
- F70** [S. 48\(2\)](#) substituted by [Merchant Shipping Act 1906 \(c. 48\)](#), s. 53
- F71** Words “level 3 on the standard scale” substituted (E.W.S) for “£200” by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 46 and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c.21, SIF 39:1\)](#), s. 289G
- F72** Words substituted by [Merchant Shipping Act 1979 \(c. 39\)](#), **Sch. 6 Pt. VI para. 5**

#### 49 Regulations for registry of alteration.

- (1) For the purpose of the registry of an alteration in a ship, the ship’s certificate of registry shall be produced to the registrar, and the registrar shall, in his discretion, either retain the certificate of registry and grant a new certificate of registry containing a description of the ship as altered, or endorse and sign on the existing certificate a memorandum of the alteration.
- (2) The particulars of the alteration so made, and the fact of the new certificate having been granted, or endorsement having been made, shall be entered by the registrar of the ship’s port of registry in [<sup>F73</sup>the register]; and for that purpose the registrar to whom

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the application for the registry of the alteration has been made (if he is not the registrar of the ship's port of registry), shall forthwith report to the last-mentioned registrar the particulars and facts as aforesaid, accompanied, where a new certificate of registry has been granted, by the old certificate of registry.

#### Textual Amendments

**F73** Words substituted by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 10, [Sch. 1 para. 27](#), (with s. 58(4), Sch. 8 para. 1)

### 50 Provisional certificate and endorsement where ship is to be registered anew.

- (1) Where any registrar, not being the registrar of the ship's port of registry, on an application as to an alteration in a ship directs the ship to be registered anew, he shall either grant a provisional certificate, describing the ship as altered, or provisionally endorse the particulars of the alteration on the existing certificate.
- (2) Every such provisional certificate, or certificate provisionally endorsed, shall, within ten days after the first subsequent arrival of the ship at [<sup>F74</sup>a port in the United Kingdom, be delivered up to the registrar of the ship's port of registry], and that registrar shall cause the ship to be registered anew.
- (3) The registrar granting a provisional certificate under this section, or provisionally endorsing a certificate, shall add to the certificate or endorsement a statement that the same is made provisionally, and shall send a report of the particulars of the case to the registrar of the ship's port of registry, containing a similar statement as the certificate or endorsement.

#### Textual Amendments

**F74** Words substituted by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 10, [Sch. 1 para. 28](#), (with s. 58(4), Sch. 8 para. 1)

### 51 Registry anew on change of ownership.

Where the ownership of any ship is changed, the registrar of the port at which the ship is registered may, on the application of the owners of the ship, register the ship anew, although registration anew is not required under this Act.

### 52 Procedure for registry anew.

- (1) Where a ship is to be registered anew, the registrar shall proceed as in the case of first registry, and on the delivery up to him of the existing certificate of registry, and on the other requisites to registry, or in the case of a change of ownership such of them as he thinks material, being duly complied with, shall make such registry anew, and grant a certificate thereof.
- (2) When a ship is registered anew, her former register shall be considered as closed, except so far as relates to any unsatisfied mortgage or existing certificates of sale or mortgage entered thereon, but the names of all persons appearing on the former register to be interested in the ship as owners or mortgagees shall be entered on the

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new register, and the registry anew shall not in any way affect the rights of any of those persons.

### 53 Transfer of registry.

- (1) [<sup>F75</sup>Subject to subsection (5) of this section]the registry of any ship may be transferred from one port [<sup>F76</sup>in the United Kingdom]to another on the application to the registrar of the existing port of registry of the ship made by declaration in writing of all persons appearing on the register to be interested therein as owners or mortgagees, but that transfer shall not in any way affect the rights of those persons or any of them, and those rights shall in all respects continue in the same manner as if no such transfer had been effected.
- (2) On any such application the registrar shall transmit notice thereof to the registrar of the intended port of registry with a copy of all particulars relating to the ship, and the names of all persons appearing on the register to be interested therein as owners or mortgagees.
- (3) The ship's certificate of registry shall be delivered up to the registrar either of the existing or intended port of registry, and, if delivered up to the former, shall be transmitted to the registrar of the intended port of registry.
- (4) On the receipt of the above documents the registrar of the intended port of registry shall enter in [<sup>F77</sup>the register]all the particulars and names so transmitted as aforesaid, and [<sup>F77</sup>(subject to subsection (5) of this section)]grant a fresh certificate of registry, and thenceforth such ship shall be considered as registered at the new port of registry, and the name of the ship's new port of registry shall be substituted for the name of her former port of registry on the ship's stern.

[<sup>F78</sup>(5>) Where the entitlement of a ship to be registered is by virtue of any provision of section 4 of the Merchant Shipping Act 1988 subject to any condition specified in that provision being satisfied, the registry of the ship shall not be transferred to any port under this section unless it appears to the registrar of that port that that condition is satisfied.]

#### Textual Amendments

- F75** Words inserted by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 10, [Sch. 1 para. 29\(a\)\(i\)](#), (with s. 58(4), Sch. 8 para. 1)
- F76** Words inserted by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 10, [Sch. 1 para. 29\(a\)\(ii\)](#), (with s. 58(4), Sch. 8 para. 1)
- F77** Words substituted by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 10, [Sch. 1 para. 29\(b\)](#), (with s. 58(4), Sch. 8 para. 1)
- F78** [S. 53\(5\)](#) added by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 10, [Sch. 1 para. 29\(c\)](#), (with s. 58(4), Sch. 8 para. 1)

### [<sup>F79</sup>53A Transfer of registry to overseas territory.

- (1) Subject to subsection (2) of this section, the registration of a ship under this Part of this Act may be transferred from a port in the United Kingdom to a port in a relevant overseas territory; and the provisions of section 53 of this Act (except subsections (4) and (5) ) shall apply in relation to a transfer of registration under this section as they apply in relation to a transfer of registration under that section.

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- (2) Where an application is made under this section for the transfer of a ship's registration to a port in a relevant overseas territory, the registrar of the ship's existing port of registry shall not proceed to deal with the application unless he is satisfied that registration of the ship under this Part of this Act at the intended port of registry is not precluded by—
- (a) any Order in Council in force under section 11 of the Merchant Shipping Act 1988, or
  - (b) any provision of the law in force in the territory in question;
- and any certificate purporting to be signed by the registrar of the intended port of registry and stating that any such registration of the ship is not precluded by any such provision shall be conclusive evidence for the purposes of this subsection of the matters stated in it.
- (3) Where the registrar of the intended port of registry grants a fresh certificate of registry in pursuance of any such application as is mentioned in subsection (2) of this section, the ship in question shall thenceforth be considered as registered at the new port of registry, and the name of that port shall be substituted for the name of the former port of registry on the ship's stern.
- (4) The registrar of the former port of registry shall, on being notified by the registrar of the new port of registry of the grant of the new certificate of registry, terminate the registration of the ship in his register.
- (5) In this section "relevant overseas territory" means—
- (a) the Isle of Man;
  - (b) any of the Channel Islands; or
  - (c) any colony.]

#### Textual Amendments

**F79** Ss. 53A, 53B inserted by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 10, [Sch. 1 para. 30](#), (with s. 58(4), Sch. 8 para. 1)

#### [<sup>F80</sup>53B Transfer of registry from overseas territory.

- (1) Where a ship is registered under this Part of this Act in a relevant overseas territory (as defined by section 53A(5) of this Act), the registration of that ship may (subject to subsection (5) of this section) be transferred to a port in the United Kingdom if—
- (a) an application to the registrar of the existing port of registry has been made for the purpose by a declaration in writing by all the persons appearing on his register to be interested in the ship as owners or mortgagees, and
  - (b) the documents mentioned in subsection (2) of this section have been transmitted to the registrar of the intended port of registry.
- (2) Those documents are—
- (a) a notice of the application transmitted by the registrar of the existing port of registry;
  - (b) a copy transmitted by him of all the registered particulars of the ship and the names of all the persons appearing on his register to be interested in the ship as owners or mortgagees; and
  - (c) the ship's certificate of registry.

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- (3) On receipt of those documents the registrar of the intended port of registry shall (subject to subsection (5) of this section)—
  - (a) enter in the register all the particulars and names so transmitted, and
  - (b) grant a fresh certificate of registry;
 and thenceforth the ship in question shall be considered as registered at the new port of registry, and the name of that port shall be substituted for the name of the former port of registry on the ship’s stern.
- (4) The registrar of the new port of registry shall notify the registrar of the former port of registry of the grant of the new certificate of registry.
- (5) Subsection (5) of section 53 of this Act shall apply to a transfer of registration under this section as it applies to a transfer of registration under that section.
- (6) A transfer of registration under this section shall not affect the rights of any of the persons mentioned in subsection (1)(a) of this section.]

**Textual Amendments**

**F80** Ss. 53A, 53B inserted by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 10, Sch. 1 para. 30, (with s. 58(4), Sch. 8 para. 1)

54 ..... F81

**Textual Amendments**

**F81** S. 54 repealed by Merchant Shipping Act 1988 (c. 12, SIF 111), ss. 10, 57(5), Sch. 1 para. 31, Sch. 7, (with s. 58(4), Sch. 8 para. 1)

*Incapacitated Persons*

55 ..... F82

**Textual Amendments**

**F82** S. 55 repealed by Merchant Shipping Act 1988 (c. 12, SIF 111), ss. 10, 57(5), Sch. 1 para. 32, Sch. 7, (with s. 58(4), Sch. 8 para. 1)

*Trusts and Equitable Rights*

56 **Notices of trusts not received.**

No notice of any trust, express, implied, or constructive shall be entered in the register . . . F83 or be receivable by the registrar, and, subject to any rights and powers appearing by the register . . . F83 to be vested in any other person, the registered owner of a ship or of a share therein shall have power absolutely to dispose in manner in this



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Act provided of the ship or share, and to give effectual receipts for any money paid or advanced by way of consideration.

#### Textual Amendments

**F83** Word repealed by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), ss. 10, 57(5), Sch. 1 para. 33, [Sch. 7](#), (with s. 58(4), Sch. 8 para. 1)

### 57 Equities not excluded by Act.

The expression “beneficial interest,” where used in this Part of this Act, includes interests arising under contract and other equitable interests; and the intention of this Act is, that without prejudice to the provisions of this Act for preventing notice of trusts from being entered in the register . . . <sup>F84</sup>or received by the registrar, and without prejudice to the powers of disposition and of giving receipts conferred by this Act on registered owners and mortgagees, and without prejudice to the provisions of this Act relating to the exclusion of unqualified persons from the ownership of British ships, interests arising under contract or other equitable interests may be enforced by or against owners and mortgagees of ships in respect of their interest therein in the same manner as in respect of any other personal property.

#### Textual Amendments

**F84** Word repealed by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), ss. 10, 57(5), Sch. 1 para. 33, [Sch. 7](#), (with s. 58(4), Sch. 8 para. 1)

### *Liability of Beneficial Owner*

### 58 Liability of owners.

Where any person is beneficially interested, otherwise than by way of mortgage, 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 subject to all pecuniary penalties imposed by this or any other Act on the owners of ships or shares therein, so nevertheless that proceedings may be taken for the enforcement of any such penalties against both or either of the aforesaid parties, with or without joining the other of them.

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

**C37** [S. 58](#) applied with modifications by [S.I. 1988/1926](#), reg. 60, [Sch. 6](#)

**C38** [S. 58](#) modified (13.6.1992) by [S.I. 1992/1293](#), [art. 10\(2\)](#)

### *Managing Owner*

### 59 Ship’s managing owner or manager to be registered.

[<sup>F85</sup>(1) A person shall not be the managing owner of a registered ship unless he is a person qualified to own a British ship, and the name and address of the managing owner of any registered ship shall be registered by the registrar of the ship’s port of registry.]

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- (2) Where there is not a managing owner there shall be so registered the name of the ship's husband or other person to whom the management of the ship is entrusted by or on behalf of the owner; and any person whose name is so registered shall, for the purposes of this Act, be under the same obligations, and subject to the same liabilities, as if he were the managing owner.
- (3) If default is made in complying with this section the owner shall be liable, or if there are more owners than one each owner shall be liable in proportion to his interest in the ship, to a fine not exceeding in the whole [F86[F87£200]] [F86]level 3 on the standard scale]each time the ship leaves any port in the United Kingdom.

#### Textual Amendments

- F85** S. 59(1) substituted by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 10, **Sch. 1 para. 34**, (with s. 58(4), Sch. 8 para. 1)
- F86** Words “level 3 on the standard scale” substituted (E.W.S) for “£200” by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c.21, SIF 39:1), s. 289G
- F87** Word substituted by virtue of Merchant Shipping Act 1979 (c. 39), s. 43(1), **Sch. 6 Pt. II**

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

- C39** S. 59 extended by S.I. 1989/1991, **arts. 7, 9**
- C40** S. 59 restricted (13.6.1992) by S.I. 1992/1293, **art. 12**, Sch.

### *Declarations, Inspection of Register, and Fees.*

#### **60 Power of registrar to dispense with declarations and other evidence.**

When, under this Part of the Act, any person is required to make a declaration on behalf of himself or of any corporation, or any evidence is required to be produced to the registrar, and it is shown to the satisfaction of the registrar that from any reasonable cause that person is unable to make the declaration, or that the evidence cannot be produced, the registrar may, with the approval of the [F88Commissioners of Customs and Excise], and on the production of such other evidence, and subject to such terms as they may think fit, dispense with the declaration or evidence.

#### Textual Amendments

- F88** Words substituted by virtue of Customs and Excise Management Act 1979 (c. 2), **Sch. 4 para. 1**

#### **61 Mode of making declarations.**

- (1) ..... F89
- (2) Declarations required by this Part of this Act may be made on behalf of a corporation by the secretary or any other officer of the corporation authorised by them for the purpose.

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### Textual Amendments

- F89** S. 61(1) repealed by Merchant Shipping Act 1988 (c. 12, SIF 111), ss. 10, 57(5), Sch. 1 para. 35, Sch. 7, (with s. 58(4), Sch. 8 para. 1)

## 62 Application of fees.

All fees authorised to be taken under this Part of this Act, shall, except where otherwise in this Act provided, . . . <sup>F90</sup>be applied in payment of the general expenses of carrying into effect this Part of this Act, or otherwise as the Treasury may direct; . . . <sup>F91</sup>

### Textual Amendments

- F90** Words repealed by Merchant Shipping Act 1988 (c. 12, SIF 111), ss. 10, 57(5), Sch. 1 para. 36(a), Sch. 7, (with s. 58(4), Sch. 8 para. 1)
- F91** Words repealed by Merchant Shipping Act 1988 (c. 12, SIF 111), ss. 10, 57(5), Sch. 1 para. 36(b), Sch. 7, (with s. 58(4), Sch. 8 para. 1)

### Returns, Evidence, and Forms

## 63 Returns to be made by registrars.

- (1) Every registrar . . . <sup>F92</sup>shall at the expiration of every month, . . . <sup>F93</sup>transmit to [<sup>F94</sup>the Registrar-General of Shipping and Seamen] a full return, in such form as the said Registrar-General may direct, of all registries, transfers, transmissions, mortgages, and other dealings with ships which have been registered by or communicated to him in his character of registrar, and of the names of the persons concerned in the same, and of such other particulars as may be directed by the said Registrar-General.
- (2) Every registrar . . . <sup>F95</sup>shall on or before the first day of February and the first day of August in every year transmit to the Registrar-General of Shipping and Seamen a list of all ships registered at that port, and also of all ships whose registers have been transferred or cancelled at that port since the last preceding return.

### Textual Amendments

- F92** Words repealed by Merchant Shipping Act 1988 (c. 12, SIF 111), ss. 10, 57(5), Sch. 1 para. 37(a)(i), Sch. 7, (with s. 58(4), Sch. 8 para. 1)
- F93** Words repealed by Merchant Shipping Act 1988 (c. 12, SIF 111), ss. 10, 57(5), Sch. 1 para. 37(a)(ii), Sch. 7, (with s. 58(4), Sch. 8 para. 1)
- F94** Words substituted by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 10, Sch. 1 para. 37(a)(iii), (with s. 58(4), Sch. 8 para. 1)
- F95** Words repealed by Merchant Shipping Act 1988 (c. 12, SIF 111), ss. 10, 57(5), Sch. 1 para. 37(b), Sch. 7, (with s. 58(4), Sch. 8 para. 1)

## 64 Evidence of register book, certificate of registry, and other documents.

- (1) A person, on payment of a fee . . . <sup>F96</sup>to be fixed by the [<sup>F97</sup>Commissioners of Customs and Excise], may, on application . . . to the registrar at a reasonable time during the hours

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of his official attendance, inspect [<sup>F98</sup>the information contained in any entries in the register].

(2) The following documents shall be admissible in evidence in manner provided by this Act; namely,—

- (a) . . . . .<sup>F99</sup>
- (b) A certificate of registry under this Act purporting to be signed by the registrar or other proper officer;
- (c) An endorsement on a certificate of registry purporting to be signed by the registrar or other proper officer;
- (d) Every declaration made in pursuance of this Part of this Act . . .<sup>F100</sup>.

[<sup>F101</sup>(3) A person shall be entitled, on payment of the prescribed fee, to obtain—

- (a) a copy, certified as a true copy by the registrar, of any information contained in an entry in a register kept under this Part of this Act; or
- (b) a copy, certified as a true copy by the Registrar-General of Shipping and Seamen, of any information contained in an entry in the register of British ships kept by him under the direction of the Secretary of State;

and any document purporting to be such a certified copy shall be evidence, and in Scotland sufficient evidence, of the matters stated in the document.

(4) A person shall be entitled, on payment of the prescribed fee, to obtain such a certified copy of the information entered in a register on the registry of a ship, together with a statement certified by the registrar showing who is for the time being the owner of the ship.

(5) The provisions of subsection (3), and (in Scotland) of subsection (4), of section 695 of this Act shall apply to any document supplied in pursuance of subsection (3) or (4) of this section as they apply to any document to which that section applies.

(6) In subsection (3) or (4) of this section “the prescribed fee” means such fee as the Secretary of State may prescribe for the purposes of that subsection by regulations made with the approval of the Treasury.]

#### Textual Amendments

- F96** Words repealed by [Merchant Shipping \(Safety Convention\) Act 1949 \(c. 43\)](#), [Sch. 3](#)
- F97** Words substituted by virtue of [Customs and Excise Management Act 1979 \(c. 2\)](#), [Sch. 4 para. 1](#)
- F98** Words substituted by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 10, [Sch. 1 para. 38\(a\)](#), (with s. 58(4), Sch. 8 para. 1)
- F99** [S. 64\(2\)\(a\)](#) repealed by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), ss. 10, 57(5), Sch. 1 para. 38(b)(i), [Sch. 7](#), (with s. 58(4), Sch. 8 para. 1)
- F100** Words repealed by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), ss. 10, 57(5), Sch. 1 para. 38(b)(ii), [Sch. 7](#), (with s. 58(4), Sch. 8 para. 1)
- F101** [S. 64\(3\)–\(6\)](#) substituted by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 10, [Sch. 1 para. 38\(c\)](#), (with s. 58(4), Sch. 8 para. 1)

## 65 Forms of documents, and instructions as to registry.

(1) The several instruments and documents specified in the second part of the First Schedule to this Act shall be in the form prescribed by the [<sup>F102</sup>Commissioners of Customs and Excise] with the consent of the Board of Trade, or as near thereto as

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circumstances permit; and the <sup>F102</sup>Commissioners of Customs and Excise] may, with the consent of the Board of Trade, make such alterations in the forms so prescribed . . .  
<sup>F103</sup>, as they may deem requisite.

- (2) A registrar shall not be required without the special direction of the <sup>F102</sup>Commissioners of Customs and Excise] to receive and enter in the register . . .  
<sup>F104</sup>any bill of sale, mortgage, or other instrument for the disposal or transfer of any ship or share, or any interest therein, which is made in any form other than that for the time being required under this Part of this Act, or which contains any particulars other than those contained in such form; but the said Commissioners shall, before altering the forms, give such public notice thereof as may be necessary in order to prevent inconvenience.
- (3) . . . . . <sup>F105</sup>
- (4) The <sup>F102</sup>Commissioners of Customs and Excise] with the consent of the Board of Trade, may also, for carrying into effect this Part of this Act, give such instructions to their officers as to the manner of making entries in the register . . . <sup>F104</sup>, as to the execution and attestation of powers of attorney, as to any evidence required for identifying any person, as to the referring to themselves of any question involving doubt or difficulty, and generally as to any act or thing to be done in pursuance of this Part of this Act, as they think fit.

**Textual Amendments**

- F102** Words substituted by virtue of [Customs and Excise Management Act 1979 \(c. 2\)](#), [Sch. 4 para. 1](#)
- F103** Words repealed by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), ss. 10, 57(5), [Sch. 1 para. 39\(a\)](#), [Sch. 7](#), (with s. 58(4), [Sch. 8 para. 1](#))
- F104** Word repealed by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), ss. 10, 57(5), [Sch. 1 para. 39\(b\)](#), [Sch. 7](#), (with s. 58(4), [Sch. 8 para. 1](#))
- F105** [S. 65\(3\)](#) repealed by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), ss. 10, 57(5), [Sch. 1 para. 39\(c\)](#), [Sch. 7](#), (with s. 58(4), [Sch. 8 para. 1](#))

*Forgery and false Declarations*

**[<sup>F106</sup>66 Forgery of documents.**

If any person forges, or fraudulently alters, or assists in forging or fraudulently altering, or procures to be forged or fraudulently altered, any of the following documents, namely, any register book, builder’s certificate, surveyor’s certificate, certificate of registry, declaration, bill of sale, instrument of mortgage, or certificate of mortgage or sale under this Part of this Act, or any entry or endorsement required by this Part of this Act to be made in or on any of those documents, that person shall in respect of each offence be guilty of felony <sup>F107</sup>and liable on conviction on indictment to imprisonment for not more than seven years].]

**Textual Amendments**

- F106** [S. 66](#) repealed (E.W.N.I.) by [Forgery and Counterfeiting Act 1981 \(c. 45, SIF 39:7\)](#), s. 30, [Sch. Pt. I](#)
- F107** Words added by (E.W.) [Criminal Law Act 1967 \(c. 58\)](#), [Sch. 2 para. 11](#) and (N.I.) [Criminal Law Act \(Northern Ireland\) 1967 \(c. 18\)](#), [Sch. 1 para. 19](#) and inserted (S.) by [Merchant Shipping Act 1979 \(c. 39\)](#), [Sch. 6 Pt. VII para. 1](#)

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

**C41** S. 66 amended (E.W.) (N.I.) by [Forgery Act 1913 \(c. 27\)](#), s. 3(3)(k)

### 67 False declarations.

- (1) If any person in the case of any declaration made in the presence of or produced to a registrar under this Part of this Act, or in any document or other evidence produced to such registrar—
- (i) wilfully makes, or assists in making, or procures to be made any false statement concerning the title to or ownership of, or the interest existing in any ship, or any share in a ship; or
  - (ii) utters, produces, or makes use of any declaration, or document containing any such false statement knowing the same to be false,
- he shall in respect of each offence be guilty of a misdemeanor.
- (2) If any person wilfully makes a false declaration touching the qualification of himself or of any other person or of any corporation to own a British ship or any share therein, [<sup>F108</sup>or the entitlement of a ship to be registered,]he shall for each offence be guilty of a misdemeanor, and that ship or share shall be subject to forfeiture under this Act, to the extent of the interest therein of the declarant, and also, unless it is proved that the declaration was made without authority, of any person or corporation on behalf of whom the declaration is made.

#### Textual Amendments

**F108** Words inserted by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 10, [Sch. 1 para. 40](#), (with s. 58(4), Sch. 8 para. 1)

### *National Character and Flag*

### 68 National character of ship to be declared before clearance.

- (1) An [<sup>F109</sup>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 she belongs, and that officer shall thereupon inscribe that name on the clearance or transire.
- (2) If a ship attempts to proceed to sea without such clearance or transire, she may be detained until the declaration is made.

#### Textual Amendments

**F109** Words substituted by virtue of [Customs and Excise Management Act 1979 \(c. 2\)](#), [Sch. 4 para. 1](#)

### 69 Penalty for unduly assuming British character.

- (1) If a person uses the British flag and assumes the British national character on board a ship [<sup>F110</sup>in which a majority interest is not owned by persons qualified to be owners of British ships, and does so]for the purpose of making the ship appear to be a British

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ship, the ship shall be subject to forfeiture under this Act, unless the assumption 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.

- (2) In any proceeding for enforcing any such forfeiture the burden of proving a title to use the British flag and assume the British national character shall lie upon the person using and assuming the same.

**Textual Amendments**

**F110** Words substituted by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 10, **Sch. 1 para. 41**, (with s. 58(4), Sch. 8 para. 1)

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

**C42** [S. 69](#) excluded by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 25(2), (with s. 58(4), Sch. 8 para. 1)

[<sup>F111</sup>**70** **Penalty for concealing British character of a ship.**

If the master or owner of a British ship does anything, or permits anything to be done, for the purpose of—

- (a) concealing the nationality of the ship from any person entitled under the law of any part of the United Kingdom to inquire into the nationality of the ship, or
- (b) deceiving such a person, or
- (c) causing the ship to appear not to be a British ship,

the ship shall be subject to forfeiture under this Act; and the master and the owner of the ship shall each be guilty of an offence and liable on summary conviction to a fine not exceeding the fifth level on the standard scale.]

**Textual Amendments**

**F111** [S. 70](#) substituted by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 10, **Sch. 1 para. 42**, (with s. 58(4), Sch. 8 para. 1)

**71** ..... <sup>F112</sup>

**Textual Amendments**

**F112** [S. 71](#) repealed by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), ss. 10, 57(5), **Sch. 1 para. 43**, **Sch. 7**, (with s. 58(4), Sch. 8 para. 1)

[<sup>F113</sup>**72** **Liabilities of unregistered ships.**

- (1) Where a ship—
- (a) is 24 metres or more in length, and
  - (b) is wholly owned by one or more persons qualified to be owners of British ships, but
  - (c) is neither registered under this Part of this Act nor registered under the law of any country outside the United Kingdom,

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then (notwithstanding that the ship is not entitled to any benefits, privileges, advantages or protection usually enjoyed by a British ship) the ship shall, for the purposes mentioned in subsection (2) of this section, be dealt with in the same manner in all respects as if the ship were a British ship.

- (2) Those purposes are #
- (a) the payment of dues, fees or other charges;
  - (b) liability to fines and forfeiture; and
  - (c) the punishment of offences committed on board the ship, or by any persons belonging to the ship.
- (3) In this section “length”, in relation to a ship, has the same meaning as in the tonnage regulations of this Act.]

#### Textual Amendments

**F113** S. 72 substituted by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 10, **Sch. 1 para. 44**, (with s. 58(4), Sch. 8 para. 1)

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

**C43** S. 72 excluded by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 25(2), (with s. 58(4), Sch. 8 para. 1)

### 73 National colours for ships, and penalty on carrying improper colours.

- (1) The red ensign usually worn by merchant ships, without any defacement or modification whatsoever, is hereby declared to be the proper national colours for all [<sup>F114</sup>British ships], except in the case of Her Majesty’s ships . . . <sup>F115</sup>, or in the case of any other ship . . . <sup>F115</sup> for the time being allowed to wear any other national colours in pursuance of a warrant from Her Majesty or from the Admiralty.
- (2) If any distinctive national colours, except such red ensign or except the Union Jack with a white border, or if any colours usually worn by Her Majesty’s ships or resembling those of Her Majesty, or if the pendant usually carried by Her Majesty’s ships or any pendant resembling that pendant, are or is hoisted on board any [<sup>F116</sup>British ship] without warrant from Her Majesty or from the Admiralty, the master of the ship . . . <sup>F117</sup>, or the owner thereof, if on board the same and every other person hoisting the colours or pendant, shall for each offence [<sup>F118</sup>be liable on conviction on indictment to a fine or on summary conviction to a fine not exceeding one thousand pounds]
- (3) Any commissioned officer on full pay in the military or naval service of Her Majesty, or any officer of customs in Her Majesty’s dominions, or any British consular officer, may board any ship . . . <sup>F119</sup> on which any colours or pendant are hoisted contrary to this Act, and seize and take away the colours or pendant, and the colours or pendant shall be forfeited to Her Majesty.
- (4) . . . . . <sup>F120</sup>

#### Textual Amendments

**F114** Words substituted by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 10, **Sch. 1 para. 45(a)(i)**, (with s. 58(4), Sch. 8 para. 1)



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- F115** Words repealed by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), ss. 10, 57(5), Sch. 1 para. 45(a)(ii), [Sch. 7](#), (with s. 58(4), Sch. 8 para. 1)
- F116** Words substituted by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 10, [Sch. 1 para. 45\(b\)\(i\)](#), (with s. 58(4), Sch. 8 para. 1)
- F117** Words repealed by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), ss. 10, 57(5), Sch. 1 para. 45(b)(ii), [Sch. 7](#), (with s. 58(4), Sch. 8 para. 1)
- F118** Words substituted by [Merchant Shipping Act 1979 \(c. 39\)](#), [Sch. 6 Pt. VII para. 2\(a\)](#)
- F119** Words repealed by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), ss. 10, 57(5), Sch. 1 para. 45(c), [Sch. 7](#), (with s. 58(4), Sch. 8 para. 1)
- F120** [S. 73\(4\)\(5\)](#) repealed by [Merchant Shipping Act 1979 \(c. 39\)](#), [Sch. 7 Pt. II](#)

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

- C44** [S. 73\(2\)](#) amended by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [s. 49\(1\)](#)

**74 Penalty on ship not showing colours.**

- (1) [<sup>F121</sup>A British ship] shall hoist the proper national colours—
- on a signal being made to her by one of Her Majesty’s ships (including any vessel under the command of an officer of Her Majesty’s navy on full pay), and
  - on entering or leaving any foreign port, and
  - if of fifty tons gross tonnage or upwards, on entering or leaving any British port.

- (2) If default is made on board any such ship in complying with this section, the master of the ship shall for each offence be liable to a fine not exceeding [<sup>F122</sup> [<sup>F123</sup>£200]] [<sup>F122</sup>level 3 on the standard scale]

- [<sup>F124</sup>(3) This section shall not apply to a fishing vessel registered under Part II of the Merchant Shipping Act 1988 and duly marked in accordance with regulations under section 13 of that Act.]

**Textual Amendments**

- F121** Words substituted by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 10, [Sch. 1 para. 46\(a\)](#), (with s. 58(4), Sch. 8 para. 1)
- F122** Words “level 3 on the standard scale” substituted (E.W.S) for “£200” by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [s. 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c.21, SIF 39:1\)](#), [s. 289G](#)
- F123** Word substituted by virtue of [Merchant Shipping Act 1979 \(c. 39\)](#), s. 43(1), [Sch. 6 Pt. II](#)
- F124** [S. 74\(3\)](#) substituted by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 10, [Sch. 1 para. 46\(b\)](#), (with s. 58(4), Sch. 8 para. 1)

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

- C45** [S. 74\(1\)](#) excluded (*prosp.*) by [Merchant Shipping Act 1983 \(c. 13, SIF 111\)](#), [ss. 9\(1\)](#), 11(3) (the exclusion being in force on 1.11.1983 so far as the said s. 9 relates to any ship registered under section 5 of the 1983 Act: [S.I. 1983/1435](#))

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## 75 Saving for Admiralty.

The provisions of this Act with respect to colours worn by merchant ships shall not affect any other power of the Admiralty in relation thereto.

### *Forfeiture of Ship*

## 76 Proceedings on forfeiture of ship.

(1) Where any ship has either wholly or as to any share therein become subject to forfeiture under this Part of this Act.

- (a) any commissioned officer on full pay in the military or naval service of Her Majesty; <sup>F125</sup>or
- (b) any person appointed by the Secretary of State for the purposes of this section;]

may seize and detain the ship, and bring her for adjudication before the High Court in England or Ireland, or before the Court of Session in Scotland, . . . <sup>F126</sup>and the court may thereupon adjudge the ship with her tackle, apparel, and furniture to be forfeited to Her Majesty, and make such order in the case as to the court seems just, and may award to the officer <sup>F127</sup>or other person]bringing in the ship for adjudication such portion of the proceeds of sale of the ship, or any share therein, as the court thinks fit.

(2) Any such officer <sup>F128</sup>or other person as is mentioned in subsection (1) of this section]shall not be responsible either civilly or criminally to any person whomsoever in respect of any such seizure or detention as aforesaid, notwithstanding that the ship has not been brought in for adjudication, or if so brought in is declared not liable to forfeiture, it is shown to the satisfaction of the court before whom any trial relating to such ship or such seizure or detention is held that there were reasonable grounds for such seizure or detention; but if no such grounds are shown the court may award costs and damages to any party aggrieved, and make such other order in the premises as the court thinks just.

### Textual Amendments

**F125** S. 76(1)(b) substituted by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 10, Sch. 1 para. 47(2)(a), (with s. 58(4), Sch. 8 para. 1)

**F126** Words repealed by Merchant Shipping Act 1988 (c. 12, SIF 111), ss. 10, 57(5), Sch. 1 para. 47(2)(b), Sch. 7, (with s. 58(4), Sch. 8 para. 1)

**F127** Words inserted by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 10, Sch. 1 para. 47(2)(c), (with s. 58(4), Sch. 8 para. 1)

**F128** Words substituted by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 10, Sch. 1 para. 47(3), (with s. 58(4), Sch. 8 para. 1)

### Modifications etc. (not altering text)

**C46** Reference to Ireland to be construed as exclusive of Republic of Ireland: S.R. & O. 1923/405 (Rev. X, p. 298: 1923, p. 400), art. 2

**C47** S. 76 applied by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 22(10)

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## 76 Proceedings on forfeiture of ship. **U.K.**

(1) Where any ship has either wholly or as to any share therein become subject to forfeiture under this Part of this Act.

- (a) any commissioned officer on full pay in the military or naval service of Her Majesty; [<sup>F509</sup>or
- (b) any person appointed by the Secretary of State for the purposes of this section;]

may seize and detain the ship, and bring her for adjudication before the High Court in England or Ireland, or before the Court of Session in Scotland, . . . <sup>F510</sup>and the court may thereupon adjudge the ship with her tackle, apparel, and furniture to be forfeited to Her Majesty, and make such order in the case as to the court seems just, and may award to the officer [<sup>F511</sup>or other person]bringing in the ship for adjudication such portion of the proceeds of sale of the ship, or any share therein, as the court thinks fit.

(2) Any such officer [<sup>F512</sup>or other person as is mentioned in subsection (1) of this section]shall not be responsible either civilly or criminally to any person whomsoever in respect of any such seizure or detention as aforesaid, notwithstanding that the ship has not been brought in for adjudication, or if so brought in is declared not liable to forfeiture, it is shown to the satisfaction of the court before whom any trial relating to such ship or such seizure or detention is held that there were reasonable grounds for such seizure or detention; but if no such grounds are shown the court may award costs and damages to any party aggrieved, and make such other order in the premises as the court thinks just.

### Textual Amendments

**F509** S. 76(1)(b) substituted by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 10, [Sch. 1 para. 47\(2\)\(a\)](#), (with s. 58(4), Sch. 8 para. 1)

**F510** Words repealed by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), ss. 10, 57(5), [Sch. 1 para. 47\(2\)\(b\)](#), [Sch. 7](#), (with s. 58(4), Sch. 8 para. 1)

**F511** Words inserted by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 10, [Sch. 1 para. 47\(2\)\(c\)](#), (with s. 58(4), Sch. 8 para. 1)

**F512** Words substituted by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 10, [Sch. 1 para. 47\(3\)](#), (with s. 58(4), Sch. 8 para. 1)

### Modifications etc. (not altering text)

**C193** Reference to Ireland to be construed as exclusive of Republic of Ireland: S.R. & O. 1923/405 (Rev. X, p. 298: 1923, p. 400), art. 2

**C194** S. 76 applied by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 22(10)

## Measurement of Ship and Tonnage

77–81 ..... <sup>F129</sup>

### Textual Amendments

**F129** Ss. 77–81 repealed by [Merchant Shipping Act 1965 \(c. 47\)](#), [Sch. 2](#)

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## 82 Tonnage once ascertained to be the tonnage of ship.

Whenever the tonnage of any ship has been ascertained and registered in accordance with the tonnage regulations of this Act, the same shall thenceforth be deemed to be the tonnage of the ship, and shall be repeated in every subsequent registry thereof, unless any alteration is made in the form or capacity of the ship, or unless it is discovered that the tonnage of the ship has been erroneously computed; and in either of those cases the ship shall be re-measured, and her tonnage determined and registered according to the tonnage regulations of this Act.

### Modifications etc. (not altering text)

C48 S. 82 excluded by Merchant Shipping Act 1965 (c. 47), s. 1(5)

## 83 Fees for measurement.

Such fees as the Board of Trade determine shall be paid in respect of the measurement of a ship's tonnage . . . <sup>F130</sup> and those fees shall be paid into the Mercantile Marine Fund.

### Textual Amendments

F130 Words repealed by Merchant Shipping (Safety Convention) Act 1949 (c. 43), Sch. 3

### Modifications etc. (not altering text)

C49 S. 83 restricted by Merchant Shipping Act 1965 (c. 47), s. 1(4)

## 84 Tonnage of ships of foreign countries adopting tonnage regulations.

- (1) Whenever it appears to Her Majesty the Queen in Council that the tonnage regulations of this Act have been adopted by any foreign country, and are in force there, Her Majesty in Council may order that the ships of that country shall, without being re-measured in [<sup>F131</sup>the United Kingdom], be deemed to be of the tonnage denoted in their certificates of registry or other national papers, in the same manner, to the same extent, and for the same purposes as the tonnage denoted in the certificate of registry of a [<sup>F132</sup>registered]ship is deemed to be the tonnage of that ship, . . . <sup>F133</sup>[<sup>F134</sup>and any space shown by the certificate of registry or other national papers of any such ship as deducted from the tonnage shall, where a similar deduction in the case of a [<sup>F132</sup>registered]ship depends on compliance with any conditions or on the compliance being evidenced in any manner, be deemed to comply with those conditions and to be so evidenced, unless a surveyor of ships certifies to the Board of Trade that the construction and the equipment of the ship as respects that space do not come up to the standard which would be required if the ship were a [<sup>F135</sup>registered ship]]
- (2) Her Majesty in Council may limit the time during which the Order is to remain in operation, and make the Order subject to such conditions and qualifications (if any) as Her Majesty may deem expedient, and the operation of the Order shall be limited and modified accordingly.
- (3) If it is made to appear to Her Majesty that the tonnage of any foreign ship, as measured by the rules of the country to which she belongs, materially differs from that which would be her tonnage if measured under this Act, Her Majesty in Council may order that, notwithstanding any Order in Council for the time being in force under this

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section, any of the ships of that country may, for all or any of the purposes of this Act, be remeasured in accordance with this Act.

**Textual Amendments**

- F131** Words substituted by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 10, **Sch. 1 para. 48(a)**, (with s. 58(4), Sch. 8 para. 1)
- F132** Words substituted by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 10, **Sch. 1 para. 48(b)**, (with s. 58(4), Sch. 8 para. 1)
- F133** Words repealed by [Merchant Shipping Act 1965 \(c. 47\)](#), **Sch. 2**
- F134** Words added by [Merchant Shipping Act 1965 \(c. 47\)](#), **Sch. 1**
- F135** Words substituted by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 10, **Sch. 1 para. 48(c)**, (with s. 58(4), Sch. 8 para. 1)

**85** ..... **F136**

**Textual Amendments**

- F136** [S. 85](#) repealed by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), ss. 10, 57(5), Sch. 1 para. 49, **Sch. 7**, (with s. 58(4), Sch. 8 para. 1)

**86 Surveyors and regulations for measurement of ships.**

All duties in relation to the survey and measurement of ships shall be performed by surveyors of ships under this Act in accordance with regulations made by the Board of Trade.

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

- C50** [S. 86](#) excluded by [Merchant Shipping Act 1965 \(c. 47\)](#), s. 1(4)

**87 Levy of tonnage rates under local Acts on the registered tonnage.**

Any persons having power to levy tonnage rates on ships may, if they think fit, with the consent of the Board of Trade, levy those tonnage rates upon the registered tonnage of the ships as determined by the tonnage regulations of this Act, notwithstanding that any local Act under which those rates are levied provides for levying the same upon some different system of tonnage measurement.

**88–90** ..... **F137**

**Textual Amendments**

- F137** [Ss. 88–90](#) repealed by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), ss. 10, 57(5), Sch. 1 para. 50, **Sch. 7**, (with s. 58(4), Sch. 8 para. 1)

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91 ..... F138

#### Textual Amendments

**F138** S. 91 repealed by Merchant Shipping Act 1988 (c. 12, SIF 111), ss. 10, 57(5), Sch. 1 para. 51, **Sch. 7**, (with s. 58(4), Sch. 8 para. 1)

## PART II

### MASTERS AND SEAMEN

#### *Certificates of Competency*

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

**C51** Ss. 92—100, 102—104 extended by South Africa Act 1962 (c. 23), **Sch. 3 para. 6**

#### **[<sup>F139</sup>92 Certificates of competency to be held by officers of ships.**

(1) Every British foreign-going ship and every British home trade passenger ship, when going to sea from any place in the United Kingdom [<sup>F140</sup>every ship registered in the United Kingdom, being a foreign-going ship or a home trade passenger ship, when going to sea from a place outside the United Kingdom], and every foreign steamship carrying passengers between places in the United Kingdom, shall be provided with officers duly certificated under this Act according to the following scale:—

(a) In any case with a duly certificated master:

[ If the ship is of one hundred tons burden or upwards, with at least one officer  
<sup>F141</sup>(b) besides the master holding a certificate not lower than that of—

(i) mate in the case of a home trade passenger ship;

(ii) second mate in the case of a foreign-going sailing ship of not more than two hundred tons burden; and

(iii) only mate in the case of any other foreign-going ship:]

(c) If the ship is a foreign-going ship, and carries more than one mate, with at least the first and second mate duly certificated:

(d) If the ship is a foreign-going steamship of one hundred nominal horse-power or upwards, with at least two engineers, one of whom shall be a first-class and the other a first-class or second-class engineer duly certificated:

(e) If the ship is a foreign-going steamship of less than one hundred nominal horse-power, or a sea-going home trade passenger steamship, with at least one engineer who is a first-class or second-class engineer duly certificated.

[ If, on an occasion on which a ship of a particular description registered in the United  
<sup>F142</sup>(1A) Kingdom, being a foreign-going ship or a home trade passenger ship, goes to sea from a place outside the United Kingdom, one, but only one, of the duly certificated officers with which a ship of that description is required to be provided by the foregoing provisions of this section is not provided, but all reasonable steps were taken to secure the provision on that occasion of a duly certificated person as that officer, so much of the foregoing subsection as requires a ship of that description to be provided with that

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officer when going to sea from a place outside the United Kingdom shall not apply to the ship during whichever is the shorter of the following periods beginning with the day on which the ship goes to sea from that place on that occasion, that is to say—

- (a) the period of twenty-eight days; and
- (b) the period ending with the day on which the ship is provided with a duly certificated person as that officer].

[<sup>F143</sup>(2) If the requirements of subsection (1) of this section are not complied with in a case in which they apply to a ship, the master or owner of the ship shall be liable to a fine not exceeding one hundred pounds].

- (3) An officer shall not be deemed duly certificated, within the meaning of this section, unless he is the holder for the time being of a valid certificate of competency under this Act of a grade appropriate to his station in the ship, or of a higher grade.]

#### Textual Amendments

**F139** Ss. 92, 93, 96–104, and 209 repealed (*prosp.*) by Merchant Shipping Act 1970 (c. 36), ss. 100, 101(4), Sch. 5 :however, by virtue of S.I. 1981/1186, Sch., Appendix and S.I. 1986/2066, art. 2(2), Sch. 2, Appendix the repeal of ss. 92, 93, 96-104, 209 is no longer prospective except to the extent that these sections apply in relation to British ships registered outside the United Kingdom and by S.I. 1982/840, Sch., Appendix the repeal of ss. 92, 93, 96-104, 209 is no longer prospective to the extent that these sections apply in relation to British ships registered in the Channel Islands or the Isle of Man

**F140** Words inserted by Merchant Shipping Act 1967 (c. 26) s. 1(1)(2)

**F141** S. 92(1)(b) substituted by Merchant Shipping Act 1906 (c. 48), s. 56

**F142** S. 92(1A) inserted by Merchant Shipping Act 1967 (c. 26), s. 1(1)(3)

**F143** S. 92(2) substituted by Merchant Shipping Act 1967 (c. 26), s. 1(1)(4)

#### [<sup>F144</sup>93 Grades of certificates of competency.

- (1) Certificates of competency shall be granted, in accordance with this Act, for each of the following grades; (that is to say,

Master of a foreign-going ship:  
First mate of a foreign-going ship:  
Second mate of a foreign-going ship:  
Only mate of a foreign-going ship:  
Master of a home trade passenger ship:  
Mate of a home trade passenger ship:  
First-class engineer:  
Second-class engineer.

- (2) A certificate of competency for a foreign-going ship shall be deemed to be of a higher grade than the corresponding certificate for a home trade passenger ship, and shall entitle the lawful holder thereof to go to sea in the corresponding grade in the last-mentioned ship; but a certificate for a home trade passenger ship shall not entitle the holder to go to sea as master or mate of a foreign-going ship.]

#### Textual Amendments

**F144** Ss. 92, 93, 96–104, and 209 repealed (*prosp.*) by Merchant Shipping Act 1970 (c. 36), ss. 100, 101(4), Sch. 5 :however, by virtue of S.I. 1981/1186, Sch., Appendix and S.I. 1986/2066, art. 2(2), Sch. 2,

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Appendix the repeal of ss. 92, 93, 96-104, 209 is no longer prospective except to the extent that these sections apply in relation to British ships registered outside the United Kingdom and by [S.I. 1982/840, Sch.](#), Appendix the repeal of ss. 92, 93, 96-104, 209 is no longer prospective to the extent that these sections apply in relation to British ships registered in the Channel Islands or the Isle of Man

**94, 95.** ..... <sup>F145</sup>

#### Textual Amendments

**F145** Ss. 94, 95 repealed by [Merchant Shipping \(Certificates\) Act 1914 \(c. 42\), s. 1\(3\)](#)

<sup>F146</sup>**96** .....

#### Textual Amendments

**F146** Pt. II (ss. 92-266) repealed by [1970 c. 36, s. 100, Sch. 5](#) which repeal is brought partly into force by virtue of [S.I. 1981/1186, Sch.](#), Appendix; [S.I. 1982/840, Sch.](#), Appendix; [S.I. 1986/2066, art. 2\(2\), Sch. 2](#), Appendix and is wholly in force at 1.5.1995 by virtue of [S.I. 1995/965, art. 2](#)

[<sup>F513</sup>**96** **Engineers certificates of competency.** **U.K.**

- (1) For the purpose of granting certificates of competency as engineers to person desirous of obtaining the same, examinations shall be held at such places as the Board of Trade direct.
- (2) The Board of Trade may appoint times for the examinations, and may appoint, remove, and re-appoint examiners to conduct the same, and determine the remuneration of those examiners, and may regulate the conduct of the examinations and the qualification of the applicants and may do all such acts and things as they think expedient for the purpose of the examinations.]

#### Textual Amendments

**F513** Ss. 92, 93, 96–104, and 209 repealed (*prosp.*) by [Merchant Shipping Act 1970 \(c. 36\), ss. 100, 101\(4\), Sch. 5](#) :however, by virtue of [S.I. 1981/1186, Sch.](#), Appendix and [S.I. 1986/2066, art. 2\(2\), Sch. 2](#), Appendix the repeal of ss. 92, 93, 96-104, 209 is no longer prospective except to the extent that these sections apply in relation to British ships registered outside the United Kingdom and by [S.I. 1982/840, Sch.](#), Appendix the repeal of ss. 92, 93, 96-104, 209 is no longer prospective to the extent that these sections apply in relation to British ships registered in the Channel Islands or the Isle of Man

[<sup>F147</sup>**97** **Fees on examination.**

An applicant for examination, whether as master, mate, or engineer, shall pay such fees . . . <sup>F148</sup>, as the Board of Trade direct, and the fees shall be paid to such persons as the Board appoint and carried to the Mercantile Marine Fund.]



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#### Textual Amendments

- F147** Ss. 92, 93, 96–104, and 209 repealed (*prosp.*) by Merchant Shipping Act 1970 (c. 36), ss. 100, 101(4), **Sch. 5** :however, by virtue of S.I. 1981/1186, **Sch.**, Appendix and S.I. 1986/2066, art. 2(2), **Sch. 2**, Appendix the repeal of ss. 92, 93, 96-104, 209 is no longer prospective except to the extent that these sections apply in relation to British ships registered outside the United Kingdom and by S.I. 1982/840, **Sch.**, Appendix the repeal of ss. 92, 93, 96-104, 209 is no longer prospective to the extent that these sections apply in relation to British ships registered in the Channel Islands or the Isle of Man
- F148** Words repealed by Merchant Shipping (Safety Convention) Act 1949 (c. 43), **Sch. 3**

#### [<sup>F149</sup>98 Grant of certificates on passing examination.

- (1) The Board of Trade shall, subject as herein-after mentioned, deliver to every applicant who is duly reported by the examiners to have passed the examination satisfactorily, and, to have given satisfactory evidence of his sobriety, experience, ability, and general good conduct on board ship, such a certificate of competency as the case requires.
- (2) The Board of Trade may in any case in which a report appears to them to have been unduly made, remit the case either to the examiners who made the report or to any other examiners, and may require a re-examination of the applicant, or a further enquiry into his testimonials and character, before granting him a certificate.]

#### Textual Amendments

- F149** Ss. 92, 93, 96–104, and 209 repealed (*prosp.*) by Merchant Shipping Act 1970 (c. 36), ss. 100, 101(4), **Sch. 5** :however, by virtue of S.I. 1981/1186, **Sch.**, Appendix and S.I. 1986/2066, art. 2(2), **Sch. 2**, Appendix the repeal of ss. 92, 93, 96-104, 209 is no longer prospective except to the extent that these sections apply in relation to British ships registered outside the United Kingdom and by S.I. 1982/840, **Sch.**, Appendix the repeal of ss. 92, 93, 96-104, 209 is no longer prospective to the extent that these sections apply in relation to British ships registered in the Channel Islands or the Isle of Man

#### [<sup>F150</sup>99 Certificates of service for naval officers.

- (1) A person who has attained the rank of lieutenant, sub-lieutenant, navigating lieutenant, or navigating sub-lieutenant in Her Majesty's Navy, or of lieutenant in Her Majesty's [<sup>F151</sup>Indian Navy] shall be entitled to a certificate of service as master of a foreign-going ship without examination.
- (2) A person who has attained the rank of engineer or assistant engineer in Her Majesty's Navy or [<sup>F151</sup>Indian Navy] shall be entitled without examination, if an engineer, to a certificate of service as first-class engineer, and if an assistant engineer to a certificate of service as second-class engineer.
- (3) A certificate of service shall differ in form from a certificate of competency, and shall contain the name and rank of the person to whom it is delivered, and the Board of Trade shall deliver a certificate of service to any person who proves himself to be entitled thereto.
- (4) The provisions of this Act (including the penal provisions) shall apply in the case of a certificate of service as they apply in the case of a certificate of competency, except that the provisions allowing a holder of a certificate of competency as master of a

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foreign-going ship to go to sea as master or mate of a home trade passenger ship shall not apply.]

#### Textual Amendments

**F150** Ss. 92, 93, 96–104, and 209 repealed (*prosp.*) by Merchant Shipping Act 1970 (c. 36), ss. 100, 101(4), **Sch. 5** :however, by virtue of S.I. 1981/1186, **Sch.**, Appendix and S.I. 1986/2066, art. 2(2), **Sch. 2**, Appendix the repeal of ss. 92, 93, 96-104, 209 is no longer prospective except to the extent that these sections apply in relation to British ships registered outside the United Kingdom and by S.I. 1982/840, **Sch.**, Appendix the repeal of ss. 92, 93, 96-104, 209 is no longer prospective to the extent that these sections apply in relation to British ships registered in the Channel Islands or the Isle of Man

**F151** Words substituted by S.R. & O. 1937/230 (Rev. X, p. 545: 1937 p. 963), Sch. Pt. II

#### [<sup>F152</sup>100 Form and record of certificate.

- (1) All certificates of competency shall be made in duplicate, one part to be delivered to the person entitled to the certificate, and one to be preserved.
- (2) Such last-mentioned part of the certificate shall be preserved, and a record of certificates of competency and the suspending, cancelling, or altering of the certificates and any other matter affecting them shall be kept, in such manner as the Board of Trade direct, by the Registrar-General of Shipping and Seamen or by such other person as the Board of Trade direct.
- (3) Any such certificate and any record under this section shall be admissible in evidence in manner provided by this Act.]

#### Textual Amendments

**F152** Ss. 92, 93, 96–104, and 209 repealed (*prosp.*) by Merchant Shipping Act 1970 (c. 36), ss. 100, 101(4), **Sch. 5** :however, by virtue of S.I. 1981/1186, **Sch.**, Appendix and S.I. 1986/2066, art. 2(2), **Sch. 2**, Appendix the repeal of ss. 92, 93, 96-104, 209 is no longer prospective except to the extent that these sections apply in relation to British ships registered outside the United Kingdom and by S.I. 1982/840, **Sch.**, Appendix the repeal of ss. 92, 93, 96-104, 209 is no longer prospective to the extent that these sections apply in relation to British ships registered in the Channel Islands or the Isle of Man

#### [<sup>F153</sup>101 Loss of certificate.

If a master, mate, or engineer proves to the satisfaction of the Board of Trade that he has, without fault on his part, lost or been deprived of a certificate already granted to him, the Board of Trade shall, and in any other case may, upon payment of such fee (if any) as they direct, cause a copy of the certificate to which, by the record kept in pursuance of this Act, he appears to be entitled, to be certified by the Registrar-General of Shipping and Seamen, or other person directed to keep the record, and to be delivered to him; and a copy purporting to be so certified shall have all the effect of the original.]

#### Textual Amendments

**F153** Ss. 92, 93, 96–104, and 209 repealed (*prosp.*) by Merchant Shipping Act 1970 (c. 36), ss. 100, 101(4), **Sch. 5** :however, by virtue of S.I. 1981/1186, **Sch.**, Appendix and S.I. 1986/2066, art. 2(2), **Sch. 2**,

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## [<sup>F154</sup>102 Colonial certificates of competency.

Where the legislature of any British possession provides for the examination of, and grant of certificates of competency to, persons intending to act as masters, mates, or engineers on board ships, and the Board of Trade report to Her Majesty that they are satisfied that the examinations are so conducted as to be equally efficient with the examinations for the same purpose in the United Kingdom under this Act, and that the certificates are granted on such principles as to show the like qualifications and competency as those granted under this Act, and are liable to be forfeited for the like reasons and in the like manner, Her Majesty may by Order in Council—

- (i) declare that the said certificates shall be of the same force as if they had been granted under this Act: and
- (ii) declare that all or any of the provisions of this Act, which relate to certificates of competency granted under this Act, shall apply to the certificates referred to in the Order: and
- (iii) impose such conditions and make such regulations with respect to the certificates, and to the use, issue, delivery, cancellation, and suspension thereof, as Her Majesty may think fit, and impose fines not exceeding fifty pounds for the breach of those conditions and regulations.]

### Textual Amendments

**F154** Ss. 92, 93, 96–104, and 209 repealed (*prosp.*) by [Merchant Shipping Act 1970 \(c. 36\)](#), ss. 100, 101(4), [Sch. 5](#): however, by virtue of [S.I. 1981/1186, Sch.](#), Appendix and [S.I. 1986/2066, art. 2\(2\), Sch. 2](#), Appendix the repeal of ss. 92, 93, 96-104, 209 is no longer prospective except to the extent that these sections apply in relation to British ships registered outside the United Kingdom and by [S.I. 1982/840, Sch.](#), Appendix the repeal of ss. 92, 93, 96-104, 209 is no longer prospective to the extent that these sections apply in relation to British ships registered in the Channel Islands or the Isle of Man

## [<sup>F155</sup>103 Production of certificates of competency to superintendent.

- (1) The master of a foreign-going ship—
  - (a) on signing the agreement with the crew before a superintendent shall produce to him the certificates of competency which the master, mates, and engineers of the ship are by this Act required to hold: and
  - (b) in the case of a running agreement shall also, before the second and every subsequent voyage, produce to the superintendent the certificate of competency of any mate or engineer then first engaged by him who is required by this Act to hold a certificate.
- (2) The master or owner of every home trade passenger ship of more than eighty tons burden shall produce to some superintendent within twenty-one days after the thirtieth of June and the thirty-first of December in every year the certificates of competency which the master, mates, and engineers of the ship are by this Act required to hold.

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- (3) Upon the production of the certificates of competency, the superintendent shall, if the certificates are such as the master, mates, and engineers of the ship ought to hold, give to the master a certificate to the effect that the proper certificates of competency have been so produced.
- (4) The master shall, before proceeding to sea, produce the superintendent's certificate to the chief officer of customs, and the ship may be detained until the certificate is produced.]

#### Textual Amendments

**F155** Ss. 92, 93, 96–104, and 209 repealed (*prosp.*) by Merchant Shipping Act 1970 (c. 36), ss. 100, 101(4), Sch. 5 :however, by virtue of S.I. 1981/1186, Sch., Appendix and S.I. 1986/2066, art. 2(2), Sch. 2, Appendix the repeal of ss. 92, 93, 96-104, 209 is no longer prospective except to the extent that these sections apply in relation to British ships registered outside the United Kingdom and by S.I. 1982/840, Sch., Appendix the repeal of ss. 92, 93, 96-104, 209 is no longer prospective to the extent that these sections apply in relation to British ships registered in the Channel Islands or the Isle of Man

#### [<sup>F156</sup> 104 Forgery, &c. of certificate of competency.

If any person—

- [<sup>F157</sup>(a) forges or fraudulently alters, or assists in forging or fraudulently altering, or procures to be forged or fraudulently altered, any certificate of competency, or an official copy of any such certificate; or]
- (b) makes, assists in making, or procures to be made, any false representation for the purpose of procuring either for himself or for any other person a certificate of competency; or
- (c) fraudulently uses a certificate or copy of a certificate of competency which has been [<sup>F158</sup>forged, altered], cancelled or suspended, or to which he is not entitled; or
- (d) fraudulently lends his certificate of competency or allows it to be used by any other person,

that person shall in respect of each offence be guilty of a misdemeanor.]

#### Textual Amendments

**F156** Ss. 92, 93, 96–104, and 209 repealed (*prosp.*) by Merchant Shipping Act 1970 (c. 36), ss. 100, 101(4), Sch. 5 :however, by virtue of S.I. 1981/1186, Sch., Appendix and S.I. 1986/2066, art. 2(2), Sch. 2, Appendix the repeal of ss. 92, 93, 96-104, 209 is no longer prospective except to the extent that these sections apply in relation to British ships registered outside the United Kingdom and by S.I. 1982/840, Sch., Appendix the repeal of ss. 92, 93, 96-104, 209 is no longer prospective to the extent that these sections apply in relation to British ships registered in the Channel Islands or the Isle of Man

**F157** S. 104 para. (a) repealed (E.W.N.I.) by Forgery and Counterfeiting Act 1981 (c. 5, SIF 39:7), s. 30, Sch. Pt. I

**F158** Words repealed (E.W.N.I.) by Forgery and Counterfeiting Act 1981 (c. 45, SIF 39:7), s. 30, Sch. Pt. I

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

**C52** Power to apply s. 104 conferred by Merchant Shipping Act 1948 (c. 44), s. 5

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105– ..... F159  
109

**Textual Amendments**

**F159** Ss. 105–109, 113–125, 127–144 repealed by [Merchant Shipping Act 1970 \(c. 36\)](#), s. 100, **Sch. 5**

*Licences to supply Seamen*

**110 Licence for supply of seamen.**

The Board of Trade may grant to such persons as the Board think fit licences to engage or supply seamen or apprentices for merchant ships in the United Kingdom, and any such licence shall continue for such period, and may be granted and revoked on such terms and conditions as the Board think proper.

**111 Penalty for engaging seamen without licence.**

- (1) A person shall not engage or supply a seaman or apprentice to be entered on board any ship in the United Kingdom, unless that person either holds a licence from the Board of Trade for the purpose, or is the owner or master or mate of the ship, or is bona fide the servant and in the constant employment of the owner, or is a superintendent.
- (2) A person shall not employ for the purpose of engaging or supplying a seaman or apprentice to be entered on board any ship in the United Kingdom any person, unless that person either holds a licence from the Board of Trade for the purpose, or is the owner or master or mate of the ship, or is bona fide the servant and in the constant employment of the owner, or is a superintendent.
- (3) A person shall not receive or accept to be entered on board any ship any seaman or apprentice, if that person knows that the seaman or apprentice has been engaged or supplied in contravention of this section.
- (4) If a person acts in contravention of this section, he shall for each seaman or apprentice in respect of whom an offence is committed, be liable to a fine not exceeding [<sup>F160</sup>£50][<sup>F161</sup>level 2 on the standard scale], and, if a licensed person, shall forfeit his licence.

**Textual Amendments**

**F160** Words “level 2 on the standard scale” substituted (E.W.S.) for “£50” by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 46 and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), s. 289G

**F161** Word substituted by virtue of [Merchant Shipping Act 1979 \(c. 39\)](#), s. 43(1), **Sch. 6 Pt. I**

**112 Penalty for receiving remuneration from seamen for engagement.**

- (1) A person shall not demand or receive directly or indirectly from a seaman or apprentice to the sea service, or from a person seeking employment as a seaman or apprentice to the sea service, or from a person on his behalf, any remuneration whatever for providing him with employment other than any fees authorised by this Act.

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- (2) If a person acts in contravention of this section, he shall for each offence be liable to a fine not exceeding [<sup>F162</sup>£50][<sup>F163</sup>level 2 on the standard scale].

#### Textual Amendments

**F162** Words “level 2 on the standard scale” substituted (E.W.S.) for “£50” by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289G](#)

**F163** Word substituted by virtue of [Merchant Shipping Act 1979 \(c. 39\), s. 43\(1\), Sch. 6 Pt. I](#)

113– ..... <sup>F164</sup>  
125

#### Textual Amendments

**F164** Ss. 105–109, 113–125, 127–144 repealed by [Merchant Shipping Act 1970 \(c. 36\), s. 100, Sch. 5](#)

### *Rating of Seamen*

#### <sup>X1</sup>126 Rating of seamen.

- (1) A seaman shall not be entitled to the rating of A.B., that is to say, of an able-bodied seaman, unless he has served at sea for [<sup>F165</sup>three years before the mast,] but the employment of fishermen in decked fishing vessels registered under the first part of this Act shall only count as sea service up to the period of [<sup>F165</sup>two years of that employment]; and the rating of A.B. shall only be granted after at least one year’s sea service in a trading vessel in addition to [<sup>F165</sup>two or more years sea service] on board of decked fishing vessels so registered.
- (2) The service may be proved by certificates of discharge, by a certificate of service from the Registrar-General of Shipping and Seamen (granted by the Registrar on payment of a fee . . . <sup>F166</sup>), specifying in each case whether the service was rendered in whole or in part in steam ship or in sailing ship, or by other satisfactory proof.

#### Editorial Information

**X1** [S. 126](#) repealed, in relation to seamen engaged in a British ship registered in the United Kingdom, by [Merchant Shipping Act 1948 \(c. 44\), s. 5\(6\)](#)

#### Textual Amendments

**F165** Words substituted by [Merchant Shipping Act 1906 \(c. 48\), s. 58\(1\)](#)

**F166** Words repealed by [Merchant Shipping \(Safety Convention\) Act 1949 \(c. 43\), Sch. 3](#)

127– ..... <sup>F167</sup>  
144

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**Textual Amendments**

**F167** Ss. 105–109, 113–125, 127–144 repealed by Merchant Shipping Act 1970 (c. 36), s. 100, **Sch. 5**

**145,** ..... **F168**  
**146.**

**Textual Amendments**

**F168** Ss. 145, 146 repealed by Merchant Shipping Act 1970 (c. 36), s. 100, Sch. 4 para. 2, **Sch. 5**

**147** ..... **F169**

**Textual Amendments**

**F169** S. 147 repealed by Merchant Shipping Act 1970 (c. 36), s. 100, **Sch. 5**

**148–** ..... **F170**  
**153**

**Textual Amendments**

**F170** Ss. 148–153 repealed by Merchant Shipping Act 1970 (c. 36), s. 100, Sch. 4 para. 3, **Sch. 5**

**154–** ..... **F171**  
**197**

**Textual Amendments**

**F171** Ss. 154–208 repealed by Merchant Shipping Act 1970 (c. 36), s. 100, **Sch. 5**

*Provisions, Health, and Accommodation*

**198–** ..... **F172**  
**208**

**Textual Amendments**

**F172** Ss. 154–208 repealed by Merchant Shipping Act 1970 (c. 36), s. 100, **Sch. 5**

**[<sup>F173</sup>209 Certain ships to carry medical practitioners.**

- (1) Every foreign-going ship, having one hundred persons or upwards on board, shall carry on board as part of her complement some duly qualified medical practitioner,

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and if she does not the owner shall for every voyage of the ship made without a duly qualified medical practitioner be liable to a fine not exceeding one hundred pounds.

- (2) Nothing in this section shall apply to an emigrant ship within the meaning of the Third Part of this Act.]

#### Textual Amendments

**F173** Ss. 92, 93, 96–104, and 209 repealed (*prosp.*) by Merchant Shipping Act 1970 (c. 36), ss. 100, 101(4), **Sch. 5**: however, by virtue of S.I. 1981/1186, **Sch.**, Appendix and S.I. 1986/2066, art. 2(2), **Sch. 2**, Appendix the repeal of ss. 92, 93, 96-104, 209 is no longer prospective except to the extent that these sections apply in relation to British ships registered outside the United Kingdom and by S.I. 1982/840, **Sch.**, Appendix the repeal of ss. 92, 93, 96-104, 209 is no longer prospective to the extent that these sections apply in relation to British ships registered in the Channel Islands or the Isle of Man

## 210 Accommodation for seamen.

- (1) Every place in any British ship occupied by seamen or apprentices, and appropriated to their use, shall have for each of those seamen or apprentices a space of not less than seventy-two cubic feet, and of not less than twelve superficial feet measured on the deck or floor of that place, and shall be subject to the regulations in the Sixth Schedule to this Act, and those regulations shall have effect as part of this section, and if any of the foregoing requirements of this section is not complied with in the case of any ship, the owner of the ship shall for each offence be liable to a fine not exceeding [<sup>F174</sup>twenty pounds][<sup>F174</sup>level 2 on the standard scale].
- (2) Every place so occupied and appropriated shall be kept free from goods and stores of any kind not being the personal property of the crew in use during the voyage, and if any such place is not so kept free, the master shall forfeit and pay to each seaman or apprentice lodged in that place the sum of [<sup>F175</sup>5p] for each day during which, after complaint has been made to him by any two or more of the seamen so lodged, it is not so kept free.
- (3) Such fees as the Board of Trade fix shall be paid in respect of an inspection for the purposes of this section . . . <sup>F176</sup>

#### Textual Amendments

**F174** Words “level 2 on the standard scale” substituted (E.W.S.) for “£50”, itself previously substituted (E.W.S.), by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), s. 289G

**F175** Words substituted by virtue of Decimal Currency Act 1969 (c. 19), s. 10(1)

**F176** Words repealed by Merchant Shipping (Safety Convention) Act 1949 (c. 43), **Sch. 3**

211– ..... <sup>F177</sup>  
250

#### Textual Amendments

**F177** Ss. 211–253 repealed by Merchant Shipping Act 1970 (c. 36), s. 100, **Sch. 55**



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### Registration of and Returns respecting Seamen

251– ..... F178  
253

#### Textual Amendments

F178 Ss. 211–253 repealed by Merchant Shipping Act 1970 (c. 36), s. 100, Sch. 55

254 ..... F179

#### Textual Amendments

F179 S. 254 repealed by Merchant Shipping Act 1970 (c. 36), s. 100, Sch. 4 para. 4, Sch. 5

255 ..... F180

#### Textual Amendments

F180 S. 255 repealed by Merchant Shipping Act 1970 (c. 36), s. 100, Sch. 5

#### 256 Transmission of documents to registrar by superintendents and other officers.

- (1) All superintendents and all [<sup>F181</sup>officers of customs and excise] shall take charge of all documents which are delivered or transmitted to or retained by them in pursuance of this Act, and shall keep them for such time (if any) as may be necessary for the purpose of settling any business arising at the place where the documents come into their hands, or for any other proper purpose, and shall, if required, produce them for any of those purposes, and shall then transmit them to the Registrar-General of Shipping and Seamen, and he shall record and preserve them, and they shall be admissible in evidence in manner provided by this Act, and they shall, on payment of a moderate fee fixed by the Board of Trade, or without payment if the Board so direct, be open to the inspection of any person.

(2) ..... F182

#### Textual Amendments

F181 Words substituted by virtue of Customs and Excise Management Act 1979 (c. 2), Sch. 4 para. 1

F182 S. 256(2) repealed by Public Records Act 1958 (c. 51), Sch. 4

257– ..... F183  
266

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**Textual Amendments**  
F183 Ss. 257–266, 268–270 repealed by Merchant Shipping Act 1970 (c. 36), s. 100, Sch. 5

**PART III**

**PASSENGER AND EMIGRANT SHIPS**

**Modifications etc. (not altering text)**  
C53 Pt. III amended by Merchant Shipping Act 1906 (c. 48), s. 15 and Merchant Shipping (Safety Convention) Act 1949 (c. 43), s. 26(1)

**1. DEFINITIONS**

*†Definition of Passenger Steamer and Passenger*

**Modifications etc. (not altering text)**  
C54 Unreliable margin note

**267 Definition of “passenger” and “passenger steamer.”**

For the purposes of this Part of this Act—

.....<sup>F184</sup>  
The expression “passenger steamer” shall mean every British steamship carrying passengers to, from, or between any places in the United Kingdom except steam ferry boats working in chains (commonly called steam bridges) . . .<sup>F185</sup>

**Textual Amendments**  
F184 Definition of “passenger” repealed by Merchant Shipping (Safety Convention) Act 1949 (c. 43), Sch. 3  
F185 Words repealed by Merchant Shipping Act 1906 (c. 48), Sch. 2  
**Modifications etc. (not altering text)**  
C55 S. 267 amended by Merchant Shipping Act 1906 (c. 48), s. 13 and Merchant Shipping Act 1964 (c. 47), s. 17(2)

**268–** .....<sup>F186</sup>  
**270**

**Textual Amendments**  
F186 Ss. 257–266, 268–270 repealed by Merchant Shipping Act 1970 (c. 36), s. 100, Sch. 5

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## 2. PASSENGER STEAMERS

### *Survey of Passenger Steamers*

#### 271 Annual survey of passenger steamers.

- [<sup>F187</sup>(1) Every passenger steamer which carries more than twelve passengers shall be surveyed once at least in each year in the manner provided in this Part of this Act; and no ship (other than a steam ferry boat working in chains) shall proceed to sea or on any voyage or excursion with more than twelve passengers on board, unless there is in force in respect of the ship a certificate as to survey under this Part of this Act, applicable to the voyage or excursion on which the ship is about to proceed, or that voyage or excursion is one in respect of which [<sup>F188</sup>the Board of Trade] has exempted the ship from the requirements of this subsection.]
- (2) A passenger steamer attempting to ply or go to sea may be detained until such certificate as aforesaid is produced to the proper [<sup>F189</sup>officer of customs and excise][<sup>F190</sup>unless the voyage or excursion on which she is about to proceed is one in respect of which she has been exempted as aforesaid.]
- [<sup>F191</sup>(3) If a ship proceeds to sea or on any voyage or excursion when it is prohibited from doing so by subsection (1) of this section, the owner and the master of the ship shall each be guilty of an offence and liable on conviction on indictment to a fine or on summary conviction to a fine not exceeding one thousand pounds.]

#### Textual Amendments

- F187** S. 271(1) substituted by [Merchant Shipping Act 1964 \(c. 47\), s. 17\(1\)](#)
- F188** Words substituted by virtue of [S.I. 1965/145, arts. 2, 3\(2\), Sch. 1](#)
- F189** Words substituted by virtue of [Customs and Excise Management Act 1979 \(c. 2\), Sch. 4 para. 1](#)
- F190** Words inserted by [Merchant Shipping Act 1964 \(c. 47\), s. 17\(1\)](#)
- F191** S. 271(3) inserted by [Merchant Shipping Act 1979 \(c. 39\), Sch. 6 Pt. VII para. 3](#)

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

- C56** S. 271(3) amended by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 49\(1\)](#)

#### 272 Mode of survey and declaration of survey.

- (1) The owner of every passenger steamer shall cause the same to be surveyed by a [<sup>F192</sup>ship surveyor] of ships and an engineer surveyor of ships [<sup>F193</sup>and, in the case of a sea-going passenger steamer required to be provided with a [<sup>F194</sup>radio installation], by a wireless telegraphy surveyor] the [<sup>F192</sup>ship surveyor] being, in the case of an iron steamer, a person properly qualified in the opinion of the Board of Trade to survey an iron steamer.
- (2) ..... <sup>F195</sup>
- (3)–(5) . . . <sup>F196</sup>

#### Textual Amendments

- F192** Words substituted by virtue of [Merchant Shipping Act 1906 \(c. 48\), s. 75\(1\)](#)

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- F193** Words inserted by Merchant Shipping (Safety and Load Line Conventions) Act 1932 (c. 9), s. 9(1)  
**F194** Words substituted by Merchant Shipping (Safety Convention) Act 1949 (c. 43), s. 35(5)  
**F195** S. 272(2) repealed by S.I. 1981/568, reg. 3  
**F196** S. 272(3)-(5) repealed by Merchant Shipping (Safety Convention) 1949 Act (c. 43), s.13(1), 37, Sch. 3

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

- C57** S. 272 amended by Merchant Shipping Act 1906 (c. 48), s. 75(3) and Merchant Shipping (Safety and Load Line Conventions) Act 1932 (c. 9), s. 9(1); modified by Merchant Shipping (Safety Convention) Act 1949 (c. 43), s. 15

**273 Transmission of declaration.**

- (1) The owner of a steamer surveyed shall within fourteen days after the receipt by him of a declaration of survey transmit it to the Board of Trade.
- (2) If an owner fails without reasonable cause so to transmit a declaration of survey, he shall forfeit a sum not exceeding [<sup>F197</sup>50p] for every day during which the transmission is delayed, and any sum so forfeited shall be payable on the granting of a certificate in addition to the fee, and shall be applied in the same manner as the fee.

**Textual Amendments**

- F197** Words substituted by virtue of Decimal Currency Act 1969 (c. 19), s. 10(1)

**274 Issue of passenger steamer's certificate.**

On the receipt of the declarations of survey, the Board of Trade shall, if satisfied that this Part of this Act has been complied with, issue in duplicate a passenger steamer's certificate, that is to say, a certificate stating such compliance and stating, according to the declarations—

- (a) the limits (if any) beyond which the steamer is not fit to ply; and
- (b) the number of passengers which the steamer is fit to carry, distinguishing, if necessary, the number to be carried in each part of the steamer, and any conditions and variations to which the number is subject.

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

- C58** S. 274 modified by Merchant Shipping (Safety Convention) Act 1949 (c. 43), s. 15

**275 Appeal to court of survey.**

- (1) If the owner of a steamer feels aggrieved by the declaration of survey of a [<sup>F198</sup>ship] or engineer surveyor [<sup>F199</sup>or wireless telegraphy surveyor] or by the refusal of such a surveyor to give such a declaration, he may appeal to the court of survey for the port or district where the steamer for the time being is, in manner directed by the rules of that court.
- (2) On any such appeal the judge of the court of survey shall report to the Board of Trade on the question raised by the appeal and the Board, when satisfied that the requirements

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of the report and of the foregoing provisions of this Part of this Act have been complied with, may grant a passenger steamer's certificate.

- (3) Subject to any order made by the judge of the court of survey the costs of and incidental to the appeal shall follow the event.
- (4) A [<sup>F198</sup>ship] or engineer surveyor [<sup>F199</sup>or wireless telegraphy surveyor] in making a survey of a steamer for the purpose of a declaration of survey shall, if the owner of the steamer so requires, be accompanied on the survey by some person appointed by the owner, and in that case, if the surveyor and the person so appointed agree, there shall be no appeal under this section to the court of survey.

#### Textual Amendments

**F198** Words substituted by virtue of [Merchant Shipping Act 1906 \(c. 48\), s. 75\(1\)](#)

**F199** Words inserted by [Merchant Shipping \(Safety and Load Line Conventions\) Act 1932 \(c. 9\), s. 9\(3\)](#)

### 276 Transmission of certificate.

- (1) The Board of Trade shall transmit the passenger steamer's certificate in duplicate to a superintendent or some other public officer at the port mentioned by the owner of the steamer for the purpose, or at the port where the owner or his agent resides, or where the steamer has been surveyed or is for the time lying.
- (2) The Board of Trade shall cause notice of the transmission to be given to the master or owner of his agent, and the officer to whom the certificate has been transmitted shall, on the owner, master, or agent applying and paying the proper fee and other sums (if any) mentioned in this Act as payable in that behalf, deliver to him both copies of the certificate.
- (3) In proving the issue of a passenger steamer's certificate it shall be sufficient to show that the certificate was duly received by the said officer, and that due notice of the transmission was given to the owner, master, or agent.

### 277 Fees for certificate.

The grantee of a passenger steamer's certificate shall pay such fees . . . <sup>F200</sup>, as the Board of Trade fix.

#### Textual Amendments

**F200** Words repealed by [Merchant Shipping \(Safety Convention\) Act 1949 \(c. 43\), Sch. 3](#)

### 278 Duration of certificates.

- (1) A passenger steamer's certificate shall not be in force for more than one year from the date of its issue, or any shorter time specified in the certificate, nor after notice is given by the Board of Trade to the owner, agent, or master of the steamer, that the Board have cancelled it.

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- (2) If a passenger steamer is absent from the United Kingdom at the time when her certificate expires, a fine shall not be incurred for want of a certificate until she first begins to ply with passengers after her next return to the United Kingdom.

### 279 Cancellation of certificate.

- (1) The Board of Trade may cancel a passenger steamer's certificate where they have reason to believe—
- (a) that any declaration of survey on which the certificate was founded has been in any particular made fraudulently or erroneously; or,
  - (b) that the certificate has been issued upon false or erroneous information; or,
  - (c) that since the making of the declaration, the hull, equipments, or machinery have sustained any injury, or are otherwise insufficient.
- (2) In every such case the Board of Trade may require the owner to have the hull equipment or machinery of the steamer again surveyed, and to transmit further declarations of survey, before they re-issue the certificate or grant a fresh one in lieu thereof.

### 280 Delivery up of certificate.

- (1) The Board of Trade may require a passenger steamer's certificate, which has expired or been cancelled, to be delivered up as they direct.
- (2) If any owner or master fails without reasonable cause to comply with such requirement, he shall for each offence be liable to a fine not exceeding [F201[F202£50]][F201level 2 on the standard scale].

#### Textual Amendments

**F201** Words “level 2 on the standard scale” substituted (E.W.S.) for “£50” by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289G](#)

**F202** Word substituted by virtue of [Merchant Shipping Act 1979 \(c. 39\), s. 43\(1\), Sch. 6 Pt. I](#)

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

**C59** [S. 280](#) modified (1.5.1994) by [1993 c. 22, s. 8\(3\), Sch. 4 para.16](#); [S.I. 1993/3137, art. 3\(2\)](#)

### 281 Posting up of certificate.

- (1) The owner or master of every passenger steamer required to have a passenger steamer's certificate shall forthwith on the receipt of the certificate by him or his agent cause one of the duplicates to be put up in some conspicuous place on board the steamer, so as to be legible to all persons on board, and to be kept so put up and legible while the certificate remains in force, and the steamer is in use.
- (2) If the owner or master fails without reasonable cause to comply with this section, he shall for each offence be liable to a fine not exceeding [F203[F204£50]][F203level 2 on the standard scale].
- (3) If a passenger steamer plies or goes to sea with passengers on board, and this section is not complied with, then for each offence the owner thereof shall be liable to a fine

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not exceeding [<sup>F205</sup>[<sup>F206</sup>£200]] [<sup>F205</sup>level 4 on the standard scale], and the master shall also be liable to a further fine not exceeding [<sup>F205</sup>[<sup>F206</sup>£200]] [<sup>F205</sup>level 4 on the standard scale].

#### Textual Amendments

- F203** Words “level 2 on the standard scale” substituted (E.W.S.) for “£50” by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [s. 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [s. 289G](#)
- F204** Word substituted by virtue of [Merchant Shipping Act 1979 \(c. 39\)](#), [s. 43\(1\)](#), [Sch. 6 Pt. I](#)
- F205** Words “level 4 on the standard scale” substituted (E.W.S.) for “£200” by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [ss. 38, 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [ss. 289F, 289G](#)
- F206** Words substituted by virtue of [Merchant Shipping \(Load Lines\) Act 1967 \(c. 27, SIF 111\)](#), [s. 25](#), [Sch. 1](#) (as amended by [Merchant Shipping Act 1979 \(c. 39, SIF 111\)](#), [s. 43](#), [Sch. 6 Pt. VI para. 7](#))

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

- C60** [S. 281](#) modified (1.5.1994) by [1993 c. 22, s. 8\(3\)](#), [Sch. 4 para.16](#); [S.I. 1993/3137](#), [art. 3\(2\)](#)

### 282 Penalty for forgery of certificate or declaration.

If any person—

- (a) knowingly and wilfully makes, or assists in making, or procures to be made, a false or fraudulent declaration of survey or passenger steamer’s certificate;  
[<sup>F207</sup>or
- (b) forges, assists in forging, procures to be forged, fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, any such declaration or certificate, or anything contained in, or any signature to any such declaration or certificate;]

that person shall in respect of each offence be guilty of a misdemeanor.

#### Textual Amendments

- F207** Words repealed (E.W.N.I.) by [Forgery and Counterfeiting Act 1981 \(c. 45, SIF 39:7\)](#), [s. 30](#), [Sch. Pt. I](#)

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

- C61** [S. 282\(a\)](#) modified (1.5.1994) by [1993 c. 22, s. 8\(3\)](#), [Sch. 4 para.16](#); [S.I. 1993/3137](#), [art. 3\(2\)](#)

### 283 Penalty for carrying passengers in excess.

The owner or master of any passenger steamer shall not receive on board thereof, or on or in any part thereof, any number of passengers which, having regard to the time, occasion, and circumstances of the case, is greater than the number allowed by the passenger steamer’s certificate, and if he does so, he shall for each offence be liable [<sup>F208</sup>on summary conviction to a fine not exceeding £50,0 and on conviction on indictment to a fine].

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**Textual Amendments**

**F208** Words substituted by virtue of [Merchant Shipping \(Load Lines\) Act 1967 \(c. 27, SIF 111\)](#), s. 25, [Sch. 1](#) (as amended by [Merchant Shipping Act 1979 \(c. 39, SIF 111\)](#), s. 43, [Sch. 6 Pt. VI para. 7](#))

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

**C62** [S. 283](#) amended by [Merchant Shipping Act 1906 \(c. 48\)](#), s. 22

**284 Colonial certificates for passenger steamers.**

Where the legislature of any British possession provides for the survey of, and grant of certificates for, passenger steamers, and the Board of Trade report to Her Majesty the Queen that they are satisfied that the certificates are to the like effect, and are granted after a like survey, and in such manner as to be equally efficient with the certificates granted for the same purpose in the United Kingdom under this Act, Her Majesty in Council may—

- (1) declare that the certificates granted in the said British possession shall be of the same force as if granted under this Act; and
- (2) declare that all or any of the provisions of this Part of this Act which relate to passenger steamer’s certificates shall, either without modification or with such modifications as to Her Majesty may seem necessary, apply to the certificates granted in the said British possession; and
- (3) impose such conditions and make such regulations with respect to the certificates, and to the use, delivery, and cancellation thereof, as to Her Majesty may seem fit, and impose fines not exceeding fifty pounds for the breach of those conditions and regulations.

*General Equipment of Passenger Steamers*

**285 Equipment of passenger steamers with compasses, hose, deck shelters, and safety appliances.**

- (1) A sea-going passenger steamer shall have her compasses properly adjusted from time to time, to the satisfaction of the [<sup>F209</sup>ship surveyor] and according to such regulations as may be issued by the Board of Trade.
- (2) ..... <sup>F210</sup>
- (3) A home trade passenger steamer shall be provided with such shelter for the protection of deck passengers (if any) as the Board of Trade, having regard to the nature of the passage, the number of deck passengers to be carried, the season of the year, the safety of the ship, and the circumstances of the case, require.
- (4) A passenger steamer shall be provided with a safety valve on each boiler, so constructed as to be out of the control of the engineer when the steam is up, and, if the safety valve is in addition to the ordinary valve, so constructed as to have an area not less, and a pressure not greater, than the area of and pressure on the ordinary valve.
- (5) If a passenger steamer plies or goes to sea from a port in the United Kingdom without being equipped as required by this section, then, for each matter in which default is



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made, the owner (if in fault) shall be liable to a fine not exceeding one hundred pounds, and the master (if in fault) shall be liable to a fine not exceeding fifty pounds.

#### Textual Amendments

**F209** Words substituted by virtue of [Merchant Shipping Act 1906 \(c. 48\), s. 75\(1\)](#)

**F210** [S. 285\(2\)](#) repealed by [Merchant Shipping \(Safety and Load Line Conventions\) Act 1932 \(c. 9\), Sch. 4 Pt. I](#)

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

**C63** [S. 285\(5\)](#) amended by [Merchant Shipping Act 1979 \(c. 39, SIF 111\), s. 43\(2\), Sch. 6 Pt. V](#) and [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 49\(1\)](#)

### 286 Prohibition of increasing weight on safety valve.

A person shall not increase the weight on the safety valve of a passenger steamer beyond the limits fixed by the surveyor, and, if he does so, he shall, in addition to any other liability he may incur by so doing, be liable for each offence to a fine not exceeding one hundred pounds.

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

**C64** [S. 286](#) amended by [Merchant Shipping Act 1979 \(c. 39, SIF 111\), s. 43\(2\), Sch. 6 Pt. V](#) and [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 49\(1\)](#)

### *Keeping Order in Passenger Steamers*

### 287 Offences in connexion with passenger steamers.

- (1) If any of the following offences is committed in the case of a passenger steamer for which there is a passenger steamer's certificate in force; (that is to say,)
- (a) If any person being drunk or disorderly has been on that account refused admission thereto by the owner or any person in his employment, and, after having the amount of his fare (if he has paid it) returned or tendered to him, nevertheless persists in attempting to enter the steamer:
  - (b) If any person being drunk or disorderly on board the steamer is requested by the owner or any person in his employ to leave the steamer at any place in the United Kingdom, at which he can conveniently do so, and, after having the amount of his fare (if he has paid it) returned or tendered to him, does not comply with the request:
  - (c) If any person on board the steamer, after warning by the master or other officer thereof, molests or continues to molest any passenger:
  - (d) If any person, after having been refused admission to the steamer by the owner or any person in his employ on account of the steamer being full, and having had the amount of his fare (if he has paid it) returned or tendered to him, nevertheless persists in attempting to enter the steamer:
  - (e) If any person having gone on board the steamer at any place, and being requested, on account of the steamer being full, by the owner or any person in his employ to leave the steamer, before it has quitted that place, and having

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had the amount of his fare (if he has paid it) returned or tendered to him, does not comply with that request:

- (f) If any person travels or attempts to travel in the steamer without first paying his fare, and with intent to avoid payment thereof:
- (g) If any person, having paid his fare for a certain distance, knowingly and wilfully proceeds in the steamer beyond that distance without first paying the additional fare for the additional distance, and with intent to avoid payment thereof:
- (h) If any person on arriving in the steamer at a point to which he has paid his fare knowingly and wilfully refuses or neglects to quit the steamer: and
- (i) If any person on board the steamer fails, when requested by the master or other officer thereof, either to pay his fare or exhibit such ticket or other receipt, if any, showing the payment of his fare, as is usually given to persons travelling by and paying their fare for the steamer:

the person so offending shall for each offence be liable to a fine not exceeding [F211[F212£50]][F211level 2 on the standard scale], but that liability shall not prejudice the recovery of any fare payable by him.

- (2) If any person on board any such steamer wilfully does or causes to be done anything in such a manner as to obstruct or injure any part of the machinery or tackle of the steamer, or to obstruct, impede, or molest the crew, or any of them, in the navigation or management of the steamer, or otherwise in the execution of their duty on or about the steamer, he shall for each offence be liable to a fine not exceeding [F211[F212£50]][F211level 2 on the standard scale].
- (3) The master or other officer of any such steamer, and all persons called by him to his assistance, may, without any warrant, detain any person who commits any offence against this section and whose name and address are unknown to the master or officer, and convey the offender with all convenient despatch before some justice of the peace to be dealt with according to law, and that justice shall with all convenient despatch try the case in a summary manner.
- (4) If any person commits an offence against this section and on the application of the master of the steamer, or any other person in the employ of the owner thereof, refuses to give his name and address, or gives a false name or address, that person shall be liable to a fine not exceeding [F211[F212£50]][F211level 2 on the standard scale][F213] and the fine shall be paid to the owner of the steamer.]

#### Textual Amendments

**F211** Words “level 2 on the standard scale” substituted (E.W.S.) for “£50” by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289G](#)

**F212** Word substituted by virtue of [Merchant Shipping Act 1979 \(c. 39\), s. 43\(1\), Sch. 6 Pt. I](#)

**F213** Words repealed (E.W.) by [Justices of the Peace Act 1949 \(c. 101\), Sch. 7 Pt. III](#)

## 288 Power to exclude drunken passengers on home trade passenger steamers.

The master of any home trade passenger steamer may refuse to receive on board thereof any person who by reason of drunkenness or otherwise is in such a state, or misconducts himself in such a manner, as to cause annoyance or injury to passengers on board, and if any such person is on board, may put him on shore at any convenient

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place; and a person so refused admittance or put on shore shall not be entitled to the return of any fare he has paid.

### 3. EMIGRANT SHIPS

289– ..... F214  
355

#### Textual Amendments

**F214** Ss. 289–355, 357, 358, 359(2), 360(1)(2) repealed by [Merchant Shipping Act 1970 \(c. 36\), s. 100, Sch. 5](#)

#### *Legal Proceedings*

#### 356 Recovery of fines.

All fines and forfeitures under the provisions of this Part of this Act (other than the provisions relating to passenger steamers only) shall be sued for by the following officers; (that is to say,)

- (a) ..... F215
- (b) Any chief officer of customs; and also
- (c) In the British Islands [<sup>F216</sup>(except in the Isle of Man)], any person authorised by the Board of Trade and any officer of customs authorised by the [<sup>F217</sup>Commissioners of Customs and Excise][<sup>F216</sup>and in the Isle of Man, the Attorney General for the Island or a person authorised by him]; and
- (d) In a British possession any person authorised by the governor of that possession, or any officer of customs authorised by the Government department regulating the customs in that possession.

#### Textual Amendments

**F215** S. 356(a) repealed by [Merchant Shipping Act 1970 \(c. 36\), s. 100, Sch. 5](#)

**F216** Words inserted by [S.I. 1980/399, Sch. Pt. I para. 8](#)

**F217** Words substituted by virtue of [Customs and Excise Management Act 1979 \(c. 2\), Sch. 4 para. 1](#)

357, ..... F218  
358.

#### Textual Amendments

**F218** Ss. 289–355, 357, 358, 359(2), 360(1)(2) repealed by [Merchant Shipping Act 1970 \(c. 36\), s. 100, Sch. 5](#)

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*Supplemental*

**359 Owner responsible for default in absence of agreement.**

(1) In the absence of any agreement to the contrary, the owner of a ship shall be the person ultimately responsible as between himself and the other persons by this Part of this Act made liable in respect of any default in complying with any requirement thereof.

(2) ..... F219

**Textual Amendments**  
F219 Ss. 289–355, 357, 358, 359(2), 360(1)(2) repealed by Merchant Shipping Act 1970 (c. 36), s. 100, Sch. 5

**360**

(1) ..... F220

(3) ..... F221

**Textual Amendments**  
F220 Ss. 289–355, 357, 358, 359(2), 360(1)(2) repealed by Merchant Shipping Act 1970 (c. 36), s. 100, Sch. 5  
F221 S.360(3) repealed by Merchant Shipping Act 1979 (c. 39), Sch. 7 Pt. II

**361,** ..... F222  
**362.**

**Textual Amendments**  
F222 Ss. 361, 362, 364, 365 repealed by Merchant Shipping Act 1970 (c. 36), s. 100, Sch. 5

**363 Exemption from survey of foreign passenger steamer or emigrant ship in certain cases.**

Where a foreign ship is a passenger steamer . . . F223 within the meaning of this Part of this Act, and the Board of Trade are satisfied, by the production of a foreign certificate of survey attested by a British consular officer at a port out of Her Majesty’s dominions, that the ship has been officially surveyed at that port, and are satisfied that any requirements of this Act are proved by that survey to have been substantially complied with, the Board may, if they think fit, dispense with any further survey of the ship in respect of any requirement so complied with, and grant or direct one of their officers to grant a certificate, which shall have the same effect as if given upon survey under this Part of this Act:

Provided that Her Majesty in Council may order that this section shall not apply in the case of an official survey at any port at which it appears to Her Majesty that corresponding advantages are not extended to British ships.

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**Textual Amendments**

**F223** Words repealed by [Merchant Shipping Act 1970 \(c. 36\), s. 100, Sch. 5](#)

*Application of Part III as regards Emigrant Ships*

**364,** ..... **F224**  
**365.**

**Textual Amendments**

**F224** Ss. 361, 362, 364, 365 repealed by [Merchant Shipping Act 1970 \(c. 36\), s. 100, Sch. 5](#)

**366 Modification of provisions of Part III in their application to British possessions.**

- (1) The governor of a British possession may by proclamation—
  - (a) determine what shall be deemed, for the purposes of this Part of this Act, to be the length of the voyage of any ship carrying steerage passengers from any port in that British possession to any other port; and
  - (b) fix dietary scales for steerage passengers during the voyage; and
  - (c) declare what medical stores shall be deemed necessary for the medical treatment of the steerage passengers during the voyage.
- (2) Every such proclamation shall take effect from the issue thereof, and shall have effect without as well as within the possession, as if enacted in this Part of this Act.
- (3) The governor of a British possession may authorise such persons as he thinks fit to make a like survey of emigrant ships sailing from that possession as is by this Act required to be made by two or more competent surveyors in the case of emigrant ships sailing from the British Islands.
- (4) The governor of a British possession may authorise any competent person to act as medical practitioner on board an emigrant ship proceeding on a colonial voyage.

**367 Powers of governors of colonies as to numbers of steerage passengers.**

- (1) The governor of each of the Australasian colonies, that is to say, New South Wales, Victoria, South Australia, Western Australia, Queensland, Tasmania, New Zealand, and any colony hereafter established in Australia, may by proclamation make such rules as he thinks proper for determining the number of steerage passengers to be carried in any emigrant ship proceeding from one of such colonies to any other of those colonies, and for determining on what deck or decks, and subject to what reservations or conditions, steerage passengers may be carried in such ship.
- (2) The governor of any British possession may, if he thinks fit, declare by proclamation that ships intended to pass within the Tropics from any port in such possession may convey steerage passengers, being natives of Asia or Africa, after the rate of one for every twelve superficial feet of the passenger deck instead of after the rate specified in the Tenth Schedule to this Act.

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- (3) Every such proclamation shall take effect from the issue thereof, or such other day as may be named therein, and shall have effect without as well as within the possession, as if it were enacted in this Part of this Act in substitution as respects the said ships for the Tenth Schedule to this Act.
- (4) The provisions of the Tenth Schedule to this Act with respect to the number of superficial feet to be allowed to each steerage passenger shall not apply to any ship proceeding from any port in the island of Ceylon to any port in British India in the Gulf of Manar or Palk's Straits, and the legislature of Ceylon may regulate by law the number of steerage passengers who may be carried on board such ships.

**368** ..... F225

**Textual Amendments**

F225 S. 368 repealed by Statute Law (Repeals) Act 1976 (c. 16), **Sch. 1 Pt. VII**

**368A** ..... F226

**Textual Amendments**

F226 S. 368A repealed by Burma Independence Act 1947 (11 & 12 Geo. 6 c. 3), s. 5, **Sch. 2 Pt. I**

**PART IV**

**369** ..... F227

**Textual Amendments**

F227 S. 369 repealed by Merchant Shipping Act 1970 (c. 36), ss. 100, 101(4), **Sch. 5**

**370** ..... F228

**Textual Amendments**

F228 S. 370 repealed by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 57(5), **Sch. 7**, (with s. 58(4), Sch. 8 para. 1)

**371** ..... F229

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**Textual Amendments**

**F229** S. 371 repealed by Merchant Shipping Act 1970 (c. 36), ss. 100, 101(4), **Sch. 5**

**372–** ..... **F230**  
**374**

**Textual Amendments**

**F230** Ss. 372–374 repealed by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 57(5), **Sch. 7**, (with s. 58(4), Sch. 8 para. 1)

**375** ..... **F231**

**Textual Amendments**

**F231** S. 375 repealed by Merchant Shipping Act 1937 (c. 23), **s. 2**

**376–** ..... **F232**  
**384**

**Textual Amendments**

**F232** Ss. 376–384, 387–389, 391–412 repealed by Merchant Shipping Act 1970 (c. 36), s. 100, **Sch. 5**

**385–** ..... **F233**  
**386**

**Textual Amendments**

**F233** Ss. 385, 386, 390, 413–417 repealed by Merchant Shipping Act 1970 (c. 36), ss. 100, 101(4), **Sch. 5**

**387–** ..... **F234**  
**389**

**Textual Amendments**

**F234** Ss. 376–384, 387–389, 391–412 repealed by Merchant Shipping Act 1970 (c. 36), s. 100, **Sch. 5**

**390** ..... **F235**

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**Textual Amendments**

**F235** Ss. 385, 386, 390, 413–417 repealed by Merchant Shipping Act 1970 (c. 36), ss. 100, 101(4), **Sch. 5**

**391–** ..... **F236**  
**412**

**Textual Amendments**

**F236** Ss. 376–384, 387–389, 391–412 repealed by Merchant Shipping Act 1970 (c. 36), s. 100, **Sch. 5**

**413–** ..... **F237**  
**417**

**Textual Amendments**

**F237** Ss. 385, 386, 390, 413–417 repealed by Merchant Shipping Act 1970 (c. 36), ss. 100, 101(4), **Sch. 5**

**PART V**

**SAFETY**

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

**C65** Pt. V amended by Merchant Shipping (Safety Convention) Act 1949 (c. 43), **ss. 23(3)(4), 24(1)(2)**

*Prevention of Collisions*

**418** ..... **F238**

**Textual Amendments**

**F238** S. 418 repealed (with saving) to the extent that s. 418 relates to ships by S.I. 1983/708, **regs. 1(4)(a), 2**  
S. 418 wholly repealed (1.5.1994) by 1993 c. 22, s. 8(3)(4), Sch. 4 para. 13(2), **Sch. 5, Pt.II**; S.I.  
1993/3137, **art. 3(2)**

**419** ..... **F239**

**Textual Amendments**

**F239** S. 419 repealed (with saving) to the extent that s. 419 relates to ships by S.I. 1983/708, **regs. 1(4)(a), 2**  
S. 419 wholly repealed (1.5.1994) by 1993 c. 22, s. 8(3)(4), Sch. 4 para. 13(2), **Sch. 5 Pt.II**; S.I.  
1993/3137, **art. 3(2)**



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420 ..... F240

**Textual Amendments**

F240 S. 420 repealed (with saving) by S.I. 1983/708, reg. 2, Sch. 2 Pt. I

**421 Saving for local rules of navigation in harbours, &c.**

- (1) Any rules made before or after the passing of this Act under the authority of any local Act, concerning lights and signals to be carried, or the steps for avoiding collision to be taken, by vessels navigating the waters of any harbour, river, or other inland navigation, shall, notwithstanding anything in this Act, have full effect.
- (2) Where any such rules are not and cannot be made, Her Majesty in Council on the application of any person having authority over such waters, or, if there is no such person, any person interested in the navigation thereof, may make such rules, and those rules shall, as regards vessels navigating the said waters, be of the same force as if they were part of the collision regulations.

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

C66 S. 421 extended by S.I. 1972/971, Sch. 1 Pt. A and by Civil Aviation Act 1982 (c. 16, SIF 9), s. 97(1), Sch. 14 para. 7

C67 S. 421(2) extended by Mersey Channels Act 1897 (c. 21), s. 2

**422 Duty of vessel to assist the other in case of collision.**

- (1) In every case of collision between two vessels, it shall be the duty of the master or person in charge of each vessel, if and so far as he can do so without danger to his own vessel crew and passengers (if any),
  - (a) to render to the other vessel her master crew and passengers (if any) such assistance as may be practicable, and may be necessary to save them from any danger caused by the collision, and to stay by the other vessel until he has ascertained that she has no need of further assistance, and also
  - (b) to give to the master or person in charge of the other vessel the name of his own vessel and of the port to which she belongs, and also the names of the ports from which she comes and to which she is bound.

(2) ..... F241

- (3) If the master or person in charge fails without reasonable cause to comply with this section, he shall be guilty of [F242] an offence and—
  - (a) in the case of a failure to comply with subsection (1)(a) of this section, liable on conviction on indictment to a fine and imprisonment for a term not exceeding two years and on summary conviction to a fine not exceeding fifty thousand pounds and imprisonment for a term not exceeding six months; and
  - (b) in the case of a failure to comply with subsection (1)(b) of this section, liable on conviction on indictment to a fine and on summary conviction to a fine not exceeding one thousand pounds,

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and in either case], and, if he is a certificated officer, an inquiry into his conduct may be held, and his certificate cancelled or suspended.

#### Textual Amendments

**F241** S. 422(2) repealed by [Maritime Conventions Act 1911 \(c. 57\)](#), s. 4(2)

**F242** Words substituted by [Merchant Shipping Act 1979 \(c. 39\)](#), **Sch. 6 Pt. VII para. 6**

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

**C68** S. 422 extended by S.I. 1972/971, **Sch. 1 Pt. A**

**C69** S. 76 applied by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 22(10)

**423** ..... **F243**

#### Textual Amendments

**F243** Ss. 423, 425, 426 repealed by [Merchant Shipping Act 1970 \(c. 36\)](#), s. 100, **Sch. 5**

**424** ..... **F244**

#### Textual Amendments

**F244** S. 424 repealed (with saving) by S.I. 1983/708, reg. 2, **Sch. 2 Pt. I**

**425,** ..... **F245**

**426.**

#### Textual Amendments

**F245** Ss. 423, 425, 426 repealed by [Merchant Shipping Act 1970 \(c. 36\)](#), s. 100, **Sch. 5**

### *Life-saving Appliances*

#### [<sup>F246</sup>**427 Rules as to life-saving appliances.**

(1) [<sup>F247</sup>The Board of Trade] may, in relation to any ships to which this section applies, make rules (in this Act called “rules for life-saving appliances”) with respect to all or any of the following matters, namely:—

- (a) the arranging of ships into classes, having regard to the services in which they are employed, to the nature and duration of the voyage, and to the number of persons carried;
- (b) the number, description, and mode of construction of the boats, life rafts, line-throwing appliances, life-jackets, and lifebuoys to be carried by ships, according to the classes in which the ships are arranged;

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- (c) the equipment to be carried by any such boats and rafts and the methods to be provided to get the boats and other life-saving appliances into the water, including oil for use in stormy weather;
- (d) the provision in ships of a proper supply of lights inextinguishable in water, and fitted for attachment to lifebuoys;
- (e) the quantity, quality and description of buoyant apparatus to be carried on board ships . . . <sup>F248</sup>, either in addition to or in substitution for boats, life rafts, life-jackets and lifebuoys;
- (f) the position and means of securing the boats, life rafts, life-jackets, lifebuoys and buoyant apparatus;
- (g) the marking of the boats, life rafts and buoyant apparatus so as to show their dimensions and the number of persons authorised to be carried on them;
- (h) the manning of the lifeboats and the qualifications and certificates of lifeboat men;
- (j) the provision to be made for mustering the persons on board, and for embarking them in the boats (including provision for the lighting of, and the means of ingress to and egress from, different parts of the ship);
- (k) the provision of suitable means situated outside the engine-room whereby any discharge of water into the boats can be prevented;
- (l) the assignment of specific duties to each member of the crew in the event of emergency;
- (m) the methods to be adopted and the appliances to be carried in ships for the prevention, detection and extinction of fire;
- <sup>F249</sup> (mm) [ the provision in ships of plans or other information relating to the means of preventing, detecting, controlling and extinguishing outbreaks of fire;]
- (n) the practice in ships of boat-drills and fire-drills;
- (o) the provision in ships of means of making effective distress-signals by day and by night;
- (p) the provision, in ships engaged on voyages in which pilots are likely to be embarked, of suitable pilot-ladders, and of ropes, lights and other appliances designed to make the use of such ladders safe, and
- (q) the examination [<sup>F250</sup>and maintenance] at intervals to be prescribed by the rules of any appliances or equipment required by the rules to be carried.

(2) This section applies to—

- <sup>F251</sup> (a) [ British ships, except ships registered in a Dominion within the meaning of the Statute of Westminster 1931, or in India, Pakistan, Ceylon, Ghana, Malaysia, the Republic of Cyprus, Nigeria, Sierra Leone, Tanganyika, Jamaica, Trinidad and Tobago, Uganda, Kenya, Zanzibar, Malawi, Malta, The Gambia, Guyana, Singapore, Barbados, Mauritius, Fiji, the Bahamas, Bangladesh, Grenada, Seychelles, Solomon Islands, Tuvalu, Dominica, Saint Lucia, Kiribati, Saint Vincent and the Grenadines Papua New Guinea, Western Samoa or Nauru [<sup>F252</sup>or Zimbabwe][<sup>F253</sup>or the New Hebrides][<sup>F254</sup>or Belize][<sup>F255</sup>or Antigua and Barbuda][<sup>F256</sup>or Saint Christopher and Nevis][<sup>F257</sup>or Brunei or Maldives]or in any territory administered by His Majesty's government in any such Dominion;]
- (b) other ships while they are within any port in the United Kingdom:

Provided that this section shall not apply to a ship by reason of her being within a port in the United Kingdom if she would not have been in any such port but for stress

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of weather or any other circumstance that neither the master nor the owner nor the charterer (if any) of the ship could have prevented or forestalled].

#### Textual Amendments

- F246** S. 427 substituted by [Merchant Shipping \(Safety Convention\) Act 1949 \(c. 43\), s. 2\(1\)](#)
- F247** Words substituted by virtue of S.I. 1965/145, arts. 2, 3(2), [Sch. 1](#)
- F248** Words repealed by [Merchant Shipping Act 1964 \(c. 47\), s. 9\(a\)](#)
- F249** S. 427(1)(mm) inserted by [Merchant Shipping Act 1964 \(c. 47\), s. 9\(b\)](#)
- F250** Words inserted by [Merchant Shipping Act 1964 \(c. 47\), s. 9\(c\)](#)
- F251** S. 427(2)(a) printed as amended by enactments listed in Chronological Table of the Statutes
- F252** Words inserted by S.I. 1980/701, [Sch. para. 8](#) (18.4.1980)
- F253** Words inserted by [New Hebrides Act 1980 \(c. 16, SIF 26:26A\), Sch. 1 para. 5](#) (30.7.1980)
- F254** Words inserted by [Belize Act 1981 \(c. 52, SIF 26:7A\), Sch. 2 para. 4](#) (21.9.1981)
- F255** Words inserted by S.I. 1981/1105, [Sch. para. 6](#) (1.11.1981)
- F256** Words inserted by S.I. 1983/882, [Sch. para. 5](#) (19.9.1983)
- F257** Words inserted by [Brunei and Maldives Act 1985 \(c. 3, SIF 26:9A\), Sch.](#) (11.3.1985)

#### 428 Duties of owners and masters as to carrying life-saving appliances.

It shall be the duty of the owner and master of every British ship to see that his ship is provided, in accordance with the rules for life-saving appliances, with such of those appliances as, having regard to the nature of the service on which the ship is employed, and the avoidance of undue encumbrance of the ship's deck, are best adapted for securing the safety of her crew and passengers.

#### 429 Appointment of consultative committee for framing rules.

- (1) For the purpose of preparing and advising on the rules for life-saving appliances, the Board of Trade may appoint a committee, the members of which shall be nominated by the Board in accordance with the Seventeenth Schedule to this Act.
- (2) A member of the committee shall hold office for two years from the date of his appointment, but shall be eligible for re-appointment.
- (3) There shall be paid to the members of the committee, out of the Mercantile Marine Fund, such travelling and other allowances as the Board of Trade may fix.
- (4) Her Majesty may, by Order in Council, alter the Seventeenth Schedule to this Act.

#### 430 Penalty for breach of rules.

- (1) In the case of any ship—
  - (a) if the ship is required by the rules for life-saving appliances to be provided with such appliances and proceeds on any voyage or excursion without being so provided in accordance with the rules applicable to the ship; or
  - (b) if any of the appliances with which the ship is so provided are lost or rendered unfit for service in the course of the voyage or excursion through the wilful fault or negligence of the owner or master; or
  - (c) if the master wilfully neglects to replace or repair on the first opportunity any such appliances lost or injured in the course of the voyage or excursion; or
  - (d) if such appliances are not kept so as to be at all times fit and ready for use;

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[<sup>F258</sup>(e) if any provision of the rules for life-saving appliances applicable to the ship is contravened or not complied with;]

then the owner of the ship (if in fault) shall for each offence be liable to a fine not exceeding one hundred pounds, and the master of the ship (if in fault) shall for each offence be liable to a fine not exceeding fifty pounds.

- (2) Nothing in the foregoing enactments with respect to lifesaving appliances shall prevent any person from being liable under any other provision of this Act, or otherwise, to any other or higher fine or punishment than is provided by those enactments, provided that a person shall not be punished twice for the same offence.
- (3) If the court before whom a person is charged with an offence punishable under those enactments thinks that proceedings ought to be taken against him for the offence under any other provision of this Act, or otherwise, the court may adjourn the case to enable such proceedings to be taken.

#### Textual Amendments

**F258** S. 430(1)(e) inserted by [Merchant Shipping \(Safety and Load Line Conventions\) Act 1932 \(c. 9\), s. 5\(2\)](#)

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

**C70** S. 430(1) amended by [Merchant Shipping Act 1979 \(c. 39, SIF 111\), s. 43\(2\)](#), [Sch. 6 Pt. V](#) and [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 49\(1\)](#)

#### [<sup>F259</sup>431 Survey of ship with respect to life-saving appliances.

- (1) A surveyor of ships may inspect any ship for the purpose of seeing that the rules for life-saving appliances have been complied with in her case, . . . <sup>F260</sup>
- (2) If the surveyor finds that the rules for life-saving appliances have not been complied with, he shall give written notice to the owner or master stating in what respect the said rules have not been complied with, and what, in his opinion, is required to rectify the matter.
- (3) Every notice so given shall be communicated in manner directed by the Board of Trade to the Chief Officer of Customs of any port at which the ship may seek to obtain a clearance or transire, and a clearance or transire shall not be granted to the ship and the ship shall be detained until a certificate under the hand of a surveyor of ships is produced to the effect that the matter has been rectified.]

#### Textual Amendments

**F259** S. 431 substituted by [Merchant Shipping \(Safety and Load Line Conventions\) Act 1932 \(c. 9\), s. 5\(3\)](#)

**F260** Words repealed by [Merchant Shipping Act 1979 \(c. 39\), Sch. 7 Pt. II](#)

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

**C71** S. 431 amended by [Fees \(Increase\) Act 1923 \(c. 4\), s. 2\(3\)](#)

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*General Equipment*

**432 Adjustment of compasses and provision of hose.**

- (1) Every British sea-going steamship if employed to carry passengers, shall have her compasses properly adjusted from time to time; and every British sea-going steamship not used wholly as a tug shall be provided with a hose capable of being connected with the engines of the ship, and adapted for extinguishing fire in any part of the ship.
- (2) If any such British sea-going steamship plies or goes to sea from any port in the United Kingdom and any requirement of this section is not complied with, then for each matter in which default is made, the owner (if in fault) shall be liable to a fine not exceeding one hundred pounds, and the master (if in fault) shall be liable to a fine not exceeding fifty pounds.

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

**C72** S. 432(2) amended by Merchant Shipping Act 1979 (c. 39, SIF 111), s. 43(2), **Sch. 6 Pt. V** and Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 49(1)**

**433 Placing undue weight on safety valve.**

A person shall not place an undue weight on the safety valve of any steamship, and if he does so he shall, in addition to any other liability he may incur by so doing, be liable for each offence to a fine not exceeding one hundred pounds.

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

**C73** S. 433 amended by Merchant Shipping Act 1979 (c. 39, SIF 111), s. 43(2), **Sch. 6 Pt. V** and Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 49(1)**

**434** ..... **F261**

**Textual Amendments**

**F261** S. 434 repealed by Merchant Shipping (Safety and Load Line Conventions) Act 1932 (c. 9), **Sch. 4 Pt. I**

**435** ..... **F262**

**Textual Amendments**

**F262** S. 435 repealed by Merchant Shipping (Safety Convention) Act 1949 (c. 43), **Sch. 3**

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*Draught of Water and Load-Line*

**436 Ship’s draught of water to be recorded.**

(1) The Board of Trade may, in any case or class of cases in which they think it expedient to do so, direct any person appointed by them for the purpose, to record, in such manner and with such particulars as they direct, the draught of water of any sea-going ship, as shown on the scale . . . <sup>F263</sup> on her stem and stern post, and the extent of her [<sup>F264</sup>freeboard], . . . <sup>F263</sup> upon her leaving any dock, wharf, port, or harbour for the purpose of proceeding to sea, and the person so appointed shall thereupon keep that record, and shall forward a copy thereof to the Board of Trade.

(2) That record or copy, if produced out of the custody of the Board of Trade, shall be admissible in evidence in manner provided by this Act.

(3) . . . . . <sup>F265</sup>

(4) The master of a sea-going ship shall, upon the request of any person appointed to record the ship’s draught of water, permit that person to enter the ship and to make such inspections and take such measurements as may be requisite for the purpose of the record; and if any master fails to do so, or impedes, or suffers anyone under his control to impede, any person so appointed in the execution of his duty, he shall for each offence be liable to a fine not exceeding [<sup>F266</sup>£1,000][<sup>F266</sup>level 5 on the standard scale].

[<sup>F268</sup>(5) In this section the expression “freeboard” means, in the case of any ship which is marked with a deck-line, the height from the water to the upper edge of the deck-line, and, in the case of any other ship, the height amidships from the water to the upper edge of the deck from which the depth of hold as stated in the register is measured.]

**Textual Amendments**

**F263** Words repealed by S.I. 1973/1979, reg. 2(4)

**F264** Word substituted by Merchant Shipping (Safety and Load Line Conventions) Act 1932 (c. 9), s. 62(1)

**F265** S. 436(3) repealed by Merchant Shipping Act 1970 (c. 36), s. 100, Sch. 5

**F266** Words “level 5 on the standard scale” substituted (E.W.S) for “£1000” by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), s. 289G

**F267** Word substituted by virtue of Merchant Shipping Act 1979 (c. 39), s. 43(1), Sch. 6 Pt. IV

**F268** S. 436(5) substituted by Merchant Shipping (Safety and Load Line Conventions) Act 1932 (c. 9), s. 62(3)

437– . . . . . <sup>F269</sup>  
445

**Textual Amendments**

**F269** Ss. 437–445 repealed by Merchant Shipping (Safety and Load Line Conventions) Act 1932 (c. 9), Sch. 4 Pt. II

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### *Dangerous Goods*

#### **446 Restrictions on carriage of dangerous goods.**

- (1) A person shall not send or attempt to send by any vessel, British or foreign, and a person not being the master or owner of the vessel shall not carry or attempt to carry in any such vessel, any dangerous goods, without distinctly marking their nature on the outside of the package containing the same, and giving written notice of the nature of those goods and of the name and address of the sender or carrier thereof to the master or owner of the vessel at or before the time of sending the same to be shipped or taking the same on board the vessel.
- (2) If any person fails without reasonable cause to comply with this section, he shall for each offence be [<sup>F270</sup>liable on conviction on indictment to a fine or on summary conviction to a fine not exceeding one thousand pounds; but it shall be a defence to show that the accused] was merely an agent in the shipment of any such goods as aforesaid, and was not aware and did not suspect and had no reason to suspect that the goods shipped by him were of a dangerous nature, . . . <sup>F271</sup>
- (3) For the purpose of this Part of this Act the expression “dangerous goods” means aquafortis, vitriol, naphtha, benzine, gunpowder, lucifer matches, nitro-glycerine, petroleum, any explosives within the meaning of the <sup>M1</sup>Explosives Act 1875, and any other goods which are of a dangerous nature.

#### **Textual Amendments**

**F270** Words substituted by [Merchant Shipping Act 1979 \(c. 39\), Sch. 6 Pt. VII para. 7\(a\)](#)

**F271** Words repealed by [Merchant Shipping Act 1979 \(c. 39\), Sch. 7 Pt. II](#)

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

**C74** [S. 446](#) extended by [S.I. 1972/971, Sch. 1 Pt. A](#)

**C75** [S. 446\(2\)](#) amended by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 49\(1\)](#)

#### **Marginal Citations**

**M1** [1875 c. 17.](#)

#### **447 Penalty for misdescription of dangerous goods.**

A person shall not knowingly send or attempt to send by, or carry or attempt to carry in, any vessel, British or foreign, any dangerous goods under a false description, and shall not falsely describe the sender or carrier thereof, and if he acts in contravention of this section he shall for each offence be [<sup>F272</sup>liable on conviction on indictment to a fine or on summary conviction to a fine not exceeding one thousand pounds].

#### **Textual Amendments**

**F272** Words substituted by [Merchant Shipping Act 1979 \(c. 39\), Sch. 6 Pt. VII para. 8](#)

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

**C76** [S. 447](#) extended by [S.I. 1972/971, Sch. 1 Pt. A](#)

**C77** [S. 447](#) amended by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 49\(1\)](#)



**Status:** Point in time view as at 01/04/1993. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the Merchant Shipping Act 1894. (See end of Document for details)

#### 448 Power to deal with goods suspected of being dangerous.

- (1) The master or owner of any vessel, British or foreign, may refuse to take on board any package or parcel which he suspects to contain any dangerous goods, and may require it to be opened to ascertain the fact.
- (2) When any dangerous goods, or any goods, which, in the judgment of the master or owner of the vessel, are dangerous goods, have been sent or brought aboard any vessel, British or foreign, without being marked as aforesaid, or without such notice having been given as aforesaid, the master or owner of the vessel may cause those goods to be thrown overboard, together with any package or receptacle in which they are contained; and neither the master nor the owner of the vessel shall be subject to any liability, civil or criminal, in any court for so throwing the goods overboard.

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

C78 Ss. 448–450 extended by S.I. 1972/971, Sch. 1 Pt. A

#### 449 Forfeiture of dangerous goods improperly sent or carried.

- (1) Where any dangerous goods have been sent or carried, or attempted to be sent or carried, on board any vessel, British or foreign, without being marked as aforesaid, or without such notice having been given as aforesaid, or under a false description, or with a false description of the sender or carrier thereof, any court having Admiralty jurisdiction may declare those goods, and any package or receptacle in which they are contained, to be, and they shall thereupon be, forfeited, and when forfeited, shall disposed of as the court direct.
- (2) The court shall have, and may exercise, the aforesaid powers of forfeiture and disposal notwithstanding that the owner of the goods has not committed any offence under the provisions of this Act relating to dangerous goods, and is not before the court, and has not notice of the proceedings, and notwithstanding that there is no evidence to show to whom the goods belong; nevertheless the court may, in their discretion, require such notice as they may direct to be given to the owner or shipper of the goods before they are forfeited.

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

C79 Ss. 448–450 extended by S.I. 1972/971, Sch. 1 Pt. A

#### 450 Saving for other enactments relating to dangerous goods.

The provisions of this Part of this Act relating to the carriage of dangerous goods shall be deemed to be in addition to and not in substitution for, or in restraint of, any other enactment for the like object, so nevertheless that nothing in the said provisions shall be deemed to authorise any person to be sued or prosecuted twice in the same matter.

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

C80 Ss. 448–450 extended by S.I. 1972/971, Sch. 1 Pt. A

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451 ..... F273

**Textual Amendments**

F273 S. 451 repealed by [Merchant Shipping Act 1906 \(c. 48\)](#), [Sch. 2](#)

452– ..... F274  
456

**Textual Amendments**

F274 Ss. 452–456 repealed by [Merchant Shipping \(Safety Convention\) Act 1949 \(c. 43\)](#), [Sch. 3](#)

*Unseaworthy Ships*

457 ..... F275

**Textual Amendments**

F275 S. 457 repealed by [Merchant Shipping Act 1979 \(c. 39\)](#), [Sch. 7 Pt. II](#)

**458 Obligation of shipowner to crew with respect to use of reasonable efforts to secure seaworthiness.**

- (1) In every contract of service, express or implied, between the owner of a ship and the master or any seaman thereof, . . . <sup>F276</sup>there shall be implied, notwithstanding any agreement to the contrary, an obligation on the owner of the ship, that the owner of the ship, and the master, and every agent charged with the loading of the ship, or the preparing of the ship for sea, or the sending of the ship to sea, shall use all reasonable means to insure the seaworthiness of the ship for the voyage at the time when the voyage commences, and to keep her in a seaworthy condition for the voyage during the voyage.
- (2) Nothing in this section—
- (a) shall subject the owner of a ship to any liability by reason of the ship being sent to sea in an unseaworthy state where, owing to special circumstances, the sending of the ship to sea in such a state was reasonable and justifiable; or
  - (b) shall apply to any ship employed exclusively in trading or going from place to place in any river or inland water of which the whole or part is in any British possession.

**Textual Amendments**

F276 Words repealed by [Merchant Shipping Act 1970 \(c. 36\)](#), s. 100, [Sch. 5](#)

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

C81 S. 458 restricted (1.5.1994) by 1993 c. 22, s. 8(3), Sch. 4 para. 6(1)(a); S.I. 1993/3137, art. 3(2)

### 459 Power to detain unsafe ships, and procedure for detention.

- (1) Where a British ship, being in any port in the United Kingdom, is an unsafe ship, that is to say, is by reason of [<sup>F277</sup>any of the matters mentioned in subsection (1A) of this section], unfit to proceed to sea without serious danger to human life, having regard to the nature of the service for which she is intended, such ship may be provisionally detained for the purpose of being surveyed [<sup>F278</sup>or for ascertaining the sufficiency of her crew] and either finally detained or released as follows:—
- (a) The Board of Trade, if they have reason to believe, on complaint or otherwise, that a British ship is unsafe, may order the ship to be provisionally detained as an unsafe ship for the purpose of being surveyed.
  - (b) When a ship has been provisionally detained there shall be forthwith served on the master of the ship a written statement of the grounds of her detention, and the Board of Trade may, if they think fit, appoint some competent person or persons to survey the ship and report thereon to the Board.
  - (c) The Board of Trade on receiving the report may either order the ship to be released or, if in their opinion the ship is unsafe, may order her to be finally detained, either absolutely, or until the performance of such conditions with respect to the execution of repairs or alterations, or the unloading or re-loading of cargo, [<sup>F278</sup>or the manning of the ship] as the Board think necessary for the protection of human life, and the Board may vary or add to any such order.
  - (d) Before the order for final detention is made a copy of the report shall be served upon the master of the ship, and within seven days after that service the owner or master of the ship may appeal to the court of survey for the port or district where the ship is detained in manner directed by the rules of that court.
  - (e) Where a ship has been provisionally detained, the owner or master of the ship, at any time before the person appointed under this section to survey the ship makes that survey, may require that he shall be accompanied by such person as the owner or master may select out of the list of assessors for the court of survey, and in that case if the surveyor and assessor agree, the Board of Trade shall cause the ship to be detained or released accordingly, but if they differ, the Board of Trade may act as if the requisition had not been made, and the owner and master shall have the like appeal touching the report of the surveyor as is before provided by this section.
  - (f) Where a ship has been provisionally detained, the Board of Trade may at any time, if they think it expedient, refer the matter to the court of survey for the port or district where the ship is detained.
  - (g) The Board of Trade may at any time, if satisfied that a ship detained under this section is not unsafe, order her to be released either upon or without any conditions.

[<sup>F279</sup>(1A) The matters referred to in subsection (1) of this section are—

- (a) the condition, or the unsuitability for its purpose, of —
  - (i) the ship or its machinery or equipment, or
  - (ii) any part of the ship or its machinery or equipment;
- (b) undermanning;
- (c) overloading or unsafe or improper loading;

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- (d) any other matter relevant to the safety of the ship;  
and the reference in that subsection to proceeding to sea shall, in a case where the service for which the ship is intended consists of going on voyages or excursions that do not involve going to sea, be construed as a reference to going on such a voyage or excursion.]
- (2) Any person appointed by the Board of Trade for the purpose (in this Act referred to as a detaining officer) shall have the same power as the Board have under this section of ordering the provisional detention of a ship for the purpose of being surveyed, and of appointing a person or persons to survey her; and if he thinks that a ship so detained by him is not unsafe may order her to be released.
- (3) A detaining officer shall forthwith report to the Board of Trade any order made by him for the detention or release of a ship.
- (4) An order for the detention of a ship, provisional or final, and an order varying the same, shall be served as soon as may be on the master of the ship.
- (5) A ship detained under this section shall not be released by reason of her [<sup>F280</sup>subsequently ceasing to be a British ship].
- (6) The Board of Trade may with the consent of the Treasury appoint fit persons to act as detaining officers under this section, and may remove any such officer; and a detaining officer shall be paid such salary or remuneration (if any) out of money provided by Parliament as the Treasury direct, and shall for the purpose of his duties have all the powers of a Board of Trade inspector [<sup>F281</sup>under section 27 of the <sup>M2</sup>Merchant Shipping Act 1979].
- (7) A detaining officer and a person authorised to survey a ship under this section shall for that purpose have the same power as a person appointed by a court of survey to survey a ship, and the provisions of this Act with respect to the person so appointed shall apply accordingly.

#### Textual Amendments

**F277** Words substituted by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 57(4), **Sch. 6** (with s. 58(4), Sch. 8 para. 1)

**F278** Words inserted by Merchant Shipping Act 1897 (c. 59), s. 1(1)

**F279** S. 459(1A) inserted by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 57(4), **Sch. 6** (with s. 58(4), Sch. 8 para. 1)

**F280** Words substituted by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 57(4), **Sch. 6** (with s. 58(4), Sch. 8 para. 1)

**F281** Words substituted by Merchant Shipping Act 1979 (c. 39), s. 28(7)(a)

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

**C82** S. 459 extended by Merchant Shipping Act 1897 (c. 59), s. 1(1) and Merchant Shipping (Load Lines) Act 1967 (c. 27), ss. 3(4), 13(5)(a), 17(4)(a)

**C83** Ss. 459-561 restricted (13.6.1992) by S.I. 1992/1293, art. 12, **Sch.**

#### Marginal Citations

**M2** 1979 c. 39.

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#### 460 Liability for costs and damages.

- (1) If it appears that there was not reasonable and probable cause, by reason of the condition of the ship or the act or default of the owner, for the provisional detention of a ship under this Part of this Act as an unsafe ship, the Board of Trade shall be liable to pay to the owner of the ship his costs of and incidental to the detention and survey of the ship, and also compensation for any loss or damage sustained by him by reason of the detention or survey.
- (2) If a ship is finally detained under this Act, or if it appears that a ship provisionally detained was, at the time of that detention, an unsafe ship within the meaning of this Part of this Act, the owner of the ship shall be liable to pay to the Board of Trade their costs of and incidental to the detention and survey of the ship, and those costs shall, without prejudice to any other remedy, be recoverable as salvage is recoverable.
- (3) For the purpose of this section the costs of and incidental to any proceeding before a court of survey, and a reasonable amount in respect of the remuneration of the surveyor or officer of the Board of Trade, shall be part of the costs of the detention and survey of the ship, and any dispute as to the amount of those costs may be referred to one of the officers following, namely, in England or Ireland to one of the masters or registrars of the High Court, and in Scotland to the Auditor of the Court of Session, and the officer shall, on request by the Board of Trade, ascertain and certify the proper amount of those costs.
- (4) ..... **F282**

##### Textual Amendments

**F282** S. 460(4) repealed by [Crown Proceedings Act 1947 \(c. 44\)](#), [Sch. 2](#)

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

**C84** Reference to Ireland to be construed as exclusive of Republic of Ireland: S.R. & O. 1923/405 (Rev. X, p. 298: 1923, p. 400), art. 2

**C85** S. 460 modified by [S.I. 1984/1203](#), [regs. 2\(4\)](#), 47

**C86** [Ss. 459-461](#) restricted (13.6.1992) by [S.I. 1992/1293](#), art. 12, [Sch.](#)

**C87** S. 460(1) applied with modifications by [S.I. 1982/1699](#), [regs. 3, 12\(3\)](#), [1983/808](#), regs. 3, 14, [1983/1398](#), regs. 2(1)(2), 33(1)(2), [1984/408](#), regs. 3, 14, [1985/1664](#), regs. 3, 15, [1986/144](#), regs. 2, 13, [1988/1547](#), reg. 12, [1988/1636](#), reg. 9, [1988/1637](#), reg. 15, [1988/1638](#), reg. 12, [1988/1639](#), reg. 15, [1988/1641](#), reg. 16, [1989/102](#), reg. 10

S. 460(1) modified (15.2.1993) by [S.I. 1993/69](#), [reg.47](#)

**C88** S. 460(3) modified by [S.I. 1982/1699](#), [regs. 3, 12\(3\)](#)

#### 461 Power to require from complainant security for costs .

- (1) Where a complaint is made to the Board of Trade or a detaining officer that a British ship is unsafe, the Board or officer may, if they or he think fit, require the complainant to give security to the satisfaction of the Board for the costs and compensation which he may become liable to pay as herein-after mentioned.
- (2) Provided that such security shall not be required where the complaint is made by one fourth, being not less than three, of the seamen belonging to the ship, and is not in the opinion of the Board or officer frivolous or vexatious, and the Board or officer shall,

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if the complaint is made in sufficient time before the sailing of the ship, take proper steps for ascertaining whether the ship ought to be detained.

- (3) Where a ship is detained in consequence of any complaint, and the circumstances are such that the Board of Trade are liable under this Act to pay to the owner of the ship any costs or compensation, the complainant shall be liable to pay to the Board of Trade all such costs and compensation as the Board incur or are liable to pay in respect of the detention and survey of the ship.

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

**C89** Ss. 459-561 restricted (13.6.1992) by S.I. 1992/1293, art. 12, Sch.

**462 Application to foreign ships of provisions as to detention.**

Where a foreign ship . . . <sup>F283</sup> at a port in the United Kingdom <sup>F283</sup> is <sup>F283</sup> unsafe [<sup>F284</sup>by reason of any of the matters mentioned in section 459(1A) of this Act, the provisions]of this Part of this Act with respect to the detention of ships shall apply to that foreign ship as if she were a British ship, with the following modifications:—

- (i) A copy of the order for the provisional detention of the ship shall be forthwith served on the consular officer for the country to which the ship belongs at or nearest to the said port;
- (ii) Where a ship has been provisionally detained, the consular officer, on the request of the owner or master of the ship, may require that the person appointed by the Board of Trade to survey the ship shall be accompanied by such person as the consular officer may select, and in that case, if the surveyor and that person agree, the Board of Trade shall cause the ship to be detained or released accordingly, but if they differ, the Board of Trade may act as if the requisition had not been made, and the owner and master shall have the like appeal to a court of survey touching the report of the surveyor as is hereinbefore provided in the case of a British ship; and
- (iii) Where the owner or master of the ship appeals to the court of survey, the consular officer, on his request, may appoint a competent person to be assessor in the case in lieu of the assessor who, if the ship were a British ship, would be appointed otherwise than by the Board of Trade.

**Textual Amendments**

**F283** Words repealed by Merchant Shipping Act 1906 (c. 48), Sch. 2

**F284** Words substituted by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 57(4), Sch. 6 (with s. 58(4), Sch. 8 para. 1)

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

**C90** S. 462 extended by Merchant Shipping Act 1906 (c. 48), s. 2(2) and Merchant Shipping (Load Lines) Act 1967 (c. 27), ss. 13(5)(b), 17(4)(b)

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**Textual Amendments**

**F285** S. 463 repealed by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), ss. 48, 57(5), Schs. 5, 7, (with s. 58(4), Sch. 8 para. 1)

**PART VI**

**SPECIAL SHIPPING INQUIRIES AND COURTS**

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

**C91** Pt. VI applied with modifications by [S.I. 1975/116, reg. 20, Sch. 4](#)

~~464–~~ ..... <sup>F286</sup>  
476

**Textual Amendments**

**F286** Ss. 464–476, 479 repealed by [Merchant Shipping Act 1970 \(c. 36, SIF 111\)](#), ss. 100, 101(4), **Sch. 5**

477 ..... <sup>F287</sup>

**Textual Amendments**

**F287** Ss. 477, 491, repealed by [Merchant Shipping Act 1970 \(c. 36\)](#), s. 100, **Sch. 5**

**478 Authority for colonial court to make inquiries into shipping casualties and conduct of officers.**

- (1) The legislature of any British possession may authorise any court or tribunal to make inquiries as to shipwrecks, or other casualties affecting ships, or as to charges of incompetency, or misconduct on the part of masters, mates, or engineers of ships, in the following cases; namely,—
- (a) Where a shipwreck or casualty occurs to a British ship on or near the coasts of the British possession or to a British ship in the course of a voyage to a port within the British possession:
  - (b) Where a shipwreck or casualty occurs in any part of the world to a British ship registered in the British possession:
  - (c) Where some of the crew of a British ship which has been wrecked or to which a casualty has occurred, and who are competent witnesses to the facts, are found in the British possession:
  - (d) Where the incompetency or misconduct has occurred on board a British ship on or near the coasts of the British possession, or on board a British ship in the course of a voyage to a port within the British possession:

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- (e) Where the incompetency or misconduct has occurred on board a British ship registered in the British possession:
  - (f) When the master, mate, or engineer of a British ship who is charged with incompetency or misconduct on board that British ship is found in the British possession.
- (2) A court or tribunal so authorised shall have the same jurisdiction over the matter in question as if it had occurred within their ordinary jurisdiction, but subject to all provisions, restrictions, and conditions which would have been applicable if it had so occurred.
- (3) An inquiry shall not be held under this section into any matter which has once been the subject of an investigation or inquiry and has been reported on by a competent court or tribunal in any part of Her Majesty's dominions, or in respect of which the certificate of a master, mate, or engineer has been cancelled or suspended by a naval court.
- (4) Where an investigation or inquiry has been commenced in the United Kingdom with reference to any matter, an inquiry with reference to the same matter shall not be held, under this section, in a British possession.
- (5) The court or tribunal holding an inquiry under this section shall have the same powers of cancelling and suspending certificates, and shall exercise those powers in the same manner as a court holding a similar investigation or inquiry in the United Kingdom.
- (6) The Board of Trade may order the re-hearing of any inquiry under this section in like manner as they may order the re-hearing of a similar investigation or inquiry in the United Kingdom, but if an application for re-hearing either is not made or is refused, an appeal shall lie from any order or finding of the court or tribunal holding the inquiry to the High Court in England:
- Provided that an appeal shall not lie—
- (a) from any order or finding on an inquiry into a casualty affecting a ship registered in a British possession, or
  - (b) from a decision affecting the certificate of a master, mate, or engineer, if that certificate has not been granted either in the United Kingdom or in a British possession, under the authority of this Act.
- (7) The appeal shall be conducted in accordance with such conditions and regulations as may from time to time be prescribed by rules made in relation thereto under the powers contained in this Part of this Act.

479

F288

#### Textual Amendments

**F288** Ss. 464–476, 479 repealed by Merchant Shipping Act 1970 (c. 36, SIF 111), ss. 100, 101(4), Sch. 5



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### Naval Courts on the High Seas and Abroad

#### [<sup>F289</sup> 480 Cases in which naval courts may be summoned.

A court (in this Act called a naval court) may be summoned by any officer in command of any of Her Majesty's ships on any foreign station, or, in the absence of such an officer, by any consular officer, in the following cases; (that is to say,)

- (i) Whenever a complaint which appears to that officer to require immediate investigation is made to him by the master of any British ship, or by a certificated mate, or by any one or more of the seamen belonging to any such ship;
- (ii) Whenever the interest of the owner of any British ship or of the cargo thereof appears to that officer to require it; and
- (iii) Whenever any British ship is wrecked, abandoned, or otherwise lost at or near the place where that officer may be, or whenever the crew or part of the crew of any British ship which has been wrecked, abandoned or lost abroad arrive at that place.]

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#### Textual Amendments

**F289** S. 480 repealed (*prosp.*) by Merchant Shipping Act 1970 (c. 36), ss. 100, 101(4), Sch. 5

#### [<sup>F290</sup> 481 Constitution of naval courts.

- (1) A naval court shall consist of not more than five and not less than three members, of whom, if possible, one shall be an officer in the naval service of Her Majesty not below the rank of lieutenant, one a consular officer, and one a master of a British merchant ship, and the rest shall be either officers in the naval service of Her Majesty, masters of British merchant ships, or British merchants, and the court may include the officer summoning the same, but shall not include the master or consignee of the ship to which the parties complaining or complained against belong.
- (2) The naval or consular officer in the court, if there is only one such officer, or, if there is more than one, the naval or consular officer who, according to any regulations for settling their respective ranks for the time being in force, is of the highest rank, shall be the president of the court.]

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#### Textual Amendments

**F290** S. 481 repealed (*prosp.*) by Merchant Shipping Act 1970 (c. 36), ss. 100, 101(4), Sch. 5

#### [<sup>F291</sup> 482 Functions of naval courts.

- (1) A naval court shall hear the complaint or other matter brought before them under this Act, or investigate the cause of the wreck, abandonment, or loss, and shall do so in such manner as to give every person against whom any complaint or charge is made an opportunity of making a defence.
- (2) A naval court may, for the purpose of the hearing and investigation, administer an oath, summon parties and witnesses, and compel their attendance and the production of documents.]

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### Textual Amendments

**F291** S. 482 repealed (*prosp.*) by [Merchant Shipping Act 1970 \(c. 36\)](#), ss. 100, 101(4), [Sch. 5](#)

### [<sup>F292</sup>483 Powers of naval courts.

- (1) Every naval court may, after hearing and investigating the case, exercise the following powers; (that is to say,)
- (a) The court may, if unanimous that the safety of the ship or crew or the interest of the owner absolutely requires it, remove the master, and appoint another person to act in his stead; but no such appointment shall be made without the consent of the consignee of the ship if at the place where the case is heard:
  - (b) The court may, in cases in which they are authorised by this Act and subject to the provisions of this Act, cancel or suspend the certificate of any master, mate, or engineer:
  - (c) The court may discharge a seaman from his ship:
  - (d) The court may order the wages of a seaman so discharged or any part of those wages to be forfeited, and may direct the same either to be retained by way of compensation to the owner, or to be paid into the Exchequer, in the same manner as fines under this Act:
  - (e) The court may decide any questions as to wages or fines or forfeitures arising between any of the parties to the proceedings:
  - (f) The court may direct that all or any of the costs incurred by the master or owner of any ship in procuring the imprisonment of any seaman or apprentice in a foreign port, or in his maintenance whilst so imprisoned, shall be paid out of and deducted from the wages of that seaman or apprentice, whether then or subsequently earned:
  - (g) The court may exercise the same powers with regard to persons charged before them with the commission of offences at sea or abroad as British consular officers can under the Thirteenth Part of this Act:
  - (h) The court may punish any master of a ship or any of the crew of a ship respecting whose conduct a complaint is brought before them for any offence against this Act, which, when committed by the said master or member of the crew, is punishable on summary conviction, and shall for that purpose have the same powers as a court of summary jurisdiction would have if the case were tried in the United Kingdom:

Provided that—

- (i) ..... <sup>F293</sup>
  - (ii) copies of all sentences passed by any naval court summoned to hear any such complaint as aforesaid, shall be sent to the commander-in-chief or senior naval officer of the station:
- (j) The court may, if it appears expedient, order a survey of any ship which is the subject of investigation to be made, and such survey shall accordingly be made, in the same way, and the surveyor who makes the same shall have the same powers as if such survey had been directed by a competent court in pursuance of the Fifth Part of this Act, in the course of proceedings against a seaman or apprentice for the offence of desertion:
- (k) The court may order the costs of the proceedings before them, or any part of those costs, to be paid by any of the parties thereto, and may order any person

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making a frivolous or vexatious complaint to pay compensation for any loss or delay caused thereby; and any costs or compensation so ordered to be paid shall be paid by that person accordingly, and may be recovered in the same manner in which the wages of seamen are recoverable, or may, if the case admits, be deducted from the wages due to that person.

- (2) All orders duly made by a naval court under the powers hereby given to it, shall in any subsequent legal proceedings be conclusive as to the rights of the parties.
- (3) All orders made by any naval court shall, whenever practicable, be entered in the official log-book of the ship to which the parties to the proceedings before the court belong, and signed by the president of the court.]

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**Textual Amendments**

**F292** S. 483 repealed (*prosp.*) by Merchant Shipping Act 1970 (c. 36), ss. 100, 101(4), **Sch. 5**

**F293** S. 483(1)(h) proviso (i) repealed by Merchant Shipping Act 1950 (c. 9), **s. 3(8)**

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

**C92** S. 483 amended by Merchant Shipping Act 1906 (c. 48), **s. 67(1)**

**C93** S. 483(2) amended by Merchant Shipping Act 1906 (c. 48), **s. 68(2)**

[<sup>F294</sup>**484 Report of proceedings of naval courts.**

- (1) Every naval court shall make a report to the Board of Trade containing the following particulars; (that is to say,
  - (a) A statement of the proceedings of the court, together with the order made by the court, and a report of the evidence;
  - (b) An account of the wages of any seaman or apprentice who is discharged from his ship by the court;
  - (c) If summoned to inquire into a case of wreck or abandonment, a statement of the opinion of the court as to the cause of that wreck or abandonment, with such remarks on the conduct of the master and crew as the circumstances require.
- (2) Every such report shall be signed by the president of the court, and shall be admissible in evidence in manner provided by this Act.]

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**Textual Amendments**

**F294** S. 484 repealed (*prosp.*) by Merchant Shipping Act 1970 (c. 36), ss. 100, 101(4), **Sch. 5**

[<sup>F295</sup>**485 Penalty for preventing complaint or obstructing investigation.**

If any person wilfully and without due cause prevents or obstructs the making of any complaint to an officer empowered to summon a naval court, or the conduct of any hearing or investigation by any naval court, he shall for each offence be liable to a fine not exceeding [<sup>F296</sup>fifty pounds][<sup>F296</sup>level 3 on the standard scale], or be liable to imprisonment, . . . <sup>F297</sup> for any period not exceeding twelve weeks.]

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*Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1894. (See end of Document for details)*

#### Textual Amendments

- F295** S. 485 repealed (*prosp.*) by Merchant Shipping Act 1970 (c. 36), ss. 100, 101(4), **Sch. 5**
- F296** Words “level 3 on the standard scale” substituted (E.W.S.) for “fifty pounds” by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), ss. 38, 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c.21, SIF 39:1), ss. 289F, 289G
- F297** Words omitted by virtue of (E.W.) Criminal Justice Act 1948 (c. 58), s. 1(2) and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21), s. 221(2) and repealed (N.I.) by Criminal Justice Act (Northern Ireland) 1953 (c. 14), s. 1(2)

#### [<sup>F298</sup>486 Application of provisions as to naval courts.

- (1) The provisions of this Part of this Act with regard to naval courts on the high seas and abroad shall apply to all sea-going ships registered in the United Kingdom (with the exception, . . . <sup>F299</sup> of fishing boats exclusively employed in fishing on the coasts of the United Kingdom) and to all ships registered in a British possession, when those ships are out of the jurisdiction of their respective governments, and where they apply to a ship, shall apply to the owners, master, and crew of that ship.
- (2) For the purpose of the said provisions an unregistered British ship shall be deemed to have been registered in the United Kingdom.]

#### Textual Amendments

- F298** S. 486 repealed (*prosp.*) by Merchant Shipping Act 1970 (c. 36), ss. 100, 101(4), **Sch. 5**
- F299** Words repealed by Merchant Shipping (Scottish Fishing Boats) Act 1920 (c. 39), **Sch.**

### *Courts of Survey*

#### 487 Constitution of court of survey.

- (1) A court of survey for a port or district shall consist of a judge sitting with two assessors.
- (2) The judge shall be such person as may be summoned for the case in accordance with the rules made under this Act with respect to that court, out of a list approved for the port or district by a Secretary of State, of wreck commissioners appointed under this Act, stipendiary or metropolitan police magistrates, judges of county courts, and other fit persons; but in any special case in which the Board of Trade think it expedient to appoint a wreck commissioner, the judge shall be such wreck commissioner.
- (3) The assessors shall be persons of nautical, engineering, or other special skill and experience; subject to the provisions of the Fifth Part of this Act as regards foreign ships, one of them shall be appointed by the Board of Trade, either generally or in each case, and the other shall be summoned, in accordance with the rules made as aforesaid, by the registrar of the court, out of a list of persons periodically nominated for the purpose . . . <sup>F300</sup> by a body of local shipowners or merchants approved for the purpose by a Secretary of State, or, if there is no such list, shall be appointed by the judge: If a Secretary of State thinks fit at any time, on the recommendation of the government of any British possession or any foreign country, to add any persons to any such list, those persons shall, until otherwise directed by the Secretary of State, be added to the list, and if there is no such list shall form the list.

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- (4) The county court registrar or such other fit persons as a Secretary of State may from time to time appoint shall be the registrar of the court, and shall, on receiving notice of an appeal or a reference from the Board of Trade, immediately summon the court to meet forthwith in manner directed by the rules.
- (5) The name of the registrar and his office, together with the rules made as aforesaid, relating to the court of survey, shall be published in the manner directed by the rules.
- (6) In the application of this section to Scotland the expression “judge of a county court” means a sheriff, and the expression “county court registrar” means sheriff clerk.
- (7) In the application of this section to Ireland the expression “stipendiary magistrate” includes . . . <sup>F301</sup> any resident magistrate.
- (8) In the application of this section to the Isle of Man, the expression “judge of a county court” means the water bailiff, the expression “stipendiary magistrate” means the high bailiff, the expression “registrar of a county court” means a clerk to a deemster or a clerk to justices of the peace.

#### Textual Amendments

**F300** Words repealed by [Merchant Shipping Act 1970 \(c. 36\), s. 100, Sch. 5](#)

**F301** Words omitted under authority of [Statute Law Revision Act 1927 \(c. 42\), s. 3](#)

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

**C94** Reference to Ireland to be construed as exclusive of Republic of Ireland: S.R. & O. 1923/405 (Rev. X, p. 298: 1923, p. 400), art. 2

### 488 Power and procedure of court of survey.

- (1) The court of survey shall hear every case in open court.
- (2) The judge and each assessor of the court may survey the ship, and shall have for the purposes of this Act all the powers of a Board of Trade inspector [<sup>F302</sup>under section 27 of the <sup>M3</sup>Merchant Shipping Act 1979].
- (3) The judge of the court may appoint any competent person or persons to survey the ship and report thereon to the court.
- (4) The judge of the court, any assessor of the court, and any person appointed by the judge of the court to survey a ship, may go on board the ship and inspect the same and every part thereof, and the machinery, equipments, and cargo, and may require the unloading or removal or any cargo, ballast, or tackle, and any person who wilfully impedes such judge, assessor, or person in the execution of the survey, or fails to comply with any requisition made by him, shall for each offence be liable to a fine not exceeding [<sup>F303</sup>[<sup>F304</sup>£1,0]] [<sup>F303</sup>level 5 on the standard scale].
- (5) The judge of the court shall have the same power as the Board of Trade have to order the ship to be released or finally detained, but, unless one of the assessors concurs in an order for the detention of the ship, the ship shall be released.
- (6) The owner and master of the ship and any person appointed by the owner or master, and also any person appointed by the Board of Trade, may attend at any inspection or survey made in pursuance of this section.

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- (7) The judge of the court shall send to the Board of Trade such report as may be directed by the rules, and each assessor shall either sign the report or report to the Board of Trade the reasons for his dissent.

**Textual Amendments**

**F302** Words substituted by [Merchant Shipping Act 1979 \(c. 39\), s. 28\(7\)\(a\)](#)

**F303** Words “level 5 on the standard scale” substituted (E.W.S) for “£1000” by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289G](#)

**F304** Word substituted by virtue of [Merchant Shipping Act 1979 \(c. 39\), s. 43\(1\), Sch. 6 Pt. IV](#)

**Marginal Citations**

**M3** [1979 c. 39.](#)

**489 Rules for procedure of court of survey, &c.**

The Lord Chancellor may (with the consent of the Treasury so far as relates to fees) make general rules to carry into effect the provisions of this Act with respect to a court of survey, and in particular with respect to the summoning of, and procedure before, the court, the requiring on an appeal security for costs and damages, the amount and application of fees, and the publication of the rules, . . . <sup>F305</sup>

**Textual Amendments**

**F305** Words repealed by [Statute Law \(Repeals\) Act 1986 \(c. 12\), s. 1\(1\), Sch. 1 Pt. XII](#)

*Scientific Referees*

**490 Reference in difficult cases to scientific persons.**

- (1) If the Board of Trade are of opinion that an appeal to a court of survey involves a question of construction or design or of scientific difficulty or important principle, they may refer the matter to such one or more out of a list of scientific referees from time to time approved by a Secretary of State, as may appear to possess the special qualifications necessary for the particular case, and may be selected by agreement between the Board of Trade and the appellant, or in default of any such agreement by a Secretary of State, and thereupon the appeal shall be determined by the referee or referees, instead of by the court of survey.
- (2) The Board of Trade, if the appellant in any appeal so requires and gives security to the satisfaction of the Board to pay the costs of and incidental to the reference, shall refer that appeal to a referee or referees so selected as aforesaid.
- (3) The referee or referees shall have the same powers as a judge of the court of survey.

**491** ..... <sup>F306</sup>

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### Textual Amendments

**F306** Ss. 477, 491, repealed by [Merchant Shipping Act 1970 \(c. 36\)](#), s. 100, [Sch. 5](#)

## PART VII

### DELIVERY OF GOODS

#### *Delivery of Goods and Lien for Freight*

#### 492 Definitions under Part VII.

In this Part of this Act, unless the context otherwise requires—

The expression “goods” includes every description of wares and merchandise:

The expression “wharf” includes all wharves, quays, docks, and premises in or upon which any goods, when landed from ships, may be lawfully placed:

The expression “warehouse” includes all warehouses, buildings, and premises in which goods, when landed from ships, may be lawfully placed:

The expression “report” means the report required by the [<sup>F307</sup>customs or excise laws] to be made by the master of an importing ship:

The expression “entry” means the entry required by the [<sup>F307</sup>customs or excise laws] to be made for the landing or discharge of goods from an importing ship:

The expression “shipowner” includes the master of the ship and every other person authorised to act as agent for the owner or entitled to receive the freight, demurrage, or other charges payable in respect of the ship:

The expression “owner” used in relation to goods means every person who is for the time entitled, either as owner or agent for the owner, to the possession of the goods, subject in the case of a lien (if any), to that lien:

The expression “wharfinger” means the occupier of a wharf as herein-before defined:

The expression “warehouseman” means the occupier of a warehouse as herein-before defined.

### Textual Amendments

**F307** Words substituted by [Customs and Excise Management Act 1979 \(c. 2\)](#), [Sch. 4 para. 12](#) Table Pt. I

#### 493 Power of shipowner to enter and land goods on default by owner of goods.

- (1) Where the owner of any goods imported in any ship from foreign parts into the United Kingdom fails to make entry thereof, or, having made entry thereof, to land the same or take delivery thereof, and to proceed therewith with all convenient speed, by the times severally herein-after mentioned, the shipowner may make entry of and land or unship the goods at the following times:—

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- (a) If a time for the delivery of the goods is expressed in the charter party, bill of lading, or agreement, then at any time after the time so expressed:
  - (b) If no time for the delivery of the goods is expressed in the charter party, bill of lading, or agreement, then at any time after the expiration of seventy-two hours, exclusive of a Sunday or holiday, from the time of the report of the ship.
- (2) Where a shipowner lands goods in pursuance of this section he shall place them, or cause them to be placed—
- (a) if any wharf or warehouse is named in the charter party, bill of lading, or agreement, as the wharf or warehouse where the goods are to be placed and if they can be conveniently there received, on that wharf or in that warehouse; and
  - (b) in any other case on some wharf or in some warehouse on or in which goods of a like nature are usually placed; the wharf or warehouse being, if the goods are dutiable, a wharf or warehouse duly approved by the [<sup>F308</sup>Commissioners of Customs and Excise] for the landing of dutiable goods.
- (3) If at any time before the goods are landed or unshipped the owner of the goods is ready and offers to land or take delivery of the same, he shall be allowed to do so, and his entry shall in that case be preferred to any entry which may have been made by the shipowner.
- (4) If any goods are, for the purpose of convenience in assorting the same, landed at the wharf where the ship is discharged, and the owner of the goods at the time of that landing has made entry and is ready and offers to take delivery thereof, and to convey the same to some other wharf or warehouse, the goods shall be assorted at landing, and shall, if demanded, be delivered to the owner thereof within twenty-four hours after assortment; and the expense of and consequent on that landing and assortment shall be borne by the shipowner.
- (5) If at any time before the goods are landed or unshipped the owner thereof has made entry for the landing and warehousing thereof at any particular wharf or warehouse other than that at which the ship is discharging, and has offered and been ready to take delivery thereof, and the shipowner has failed to make that delivery, and has also failed at the time of that offer to give the owner of the goods correct information of the time at which the goods can be delivered, then the shipowner shall, before landing or unshipping the goods, in pursuance of this section, give to the owner of the goods or of such wharf or warehouse as last aforesaid twenty-four hours notice in writing of his readiness to delivery the goods, and shall, if he lands or unships the same without that notice, do so at his own risk and expense.

#### Textual Amendments

**F308** Words substituted by virtue of [Customs and Excise Management Act 1979 \(c. 2\), Sch. 4 para. 1](#)

#### 494 Lien for freight on landing goods.

If at the time when any goods are landed from any ship, and placed in the custody of any person as a wharfinger or warehouseman, the shipowner gives to the wharfinger or warehouseman notice in writing that the goods are to remain subject to a lien for freight or other charges payable to the shipowner to an amount mentioned in the notice, the goods so landed shall, in the hands of the wharfinger or warehouseman, continue



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subject to the same lien, if any, for such charges as they were subject to before the landing thereof; and the wharfinger or warehouseman receiving those goods shall retain them until the lien is discharged as herein-after mentioned, and shall, if he fails so to do, make good to the shipowner any loss thereby occasioned to him.

#### **495 Discharge of lien.**

The said lien for freight and other charges shall be discharged—

- (1) upon the production to the wharfinger or warehouseman of a receipt for the amount claimed as due, and delivery to the wharfinger or warehouseman of a copy thereof or of a release of freight from the shipowner, and
- (2) upon the deposit by the owner of the goods with the wharfinger or warehouseman of a sum of money equal in amount to the sum claimed as aforesaid by the shipowner; but in the latter case the lien shall be discharged without prejudice to any other remedy which the shipowner may have for the recovery of the freight.

#### **496 Provisions as to deposits by owners of goods.**

- (1) When a deposit as aforesaid is made with the wharfinger or warehouseman, the person making the same may, within fifteen days after making it, give to the wharfinger or warehouseman notice in writing to retain it, stating in the notice the sums, if any, which he admits to be payable to the shipowner, or, as the case may be, that he does not admit any sum to be so payable, but if no such notice is given, the wharfinger or warehouseman may, at the expiration of the fifteen days, pay the sum deposited over to the shipowner.
- (2) If a notice is given as aforesaid the wharfinger or warehouseman shall immediately apprise the shipowner of it, and shall pay or tender to him out of the sum deposited the sum, if any, admitted by the notice to be payable, and shall retain the balance, or, if no sum is admitted to be payable, the whole of the sum deposited, for thirty days from the date of the notice.
- (3) At the expiration of those thirty days unless legal proceedings have in the meantime been instituted by the shipowner against the owner of the goods to recover the said balance or sum, or otherwise for the settlement of any disputes which may have arisen between them concerning the freight or other charges as aforesaid, and notice in writing of those proceedings has been served on the wharfinger or warehouseman, the wharfinger or warehouseman shall pay the balance or sum to the owner of the goods.
- (4) A wharfinger or warehouseman shall by any payment under this section be discharged from all liability in respect thereof.

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

**C95** S. 496 amended by [Arbitration Act 1950 \(c. 27\)](#), s. 29

#### **497 Sale of goods by warehousemen.**

- (1) If the lien is not discharged, and no deposit is made as aforesaid, the wharfinger or warehouseman may, and, if required by the shipowner, shall, at the expiration of ninety days from the time when the goods were placed in his custody, or, if the goods are of a

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perishable nature, at such earlier period as in his discretion he thinks fit, sell by public auction, either for home use or for exportation, the goods or so much thereof as may be necessary to satisfy the charges herein-after mentioned.

- (2) Before making the sale the wharfinger or warehouseman shall give notice thereof by advertisement in two local newspapers circulating in the neighbourhood, or in one daily newspaper published in London, and in one local newspaper, and also, if the address of the owner of the goods has been stated on the manifest of the cargo, or on any of the documents which have come into the possession of the wharfinger or warehouseman, or is otherwise known to him, send notice of the sale to the owner of the goods by post.
- (3) The title of a bona fide purchaser of the goods shall not be invalidated by reason of the omission to send the notice required by this section, nor shall any such purchaser be bound to inquire whether the notice has been sent.

#### **498 Application of proceeds of sale.**

The proceeds of sale shall be applied by the wharfinger or warehouseman as follows, and in the following order:—

- (i) First, if the goods are sold for home use, in payment of any customs or excise duties owing in respect thereof; then
- (ii) In payment of the expenses of the sale; then
- (iii) In payment of the charges of the wharfinger or warehouseman and the shipowner according to such priority as may be determined by the terms of the agreement (if any) in that behalf between them; or, if there is no such agreement—
  - (a) in payment of the rent, rates, and other charges due to the wharfinger or warehouseman in respect of the said goods; and then
  - (b) in payment of the amount claimed by the shipowner as due for freight or other charges in respect of the said goods;
 and the surplus, if any, shall be paid to the owner of the goods.

#### **499 Warehouseman's rent and expenses.**

Whenever any goods are placed in the custody of a wharfinger or warehouseman, under the authority of this Part of this Act, the wharfinger or warehouseman shall be entitled to rent in respect of the same, and shall also have power, at the expense of the owner of the goods, to do all such reasonable acts as in the judgement of the wharfinger or warehousemen are necessary for the proper custody and preservation of the goods, and shall have a lien on the goods for the rent and expenses.

#### **500 Warehousemen's protection.**

Nothing in this Part of this Act shall compel any wharfinger or warehouseman to take charge of any goods which he would not have been liable to take charge of if this Act had not been passed; nor shall he be bound to see to the validity of any lien claim by any shipowner under this Part of this Act.

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## 501 Saving for powers under local Acts.

Nothing in this Part of this Act shall take away or abridge any powers given by any local Act to any harbour authority, body corporate, or persons, whereby they are enabled to expedite the discharge of ships or the landing or delivery of goods; nor shall anything in this Part of this Act take away or diminish any rights or remedies given to any shipowner or wharfinger or warehouseman by any local Act.

## PART VIII

502– ..... F309  
509

### Textual Amendments

**F309** Pt. VIII (ss. 502–509) repealed by Merchant Shipping Act 1979 (c. 39, SIF 111), ss. 50(4), 52(2), Sch. 7 Pt. I

## PART IX

### WRECK AND SALVAGE

### Modifications etc. (not altering text)

**C96** Pt. IX extended by S. R. & O. 1938/136 (Rev. I, p. 1329; 1938 I, p. 72), art. 2 and Crown Proceedings Act 1947 (c. 44), s. 8; amended by Sea Fisheries Act 1968 (c. 77), s. 17

### *Vessels in Distress*

## 510 Definition of “wreck” and “salvage.”

In this Part of this Act unless the context otherwise requires—

- (1) The expression “wreck” includes jetsam, flotsam, lagan, and derelict found in or on the shores of the sea or any tidal water:
- (2) The expression “salvage” includes all expenses, properly incurred by the salvor in the performance of the salvage services.

## 511 Duty of receiver where vessel in distress.

- (1) Where a British or foreign vessel is wrecked, stranded, or in distress at any place on or near the coasts of the United Kingdom or any tidal water within the limits of the United Kingdom, the receiver of wreck for the district in which that place is situate shall, upon being made acquainted with the circumstance, forthwith proceed there, and upon his arrival shall take the command of all persons present, and shall assign such duties and give such directions to each person as he thinks fit for the preservation of the vessel and of the lives of the persons belonging to the vessel (in this Part of this Act referred to as shipwrecked persons) and of the cargo and apparel of the vessel.

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- (2) If any person wilfully disobeys the direction of the receiver, he shall for each offence be liable to a fine not exceeding [<sup>F310</sup>fifty pounds][<sup>F310</sup>level 3 on the standard scale]; but the receiver shall not interfere between the master and the crew of the vessel in reference to the management thereof, unless he is requested to do so by the master.

#### Textual Amendments

**F310** Words “level 3 on the standard scale” substituted (E.W.S.) for “fifty pounds” by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [ss. 38, 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c.21, SIF 39:1\)](#), [ss. 289F, 289G](#)

### 512 Powers of the receiver in case of vessels in distress.

- (1) The receiver may, with a view to such preservation as aforesaid of shipwrecked persons or of the vessel, cargo, or apparel—
- (a) require such persons as he thinks necessary to assist him:
  - (b) require the master, or other person having the charge, of any vessel near at hand to give such aid with his men, or vessel, as may be in his power:
  - (c) demand the use of any waggon, cart, or horses that may be near at hand.
- (2) If any person refuses without reasonable cause to comply with any such requisition or demand, that person shall, for each refusal, be liable to a fine not exceeding one hundred pounds: . . . <sup>F311</sup>

#### Textual Amendments

**F311** Words repealed by [Finance Act 1944 \(c. 23\)](#), [Sch. 5 Pt. II](#)

### 513 Power to pass over adjoining lands.

- (1) Whenever a vessel is wrecked, stranded, or in distress as aforesaid, all persons may, for the purpose of rendering assistance to the vessel, or of saving the lives of the shipwrecked persons, or of saving the cargo or apparel of the vessel, unless there is some public road equally convenient, pass and repass, either with or without carriages or horses, over any adjoining lands without being subject to interruption by the owner or occupier, so that they do as little damage as possible, and may also, on the like condition, deposit on those lands any cargo or other article recovered from the vessel.
- (2) Any damage sustained by an owner or occupier in consequence of the exercise of the rights given by this section shall be a charge on the vessel, cargo, or articles in respect of or by which the damage is occasioned, and the amount payable in respect of the damage shall, in case of dispute, be determined and shall, in default of payment, be recoverable in the same manner as the amount of salvage is under this Part of this Act determined or recoverable.
- (3) If the owner or occupier of any land—
- (a) impedes or hinders any person in the exercise of the rights given by this section by locking his gates, or refusing, upon request, to open the same, or otherwise; or

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- (b) impedes or hinders the deposit of any cargo or other article recovered from the vessel as aforesaid on the land: or
- (c) prevents or endeavours to prevent any such cargo or other article from remaining deposited on the land for a reasonable time until it can be removed to a safe place of public deposit;

he shall for each offence be liable to a fine not exceeding [<sup>F312</sup>one hundred pounds][<sup>F312</sup>level 3 on the standard scale].

#### Textual Amendments

**F312** Words “level 3 on the standard scale” substituted (E.W.S.) for “one hundred pounds” by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [ss. 38, 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [ss. 289F, 289G](#)

#### 514 Power of receiver to suppress plunder and disorder by force.

- (1) Whenever a vessel is wrecked, stranded, or in distress as aforesaid, and any person plunders, creates disorder, or obstructs the preservation of the vessel or of the shipwrecked persons or of the cargo or apparel of the vessel, the receiver may cause that person to be apprehended.
- (2) The receiver may use force for the suppression of any such plundering, disorder, or obstruction, and may command all Her Majesty’s subjects to assist him in so using force.
- (3) If any person is killed, maimed, or hurt by reason of his resisting the receiver or any person acting under the orders of the receiver in the execution of the duties by this Part of this Act committed to the receiver, neither the receiver nor the person acting under his orders shall be liable to any punishment, or to pay any damages by reason of the person being so killed, maimed, or hurt.

#### 515 Liability for damage in case of a vessel plundered.

Where a vessel is wrecked, stranded, or in distress as aforesaid, and the vessel or any part of the cargo and apparel thereof, is plundered, damaged, or destroyed by any persons riotously and tumultuously assembled together, whether on shore or afloat, compensation shall be made to the owner of the vessel, cargo, or apparel:

In England in the same manner, by the same authority, and out of the same rate as if the plundering, damage, injury, or destruction were an injury, stealing, or destruction in respect of which compensation is payable under the provisions of the <sup>M4</sup>Riot (Damages) Act 1886, and in the case of the vessel, cargo, or apparel not being in any police district, as if the plundering, damage, injury, or destruction took place in the nearest police district:

In Scotland by the [<sup>F313</sup>council of the region or islands area] in or nearest to which such offence is committed, in manner provided by the <sup>M5</sup>Riot Act, with respect to prosecutions for repairing the damages of any churches and other buildings, or as near thereto as circumstances permit, and

[<sup>F314</sup>In Northern Ireland, in pursuance of an application, under the Criminal Injuries to Property (Compensation) Act (Northern Ireland) 1971 as modified for the purposes of this section by the Transfer of Functions (Criminal Injuries to Vessels) (Northern Ireland) Order 1973.]

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#### Textual Amendments

**F313** Words substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 27 Pt. II para. 24](#)

**F314** Words substituted by S.R. & O. (N.I.) 1973/56, art. 3(1)(3)

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

**C97** [S. 515](#) amended (E.W.) by [Public Order Act 1986 \(c. 64, SIF 39:2\), s. 10\(1\)](#)

#### Marginal Citations

**M4** [1886 c. 38.](#)

**M5** [1 Geo. 1st. 1 c. 5.](#)

### 516 Exercise of powers of receiver in his absence.

- (1) Where a receiver is not present, the following officers or persons in succession (each in the absence of the other, in the order in which they are named), namely, any chief officer of customs, principal officer of the coastguard, officer of inland revenue, sheriff, justice of the peace, commissioned officer on full pay in the naval service of Her Majesty, or commissioned officer on full pay in the military service of Her Majesty, may do anything by this Part of this Act authorised to be done by the receiver.
- (2) An officer acting under this section for a receiver shall, with respect to any goods or articles belonging to a vessel the delivery of which to the receiver is required by this Act, be considered as the agent of the receiver, and shall place the same in the custody of the receiver; but he shall not be entitled to any fees payable to receivers, or be deprived by reason of his so acting of any right to salvage to which he would otherwise be entitled.

### 517 Examination in respect of ships in distress.

- (1) Where any ship, British or foreign, is or has been in distress on the coasts of the United Kingdom, a receiver of wreck, or at the request of the Board of Trade a wreck commissioner or deputy approved by the Board, or, in the absence of the persons aforesaid, a justice of the peace, shall, as soon as conveniently may be, examine on oath (and they are hereby respectively empowered to administer the oath) any person belonging to the ship, or any other person who may be able to give any account thereof or of the cargo or stores thereof, as to the following matters; (that is to say,)
  - (a) The name and description of the ship;
  - (b) The name of the master and of the owners;
  - (c) The names of the owners of the cargo;
  - (d) The ports from and to which the ship was bound;
  - (e) The occasion of the distress of the ship;
  - (f) The services rendered; and
  - (g) Such other matters or circumstances relating to the ship, or to the cargo on board the same, as the person holding the examination thinks necessary.
- (2) The person holding the examination shall take the same down in writing, and shall send one copy thereof to the Board of Trade, and another to the secretary of Lloyd's in London, and the secretary shall place it in some conspicuous situation for inspection.

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- (3) The person holding the examination shall, for the purposes thereof, have all the powers of a Board of Trade inspector [<sup>F315</sup>under section 27 of the <sup>M6</sup>Merchant Shipping Act 1979].

#### Textual Amendments

**F315** Words substituted by [Merchant Shipping Act 1979 \(c. 39\), s. 28\(7\)\(a\)](#)

#### Marginal Citations

**M6** 1979 c. 39.

### Dealing with Wreck

#### 518 Provision as to wreck found in the United Kingdom.

Where any person finds or takes possession of any wreck within the limits of the United Kingdom he shall,—

- (a) if he is the owner thereof, give notice to the receiver of the district stating that he has found or taken possession of the same, and describing the marks by which the same may be recognised;
- (b) if he is not the owner thereof, as soon as possible deliver the same to the receiver of the district:

and if any person fails, without reasonable cause, to comply with this section, he shall, for each offence, be liable to a fine not exceeding [<sup>F316</sup> [<sup>F317</sup>£500]] [<sup>F316</sup>level 4 on the standard scale], and shall in addition, if he is not the owner, forfeit any claim to salvage, and shall be liable to pay to the owner of the wreck if it is claimed, or, if it is unclaimed to the persons entitled to the same, double the value thereof, to be recovered in the same way as a fine of a like amount under this Act.

#### Textual Amendments

**F316** Words “level 4 on the standard scale” substituted (E.W.S.) for “£500” by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289G](#)

**F317** Word substituted by virtue of [Merchant Shipping Act 1979 \(c. 39\), s. 43\(1\), Sch. 6 Pt. III](#)

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

**C98** [S. 518](#) extended by [Merchant Shipping Act 1906 \(c. 48\), s. 72](#)

#### 519 Penalty for taking wreck at time of casualty.

- (1) Where a vessel is wrecked, stranded, or in distress at any place on or near the coasts of the United Kingdom or any tidal water within the limits of the United Kingdom, any cargo or other articles belonging to or separated from the vessel, which may be washed on shore or otherwise lost or taken from the vessel shall be delivered to the receiver.
- (2) If any person, whether the owner or not, secretes or keeps possession of any such cargo or article, or refuses to deliver the same to the receiver or any person authorised

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by him to demand the same, that person shall for each offence be liable to a fine not exceeding [<sup>F318</sup>£500][<sup>F318</sup>level 4 on the standard scale].

- (3) The receiver or any person authorised as aforesaid may take any such cargo or article by force from the person so refusing to deliver the same.

#### Textual Amendments

**F318** Words “level 4 on the standard scale” substituted (E.W.S.) for “£500” by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289G](#)

**F319** Word substituted by virtue of [Merchant Shipping Act 1979 \(c. 39\), s. 43\(1\), Sch. 6 Pt. III](#)

#### 520 Notice of wreck to be given by receiver.

Where a receiver takes possession of any wreck he shall within forty-eight hours—

- (a) cause to be posted in the custom house nearest to the place where the wreck was found or was seized by him a description thereof and of any marks by which it is distinguished; and
- (b) if in his opinion the value of the wreck exceeds twenty pounds, also transmit a similar description to the secretary of Lloyd’s in London, and the secretary shall post it in some conspicuous position for inspection.

#### 521 Claims of owners to wreck.

- (1) The owner of any wreck in the possession of the receiver, upon establishing his claim to the same to the satisfaction of the receiver within one year from the time at which the wreck came into the possession of the receiver, shall, upon paying the salvage, fees, and expenses due, be entitled to have the wreck or the proceeds thereof delivered up to him.
- (2) Where any articles belonging to or forming part of a foreign ship, which has been wrecked on or near the coasts of the United Kingdom, or belonging and forming part of the cargo, are found on or near those coasts, or are brought into any port in the United Kingdom, the consul-general of the country to which the ship or in the case of cargo to which the owners of the cargo may have belonged, or any consular officer of that country authorised in that behalf by any treaty or arrangement with that country, shall, in the absence of the owner and of the master or other agent of the owner, be deemed to be the agent of the owner, so far as relates to the custody and disposal of the articles.

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

**C99** [S. 521](#) extended by [Consular Conventions Act 1949 \(c. 29\), s. 5\(2\)](#)

#### 522 Immediate sale of wreck by receiver in certain cases.

A receiver may at any time sell any wreck in his custody if in his opinion—

- (a) it is under the value of five pounds, or
- (b) it is so much damaged or of so perishable a nature that it cannot with advantage be kept, or



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(c) it is not of sufficient value to pay for warehousing, and the proceeds of the sale shall, after defraying the expenses thereof, be held by the receiver for the same purposes and subject to the same claims, rights, and liabilities as if the wreck had remained unsold.

### *Unclaimed Wreck*

#### **523 Right of Crown to unclaimed wreck.**

Her Majesty and Her Royal successors are entitled to all unclaimed wreck found in any part of Her Majesty's dominions, except in places where Her Majesty or any of Her Royal predecessors has granted to any other person the right to that wreck.

#### **524 Notice of unclaimed wreck to be given to persons entitled.**

- (1) Where any admiral, vice-admiral, lord of the manor, heritable proprietor duly infeft, or other person is entitled for his own use to unclaimed wreck found on any place within the district of a receiver, he shall deliver to the receiver a statement containing the particulars of his title, and an address to which notices may be sent.
- (2) When a statement has been so delivered and the title proved to the satisfaction of the receiver, the receiver shall, on taking possession of any wreck found at a place to which the statement refers, within forty-eight hours send to the address delivered a description of the wreck and of any marks by which it is distinguished.

#### **525 Disposal of unclaimed wreck.**

Where no owner establishes a claim to any wreck, found in the United Kingdom and in the possession of a receiver, within one year after it came into his possession, the wreck shall be dealt with as follows; (that is to say,)

- (1) If the wreck is claimed by any admiral, vice-admiral, lord of a manor, heritable proprietor, or other person who has delivered such a statement to the receiver as herein-before provided, and has proved to the satisfaction of the receiver his title to receive unclaimed wreck found at the place where that wreck was found, the wreck after payment of all expenses, costs, fees, and salvage due in respect thereof, shall be delivered to him;
- (2) If the wreck is not claimed by any admiral, vice-admiral, lord of a manor, heritable proprietor, or other person as aforesaid, the receiver shall sell the same and shall pay the proceeds of the sale (after deducting therefrom the expenses of the sale, and any other expenses incurred by him, and his fees, and paying thereout to the salvors such amount of salvage as the Board of Trade may in each case, or by any general rule, determine) for the benefit of the Crown, as follows; (that is to say,)
  - (a) If the wreck is claimed in right of Her Majesty's duchy of Lancaster, to the receiver-general of that duchy or his deputies as part of the revenues of that duchy;
  - (b) If the wreck is claimed in right of the duchy of Cornwall, to the receiver-general of that duchy or his deputies as part of the revenues of that duchy; and
  - (c) If the wreck is not so claimed, the receiver shall pay the proceeds of sale . . .  
<sup>F320</sup> after the decease of Her present Majesty to her heirs and successors.

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**Textual Amendments**

**F320** Words repealed by [Statute Law Revision Act 1908 \(c. 49\)](#)

**526 Disputed title to unclaimed wreck.**

- (1) Why any dispute arises between any such admiral, vice-admiral, lord of a manor, heritable proprietor, or other person as aforesaid and the receiver respecting title to wreck found at any place, or, where more persons than one claim title to that wreck and a dispute arises between them as to that title, that dispute may be referred and determined in the same manner as if it were a dispute as to salvage to be determined summarily under this Part of this Act.
- (2) If any party to the dispute is unwilling to have the same so referred and determined, or is dissatisfied with the decision on that determination, he may within three months after the expiration of a year from the time when the wreck has come into the receiver's hands, or from the date of the decision, as the case may be, take proceedings in any court having jurisdiction in the matter for establishing his title.

**527 Delivery of unclaimed wreck by receivers not to prejudice title.**

Upon delivery of wreck or payment of the proceeds of sale of wreck by a receiver, in pursuance of the provisions of this Part of this Act, the receiver shall be discharged from all liability in respect thereof, but the delivery thereof shall not prejudice or affect any question which may be raised by third parties concerning the right or title to the wreck, or concerning the title to the soil of the place on which the wreck was found.

**528 Power to Board of Trade to purchase rights to wreck.**

- (1) The Board of Trade may, with the consent of the Treasury, out of the revenue arising under this Part of this Act, purchase for and on behalf of Her Majesty any rights to wreck possessed by any person other than Her Majesty.
- (2) For the purpose of a purchase under this section, the provisions of the Lands Clauses Acts relating to the purchase of lands by agreement shall be incorporated with this Part of this Act, and in the construction of those Acts for the purposes of this section this Part of this Act shall be deemed to be the special Act, and any such right to wreck as aforesaid shall be deemed to be an interest in land authorised to be taken by the special Act, and Her Majesty shall be deemed to be the promoter of the undertaking.

**529 Admiral not to interfere with wreck.**

No admiral, vice-admiral, or other person, under whatever denomination, exercising Admiralty jurisdiction, shall, as such, by himself or his agents, receive, take, or interfere with any wreck except as authorised by this Act.

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### *Removal of Wrecks*

#### **530 Removal of wreck by harbour or conservancy authority.**

Where any vessel is sunk, stranded, or abandoned in any harbour or tidal water under the control of a harbour or conservancy authority, or in or near any approach thereto, in such manner as in the opinion of the authority to be, or be likely to become, an obstruction or danger to navigation or to lifeboats engaged in lifeboat service in that harbour or water or in any approach thereto, that authority may—

- (a) take possession of, and raise, remove, or destroy the whole or any part of the vessel; and
- (b) light or buoy any such vessel or part until the raising, removal, or destruction thereof; and
- (c) sell, in such manner as they think fit, any vessel or part so raised or removed, and also any other property recovered in the exercise of their powers under this section, and out of the proceeds of the sale reimburse themselves for the expenses incurred by them in relation thereto under this section, and the authority shall hold the surplus, if any, of the proceeds in trust for the persons entitled thereto.

Provided as follows:—

- (1) A sale shall not (except in the case of property which is of a perishable nature, or which would deteriorate in value by delay) be made under this section until at least seven clear days notice of the intended sale has been given by advertisement in some local newspaper circulating in or near the district over which the authority have control; and
- (2) At any time before any property is sold under this section, the owner thereof shall be entitled to have the same delivered to him on payment to the authority of the fair market value thereof, to be ascertained by agreement between the authority and the owner, or failing agreement by some person to be named for the purpose by the Board of Trade, and the sum paid to the authority as the value of any property under this provision shall, for the purposes of this section, be deemed to be the proceeds of sale of that property.

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

**C100** S. 530 modified by S.I. 1989/1991, **arts. 8, 9**

**C101** S. 530 modified by Highland Regional Council (Harbours) Order Confirmation Act 1991 (c. xii), **s. 22(1)**

**C102** S. 530 modified (E.W.S.) (23.5.1991) by S.I. 1991/1257, **art. 1, 25(1)**

**C103** S. 530 restricted (E.W.S.) (23.5.1991) by S.I. 1991/1257, **art. 1, 26(1)**

**C104** Ss. 530-534 restricted (13.6.1992) by S.I. 1992/1293, **arts. 8, 9**

**C105** Ss. 530-534 restricted (12.6.1992) by S.I. 1992/1294, **arts. 8, 9**

**C106** S. 530 modified (28.5.1994) by S.I. 1994/1440, **art. 12(1)**

**C107** S. 530 restricted (28.5.1994) by S.I. 1994/1440, **art. 13(1)(3)**

**C108** S. 530 applied (with modifications) (30.8.1994) by S.I. 1994/2298, **art. 23(1)**

#### **531 Power of lighthouse authority to remove wreck.**

- (1) Where any vessel is sunk, stranded, or abandoned in any fairway, or on the seashore or on or near any rock, shoal, or bank, in the British Islands, or any of the adjacent seas or

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islands, and there is not any harbour or conservancy authority having power to raise, remove, or destroy the vessel, the general lighthouse authority for the place in or near which the vessel is situate shall, if in their opinion the vessel is, or is likely to become, an obstruction or danger to navigation or to lifeboats engaged in the lifeboat service, have the same powers in relation thereto as are by this Part of this Act conferred upon a harbour or conservancy authority.

[<sup>F321</sup>(2) Where a general lighthouse authority have incurred expenses in the exercise of their powers under this section in relation to any vessel, then—

- (a) if the proceeds of any sale made under section 530 of this Act in connection with the exercise of those powers in relation to the vessel are insufficient to reimburse the authority for the full amount of those expenses, the authority may recover the amount of the deficiency from the relevant person, or
- (b) if there is no such sale, the authority may recover the full amount of those expenses from the relevant person.

(3) Any expenses so incurred which are not recovered by the authority either out of the proceeds of any such sale or in accordance with subsection (2) of this section shall be paid out of the General Lighthouse Fund, but section 660 of this Act shall apply to those expenses as if they were expenses of the authority falling within subsection (1) of that section other than establishment expenses.

(4) In this section “the relevant person”, in relation to any vessel, means the owner of the vessel at the time of the sinking, stranding or abandonment of the vessel.]

#### Textual Amendments

**F321** S. 531(2)–(4) substituted by [Merchant Shipping Act 1988 \(c. 2, SIF 111\)](#), s. 48, [Sch. 5](#)

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

**C109** S. 531 modified by [S.I. 1989/1991](#), [arts. 8, 9](#)

**C110** Ss. 530-534 restricted (13.6.1992) by [S.I. 1992/1293](#), [arts. 8, 9](#)

**C111** Ss. 530-534 restricted (12.6.1992) by [S.I. 1992/1294](#), [arts.8, 9](#)

### 532 Power of removal to extend to tackle, cargo, &c.

The provisions of this Part of this Act relating to removal of wrecks shall apply to every article or thing or collection of things being or forming part of the tackle, equipments, cargo, stores, or ballast of a vessel in the same manner as if it were included in the term “vessel,” and for the purposes of these provisions any proceeds of sale arising from a vessel and from the cargo thereof, or any other property recovered therefrom, shall be regarded as a common fund.

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

**C112** S. 532 restricted by [S.I. 1988/2304](#), [art. 12](#)

**C113** S. 532 modified by [S.I. 1989/1991](#), [arts. 8, 9](#)

**C114** S. 532 modified by [Highland Regional Council \(Harbours\) Order Confirmation Act 1991 \(c. xii\)](#), [s. 22\(1\)](#)

**C115** S. 532 modified (E.W.S.) (23.5.1991) by [S.I. 1991/1257](#), [art. 1](#), 25(1)

**C116** S. 532 restricted (E.W.S.) (23.5.1991) by [S.I. 1991/1257](#), [art. 1](#), 26(1)

**C117** Ss. 530-534 restricted (13.6.1992) by [S.I. 1992/1293](#), [arts. 8, 9](#)

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- C118** Ss. 530-534 restricted (12.6.1992) by S.I. 1992/1294, **arts. 8, 9**  
**C119** S. 532 modified (28.5.1994) by S.I. 1994/1440, **art. 12(1)**  
**C120** S. 532 restricted (28.5.1994) by S.I. 1994/1440, **art. 13(1)(3)**  
**C121** S. 523 applied (with modifications) (30.8.1994) by S.I. 1994/2298, **art. 23(1)**

### **533 Power for Board of Trade to determine certain questions between authorities.**

If any question arises between a harbour or conservancy authority on the one hand and a general lighthouse authority on the other hand as to their respective powers under this Part of this Act for the removal of wrecks, in relation to any place being in or near an approach to a harbour or tidal water, that question shall, on the application of either authority, be referred to the decision of the Board of Trade, and the decision of that Board shall be final.

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

- C122** Ss. 533, 534 restricted by S.I. 1988/2304, **art. 12**  
**C123** Ss. 533, 534 modified by S.I. 1989/1991, **arts. 8, 9**  
**C124** Ss. 530-534 restricted (13.6.1992) by S.I. 1992/1293, **arts.8, 9**  
**C125** Ss. 530-534 restricted (12.6.1992) by S.I. 1992/1294, **arts. 8, 9**

### **534 Powers to be cumulative.**

The powers conferred by this Part of this Act on a harbour, conservancy, or lighthouse, authority, for the removal of wrecks shall be in addition to and not in derogation of any other powers for a like object.

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

- C126** Ss. 533, 534 restricted by S.I. 1988/2304, **art. 12**  
**C127** Ss. 533, 534 modified by S.I. 1989/1991, **arts. 8, 9**  
**C128** Ss. 530-534 restricted (13.6.1992) by S.I. 1992/1293, **arts. 8, 9**  
**C129** Ss. 530-534 restricted (12.6.1992) by S.I. 1992/1294, **arts. 8, 9**

## *Offences in respect of Wreck*

### **535 Taking wreck to foreign port.**

If any person takes into any foreign port any vessel, stranded, derelict, or otherwise in distress, found on or near the coasts of the United Kingdom or any tidal water within the limits of the United Kingdom, or any part of the cargo or apparel thereof, or anything belonging thereto, or any wreck found within those limits, and there sells the same, that person shall be guilty of felony, and on conviction thereof shall be liable to be kept in penal servitude for a term not less than three years and not exceeding five years.

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

**C130** Reference to sentence of penal servitude to be construed as a reference to sentence of imprisonment for a term not exceeding maximum specified: [Criminal Justice Act 1948 \(c. 58\), s. 1\(1\)](#) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\), s. 221\(1\)](#) and [Criminal Justice Act \(Northern Ireland\) 1953 \(c. 14\), s. 1\(1\)](#)

### 536 Interfering with wrecked vessel or wreck.

(1) A person shall not without the leave of the master board or endeavour to board any vessel which is wrecked, stranded, or in distress, unless that person is, or acts by command of, the receiver or a person lawfully acting as such, and if any person acts in contravention of this enactment, he shall for each offence be liable to a fine not exceeding [<sup>F322</sup>£200]<sup>F323</sup> [<sup>F322</sup>level 3 on the standard scale], and the master of the vessel may repel him by force.

(2) A person shall not—

- (a) impede or hinder, or endeavour in any way to impede or hinder, the saving of any vessel stranded or in danger of being stranded, or otherwise in distress on or near any coast or tidal water, or of any part of the cargo or apparel thereof, or of any wreck;
- (b) secrete any wreck, or deface or obliterate any marks thereon; or
- (c) wrongfully carry away or remove any part of a vessel stranded or in danger of being stranded, or otherwise in distress, on or near any coast or tidal water, or any part of the cargo or apparel thereof, or any wreck,

and if any person acts in contravention of this enactment, he shall be liable for each offence to a fine not exceeding [<sup>F324</sup>£500]<sup>F325</sup> [<sup>F324</sup>level 4 on the standard scale], and that fine may be inflicted in addition to any punishment to which he may be liable by law under this Act or otherwise.

#### Textual Amendments

**F322** Words “level 3 on the standard scale” substituted (E.W.S.) for “£200” by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289G](#)

**F323** Word substituted by virtue of [Merchant Shipping Act 1979 \(c. 39\), s. 43\(1\), Sch. 6 Pt. II](#)

**F324** Words “level 4 on the standard scale” substituted (E.W.S.) for “£500” by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289G](#)

**F325** Word substituted by virtue of [Merchant Shipping Act 1979 \(c. 39\), s. 43\(1\), Sch. 6 Pt. III](#)

### 537 Summary procedure for concealment of wreck.

(1) Where a receiver suspects or receives information that any wreck is secreted or in the possession of some person, who is not the owner thereof or that any wreck is otherwise improperly dealt with he may apply to any justice of the peace for a search warrant and that justice shall have power to grant such a warrant, and the receiver, by virtue thereof, may enter any house, or other place, wherever situate, and also any vessel, and search for, seize, and detain any such wreck there found.

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- (2) If any such seizure of wreck is made in consequence of information given by any person to the receiver, on a warrant being issued under this section, the informer shall be entitled, by way of salvage, to such sum not exceeding in any case five pounds as the receiver may allow.

### *Marine Store Dealers*

#### [<sup>F326</sup>538 Marine store dealer to have his name and trade painted on his shop.

- (1) Every person dealing in, buying, or selling, any of the articles following, that is to say, anchors, cables, sails, old junk, or old iron, or other marine stores of any kind (in this Part of this Act called a marine store dealer) shall have his name, together with the words “dealer in marine stores,” distinctly painted, in letters of not less than six inches in length on every warehouse and place of deposit belonging to him.
- (2) If a marine store dealer fails to comply with the requirements of this section, he shall for each offence be liable to a fine not exceeding [<sup>F327</sup>twenty pounds][<sup>F327</sup>£50].]

#### Textual Amendments

**F326** S. 538–542 repealed (E.W.S.) by (E.W.) Scrap Metal Dealers Act 1964 (c. 69), **Sch. Pt. I** and (S.) Civic Government (Scotland) Act 1982 (c. 45, SIF 81:2), s. 137, **Sch. 4**

**F327** “£50” substituted (S.) for “twenty pounds” by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21), s. 289C(4)(5)(8)

#### [<sup>F328</sup>539 Marine store dealer to keep proper books.

- (1) Every marine store dealer shall keep proper books, and enter therein an account of all marine stores of which he becomes possessed, stating in respect of each article the time at which and the person from whom he purchased or received the same, and a description of the business and place of abode of that person.
- (2) If a marine store dealer fails to comply with the requirements of this section he shall be liable to a fine for the first offence not exceeding [<sup>F329</sup>twenty pounds][<sup>F329</sup>£50] and for every subsequent offence not exceeding fifty pounds.]

#### Textual Amendments

**F328** S. 538–542 repealed (E.W.S.) by (E.W.) Scrap Metal Dealers Act 1964 (c. 69), **Sch. Pt. I** and (S.) Civic Government (Scotland) Act 1982 (c. 45, SIF 81:2), s. 137, **Sch. 4**

**F329** “£50” substituted (S.) for “twenty pounds” by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21), s. 289C(4)(5)(8)

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

**C131** S. 539(2) amended (N.I.) by Increase of Fines Act (Northern Ireland) 1967 (c. 29), **Sch. Pt I**

#### [<sup>F330</sup>540 Marine store dealer not to purchase from person under sixteen.

- (1) A marine store dealer shall not by himself or his agents purchase marine stores of any description from any person apparently under the age of sixteen years.

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**Changes to legislation:** There are currently no known outstanding effects for the Merchant Shipping Act 1894. (See end of Document for details)

- (2) If a marine store dealer so purchases any marine store, he shall be liable to a fine for the first offence not exceeding [<sup>F331</sup>five pounds][<sup>F331</sup>£25] and for every subsequent offence not exceeding [<sup>F332</sup>twenty pounds][<sup>F332</sup>£50].]

#### Textual Amendments

**F330** S. 538–542 repealed (E.W.S.) by (E.W.) Scrap Metal Dealers Act 1964 (c. 69), **Sch. Pt. I** and (S.) Civic Government (Scotland) Act 1982 (c. 45, SIF 81:2), s. 137, **Sch. 4**

**F331** “£25” substituted (S.) for “five pounds” by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21), s. **289C(4)(5)(8)**

**F332** “£50” substituted (S.) for “twenty pounds” by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21), s. **289C(4)(5)(8)**

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

**C132** S. 540(2) amended (N.I.) by Increase of Fines Act (Northern Ireland) 1967 (c. 29), **Sch. Pt. I**

### [<sup>F333</sup>541 Marine store dealer not to cut up cable, &c.

- (1) A marine store dealer shall not, on any pretence, cut up any cable or other like article exceeding five fathoms in length, or unlay the same into twine or paper stuff without obtaining a written permit as required by this section.
- (2) In order to obtain a written permit a marine store dealer shall make a declaration before some justice of the peace having jurisdiction where the dealer resides, stating—
- the quality and description of the cable or other like article about to be cut up or unlayed;
  - the name and description of the person from whom he purchased or received the same; and
  - that he has purchased or otherwise acquired the same without fraud and without any knowledge or suspicion that it has been come by dishonestly:
- and either the justice of the peace before whom the declaration is made, or the receiver of the district, upon the production of the declaration, may grant a permit authorising the marine store dealer to cut up or unlay the cable or other article.
- (3) If a marine store dealer cuts up or unlays any cable or other article without complying with the provisions of this section he shall be liable to a fine for the first offence not exceeding [<sup>F334</sup>twenty pounds][<sup>F334</sup>£50] and for every subsequent offence not exceeding fifty pounds.]

#### Textual Amendments

**F333** S. 538–542 repealed (E.W.S.) by (E.W.) Scrap Metal Dealers Act 1964 (c. 69), **Sch. Pt. I** and (S.) Civic Government (Scotland) Act 1982 (c. 45, SIF 81:2), s. 137, **Sch. 4**

**F334** “£50” substituted (S.) for “twenty pounds” by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21), s. **289C(4)(5)(8)**

### [<sup>F335</sup>542 Permit to be advertised before dealer proceeds to act thereon.

- (1) A marine store dealer who has obtained a permit as aforesaid shall not proceed by virtue thereof to cut up or unlay any cable or other article until he has for the space



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of one week, at the least, published in some newspaper circulating in the place where he resides one or more advertisements, notifying the fact of his having so obtained a permit, and specifying the nature of the cable or article mentioned in the permit, and the place where it is deposited, and the time at which it is intended to be so cut up or unlaid.

- (2) If any person suspects or believes that the cable or other article is his property he may apply to a justice of the peace for a warrant, and that justice may, on the sworn statement of the applicant, grant a warrant entitling the applicant to require the production by the marine store dealer of the cable or article mentioned in the permit, and also of the books required under this Part of this Act to be kept by the marine store dealer, and authorising the applicant to inspect and examine the cable or article or books.
- (3) If a marine store dealer fails without reasonable cause to comply with any of the requirements of this section, he shall be liable for the first offence to a fine not exceeding [<sup>F336</sup>twenty pounds][<sup>F336</sup>£50] and for every subsequent offence to a fine not exceeding fifty pounds.]

#### Textual Amendments

**F335** S. 538–542 repealed (E.W.S.) by (E.W.) Scrap Metal Dealers Act 1964 (c. 69), **Sch. Pt. I** and (S.) Civic Government (Scotland) Act 1982 (c. 45, SIF 81:2), s. 137, **Sch. 4**

**F336** “£50” substituted (S.) for “twenty pounds” by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21), s. 289C(4)(5)(8)

### Marking of Anchors

#### 543 Marking of anchors.

- (1) Every manufacturer of anchors shall mark on every anchor manufactured by him in legible characters and both on the crown and also on the shank under the stock his name or initials, and shall in addition mark on the anchor a progressive number and the weight of the anchor.
- (2) If a manufacturer of anchors fails without reasonable cause to comply with this section, he shall be liable for each offence to a fine not exceeding [<sup>F337</sup>[<sup>F338</sup>£50]][<sup>F337</sup>level 2 on the standard scale].

#### Textual Amendments

**F337** Words “level 2 on the standard scale” substituted (E.W.S.) for “£50” by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), s. 289G

**F338** Word substituted by virtue of Merchant Shipping Act 1979 (c. 39), s. 43(1), **Sch. 6 Pt. I**

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## Salvage

### 544 Salvage payable for saving life.

- (1) Where services are rendered wholly or in part within British waters in saving life from any British or foreign vessel, or elsewhere in saving life from any British vessel, there shall be payable to the salvor by the owner of the vessel, cargo, or apparel saved, a reasonable amount of salvage, to be determined in case of dispute in manner herein-after mentioned.
- (2) Salvage in respect of the preservation of life when payable to the owners of the vessel shall be payable in priority to all other claims for salvage.
- (3) Where the vessel, cargo, and apparel are destroyed, or the value thereof is insufficient, after payment of the actual expenses incurred, to pay the amount of salvage payable in respect of the preservation of life, the Board of Trade may, in their discretion, award to the salvor, out of the Mercantile Marine Fund, such sum as they think fit in whole or part satisfaction of any amount of salvage so left unpaid.

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

**C133** S. 544 amended (1.5.1994) by 1993 c. 22, s. 8(3), **Sch. 4 para. 2(3)**; S.I. 1993/3137, **art. 3(2)**

S. 544 restricted (1.5.1994) by 1993 c. 22, s. 8(3), **Sch. 4 para. 6(1)(a)**; S.I. 1993/3137, **art. 3(2)**

### 545 Salvage of life from foreign vessels.

When it is made to appear to Her Majesty that the government of any foreign country is willing that salvage should be awarded by British courts for services rendered in saving life from ships belonging to that country, when the ship is beyond the limits of British jurisdiction, Her Majesty, may, by Order In Council, direct that the provisions of this Part of this Act with reference to salvage of life shall, subject to any conditions and qualifications contained in the Order, apply, and those provisions shall accordingly apply to those services as if they were rendered in saving life from ships within British jurisdiction.

### 546 Salvage of cargo or wreck.

[<sup>F339</sup>(1)] Where any vessel is wrecked, stranded, or in distress at any place on or near the coasts of the United Kingdom or any tidal water within the limits of the United Kingdom, and services are rendered by any person in assisting that vessel or saving the cargo or apparel of that vessel or any part thereof, and where services are rendered by any person other than a receiver in saving any wreck, there shall be payable to the salvor by the owner of the vessel, cargo, apparel, or wreck, a reasonable amount of salvage to be determined in case of dispute in manner herein-after mentioned.

[<sup>F340</sup>(2) In this section “tidal water” means—

- (a) any waters within the ebb and flow of the tide at ordinary spring tides; or
- (b) the waters of any dock which is directly, or (by means of one or more other docks) indirectly, connected with any such waters.]

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**Textual Amendments**

- F339** S. 546(1) renumbered from s. 546 by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 48, Sch. 5 (with s. 58(4), Sch. 8 para. 1)
- F340** S. 546(2) added by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 48, Sch. 5 (with s. 58(4), Sch. 8 para. 1)

*Procedure in Salvage*

[<sup>F341</sup>**547 Determination of salvage disputes.**

- (1) Disputes as to the amount of salvage whether of life or property, and whether rendered within or without the United Kingdom arising between the salvor and the owners of any vessel, cargo, apparel, or wreck, shall, if not settled by agreement, arbitration, or otherwise, be determined summarily in manner provided by this Act, in the following cases; namely:—
- (a) In any case where the parties to the dispute consent:
  - (b) In any case where the value of the property saved does not exceed one thousand pounds:
  - (c) In any case where the amount claimed does not exceed in Great Britain three hundred pounds, and in Ireland two hundred pounds.

[ Subject as aforesaid, disputes as to salvage shall be determined by the High Court <sup>F342</sup>(2) in England or Ireland, or in Scotland the Court of Session, but if the claimant does not recover in any such court in Great Britain more than three hundred pounds, and in any such court in Ireland more than two hundred pounds, he shall not be entitled to recover any costs, charges, or expenses incurred by him in the prosecution of his claim, unless the court before which the case is tried certify that the case is a fit one to be tried otherwise than summarily in manner provided by this Act.

- (3) Disputes relating to salvage may be determined on the application either of the salvor or of the owner of the property saved, or of their respective agents.]
- (4) Where a dispute as to salvage is to be determined summarily under this section it shall be referred and determined as follows:—
- (a) ..... <sup>F343</sup>
  - (b) In Scotland it shall be referred to and determined by the sheriff’s court:
  - (c) In Ireland it shall be referred to the arbitration of and determined by two justices of the peace, or a stipendiary magistrate, or the recorder of any borough having a recorder, or the chairman of quarter sessions in any county, and any such justices, stipendiary magistrate, recorder, or chairman are hereinafter included in the expression “arbitrators.”
- (5) Nothing in this Act relating to the procedure in salvage cases shall affect the jurisdiction or procedure in salvage cases of a county court having Admiralty jurisdiction by virtue of [<sup>F344</sup>the <sup>M7</sup>County Courts Act 1959] or the <sup>M8</sup>Court of Admiralty (Ireland) Act 1867, or any Act amending either of those Acts.]

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#### Textual Amendments

- F341** S. 547 repealed (E.W.) by [County Courts \(Amendment\) Act 1934 \(c. 17\)](#), **Sch. 5 Pt. I** so far as it relates to summary determination in a county court of disputes as to salvage
- F342** S. 547(2)(3) repealed by [Supreme Court of Judicature \(Consolidation\) Act 1925 \(c. 49\)](#), s. 226, **Sch. 6** so far as they relate to the High Court in England
- F343** S. 547(4)(a) repealed by virtue of [County Courts \(Amendment\) Act 1934 \(c. 17\)](#), **Sch. 5 Pt. I**
- F344** Words substituted by virtue of [Interpretation Act 1978 \(c. 30\)](#), s. 17(2)(a)

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

- C134** Reference to Ireland to be construed as exclusive of Republic of Ireland: S. R. & O. 1923/405 (Rev. X, p. 298: 1923, p. 400), art. 2

#### Marginal Citations

- M7** 1959 c. 52.  
**M8** 1867 c. 114.

### [<sup>F345</sup>548 Determination of disputes as to salvage summarily.

- (1) Disputes as to salvage which are to be determined summarily in manner provided by this Act shall—
- (a) where the dispute relates to the salvage of wreck be referred to a court or arbitrators having jurisdiction at or near the place where the wreck is found:
  - (b) where the dispute relates to salvage in the case of services rendered to any vessel or to the cargo or apparel thereof or in saving life therefrom be referred to a court or arbitrators having jurisdiction at or near the place where the vessel is lying, or at or near the port in the United Kingdom into which the vessel is first brought after the occurrence by reason whereof the claim of salvage arises.
- (2) Any court or arbitrators to whom a dispute as to salvage is referred for summary determination may, for the purpose of determining any such dispute, call in to their assistance any person conversant with maritime affairs as assessor, and there shall be paid as part of the costs of the proceedings to every such assessor in respect of his services such sum not exceeding five pounds as the Board of Trade may direct.]

#### Textual Amendments

- F345** S. 548 repealed (E.W.) by [County Courts \(Amendment\) Act 1934 \(c. 17\)](#), **Sch. 5 Pt. I** so far as it relates to summary determination in a county court of disputes as to salvage

### [<sup>F346</sup>549 Appeal in case of salvage disputes.

- (1) Where a dispute relating to salvage has been determined summarily in manner provided by this Act, any party aggrieved by the decision may appeal therefrom—
- (a) in Great Britain, in like manner as in the case of any other judgment in an Admiralty or maritime cause of the county court or sheriff's court, as the case may be; and
  - (b) in Ireland, to the High Court, but only if the sum in dispute exceeds fifty pounds, and the appellant within ten days after the date of the award gives

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notice to the arbitrators of his intention to appeal and, within twenty days after the date of the award, takes such proceedings as, according to the practice of the High Court, are necessary for the institution of an appeal.

- (2) In the case of an appeal from arbitrators in Ireland the arbitrators shall transmit to the proper officer of the court of appeal a copy on unstamped paper certified under their hands to be a true copy of the proceedings had before them or their umpire (if any) and of the award so made by them or him, accompanied with their or his certificate in writing of the gross value of the article respecting which salvage is claimed; and such copy and certificate shall be admitted in the court of appeal as evidence in the case.]

#### Textual Amendments

**F346** S. 549 repealed (E.W.) by [County Courts \(Amendment\) Act 1934 \(c. 17\)](#), [Sch. 5 Pt. I](#) so far as it relates to summary determination in a county court of disputes as to salvage

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

**C135** Reference to Ireland to be construed as exclusive of Republic of Ireland: S. R. & O. 1923/405 (Rev. X, p. 298: 1923, p. 400), art. 2

### 550 As to arbitrators in Ireland.

- (1) [<sup>F347</sup>The Secretary of State] in Ireland may appoint, out of the justices for any borough or county, a rota of justices, by whom jurisdiction in salvage cases under this Part of this Act shall be exercised.
- (2) Where no such rota is appointed the salvors may, by writing addressed to the justices clerk, name one justice and the owner of the property saved may in like manner name another justice to be arbitrators; and if either party fails to name a justice within a reasonable time the case may be tried by two or more justices at petty sessions.
- (3) Where a dispute as to salvage is referred to justices under this Act, they may, if a difference of opinion arises between them, or without such difference, if they think fit, appoint some person conversant with maritime affairs as umpire to decide the point in dispute.
- (4) The arbitrators, within forty-eight hours after any such dispute has been referred to them, and the umpire (if any) within forty-eight hours after his appointment, shall make an award as to the amount of salvage payable, with power nevertheless for such arbitrators or umpire, by writing, duly signed, to extend the time for so making the award.
- (5) There shall be paid to every umpire appointed as aforesaid, in respect of his services, such sum not exceeding five pounds as the Board of Trade may direct.
- (6) All the costs of such arbitration, including any such payment to an umpire as aforesaid, shall be paid by the parties to the dispute, in such manner, and in such shares and proportions, as the arbitrators or umpire may direct by the award.
- (7) The arbitrators or umpire may call for the production of any documents in the possession or power of either party which they or he may think necessary for determining the question in dispute, and may examine the parties and their witnesses on oath, and administer the oaths necessary for that purpose.

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- (8) A Secretary of State may determine the scale of costs to be awarded in salvage cases determined by arbitrators under this Part of this Act.

#### Textual Amendments

**F347** Words substituted by virtue of Irish Free State (Consequential Provisions) Act 1922 (Session 2) (13 Geo. 5 Sess. 2 c. 2), Sch. 1 para. 1(1) and [Northern Ireland Constitution Act 1973 \(c. 36\)](#), **Sch. 5 para. 4(1)**

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

**C136** Reference to Ireland to be construed as exclusive of Republic of Ireland: S. R. & O. 1923/405 (Rev. X, p. 298: 1923, p. 400), art. 2

### 551 Valuation of property by receiver.

- (1) Where any dispute as to salvage arises, the receiver of the district where the property is in respect of which the salvage claim is made, may, on the application of either party, appoint a valuer to value that property, and shall give copies of the valuation to both parties.
- (2) Any copy of the valuation purporting to be signed by the valuer, and to be certified as a true copy by the receiver, shall be admissible as evidence in any subsequent proceedings.
- (3) There shall be paid in respect of the valuation by the person applying for the same such fee as the Board of Trade may direct.

### 552 Detention of property liable for salvage by a receiver.

- (1) Where salvage is due to any person under this Act, the receiver shall—
  - (a) if the salvage is due in respect of services rendered in assisting any vessel, or in saving life therefrom, or in saving the cargo or apparel thereof, detain the vessel and cargo or apparel; and
  - (b) if the salvage is due in respect of the saving of any wreck, and the wreck is not sold as unclaimed under the Act, detain the wreck.
- (2) Subject as herein-after mentioned, the receiver shall detain the vessel and the cargo and apparel, or the wreck (herein-after referred to as detained property) until payment is made for salvage, or process is issued for the arrest or detention thereof by some competent court.
- (3) A receiver may release any detained property if security is given to his satisfaction or, if the claim for salvage exceeds two hundred pounds, and any question is raised as to the sufficiency of the security, to the satisfaction in England or Ireland of the High Court, and in Scotland of the Court of Session, including any division of that court, or the Lord Ordinary officiating on the bills during vacation.
- (4) Any security given for salvage in pursuance of this section to an amount exceeding two hundred pounds may be enforced by such court as aforesaid in the same manner as if bail had been given in that court.

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

- C137** Reference to the Lord Ordinary officiating on the bills during vacation to be construed as reference to the judge acting as vacation judge in pursuance of s. 4 of the [Administration of Justice \(Scotland\) Act 1933 \(c. 41\)](#): *ibid.*, s. 3
- C138** Reference to Ireland to be construed as exclusive of Republic of Ireland: S. R. & O. 1923/405 (Rev. X, p. 298: 1923, p. 400), art. 2
- C139** [Ss. 552, 553](#) restricted (13.6.1992) by [S.I. 1992/1293](#), [art. 12](#), Sch.

### 553 Sale of detained property by receiver.

- (1) The receiver may sell any detained property if the persons liable to pay the salvage in respect of which the property is detained are aware of the detention, in the following cases; namely,—
- (a) Where the amount is not disputed, and payment of the amount due is not made within twenty days after the amount is due, or,
  - (b) Where the amount is disputed, but no appeal lies from the first court to which the dispute is referred, and payment is not made within twenty days after the decision of the first court, or
  - (c) Where the amount is disputed and an appeal lies from the decision of the first court to some other court, and within twenty days of the decision of the first court neither payment of the sum due is made nor proceedings are commenced for the purpose of appeal.
- (2) The proceeds of sale of detained property shall, after payment of the expenses of the sale, be applied by the receiver in payment of the expenses, fees, and salvage, and, so far as not required for that purpose, shall be paid to the owners of the property, or any other persons entitled to receive the same.

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

- C140** [Ss. 552, 553](#) restricted (13.6.1992) by [1992/1293](#), art. 12, Sch.

### 554 Agreement as to salvage.

- (1) Where services for which salvage is claimed are rendered either by the commander or crew or part of the crew of any of Her Majesty's ships or of any other ship, and the salvor voluntarily agrees to abandon his lien upon the ship, cargo, and property alleged to be salvaged, then, upon the master entering into a written agreement attested by two witnesses to abide the decision of the High Court in England, or of a Vice-Admiralty Court or Colonial Court of Admiralty, and thereby giving security in that behalf to an amount agreed on by the parties to the agreement, that agreement shall bind the ship, and the cargo, and freight respectively, and the respective owners of the ship, cargo, and freight, and their respective heirs, executors, and administrators, for the salvage which may be adjudged to be payable in respect of the ship, cargo, and freight respectively to the extent of the security given.
- (2) Any agreement made under this section may be adjudicated on and enforced in the same manner as a bond executed under the provisions of this Part of this Act relating to salvage by Her Majesty's ships, and on any such agreement being made the salvor

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and the master shall respectively make the statements required by this Part of this Act to be made in the case of the bond, but their statements need not be made on oath.

- (3) The salvor shall transmit the statements made, as soon as practicable, to the court in which the agreement is to be adjudicated upon.

#### **555 Apportionment of salvage under 200I. by receiver.**

- (1) Where the aggregate amount of salvage payable in respect of salvage services rendered in the United Kingdom has been finally determined, either summarily in manner provided by this Act or by agreement, [<sup>F348</sup>or by a county court in England or Wales] and does not exceed two hundred pounds, but a dispute arises as to the apportionment thereof among several claimants, the person liable to pay the amount may apply to the receiver for liberty to pay the same to him; and the receiver shall, if he thinks fit, receive the same accordingly, and shall grant to the person paying the amount a certificate of the amount paid and of the services in respect of which it is paid, and that certificate shall be a full discharge and indemnity to the person by whom the money is paid, and to his vessel, cargo, apparel, and effects against the claims of all persons whomsoever in respect of the services mentioned in the certificate.
- (2) The receiver shall with all convenient speed distribute any amount received by him under this section among the persons entitled to the same on such evidence, and in such shares and proportions, as he thinks fit, and may retain any money which appears to him to be payable to any person who is absent.
- (3) A distribution made by a receiver in pursuance of this section shall be final and conclusive as against all persons claiming to be entitled to any portion of the amount distributed.

#### **Textual Amendments**

**F348** Words inserted by [County Courts Act 1984 \(c. 28, SIF 34\)](#), s. 27(11)

#### **556 Apportionment of salvage by Admiralty Courts.**

Whenever the aggregate amount of salvage payable in respect of salvage service rendered in the United Kingdom has been finally ascertained, and exceeds two hundred pounds, and whenever the aggregate amount of salvage payable in respect of salvage services rendered elsewhere has been finally ascertained, whatever that amount may be, then, if any delay or dispute arises as to the apportionment thereof, any court having Admiralty jurisdiction may cause the same to be apportioned amongst the persons entitled thereto in such manner as it thinks just, and may for that purpose, if it thinks fit, appoint any person to carry that apportionment into effect, and may compel any person in whose hands or under whose control the amount may be to distribute the same, or to bring the same into court to be there dealt with as the court may direct, and may for the purposes aforesaid issue such processes as it thinks fit.



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### *Salvage by Her Majesty's Ships*

#### **557 Salvage by Her Majesty's ships.**

- (1) . . . . .<sup>F349</sup> no claim for salvage services by the commander or crew, or part of the crew of any of Her Majesty's ships shall be finally adjudicated upon, unless the consent of [<sup>F350</sup>the Secretary of State] to the prosecution of that claim is proved.
- (2) Any document purporting to give the consent of [<sup>F350</sup>the Secretary of State] for the purpose of this section, and to be signed by [<sup>F350</sup>an officer of the Ministry of Defence] or on his behalf, shall be evidence of that consent.
- (3) If a claim is prosecuted and the consent is not proved, the claim shall stand dismissed with costs.

#### **Textual Amendments**

**F349** Words repealed by [Merchant Shipping \(Salvage\) Act 1940 \(c. 43\)](#), [Sch.](#)

**F350** Words substituted by virtue of [Defence \(Transfer of Functions\) Act 1964 \(c. 15\)](#), [ss. 1\(2\), 3\(2\)](#)

#### **558 Salvage by Her Majesty's ships abroad.**

- (1) Where services are rendered at any place out of the limits of the United Kingdom or the four seas adjoining thereto by the commander or any of the crew of any of Her Majesty's ships, in saving any vessel or cargo or property belonging to a vessel, the vessel, cargo, or property, alleged to be saved shall, if the salvor is justified by the circumstances of the case in detaining it, be taken to some port where there is a consular officer or a Colonial Court of Admiralty, or a Vice-Admiralty Court.
- (2) The salvor and the master, or other person in charge of the vessel, cargo, or property, saved shall within twenty-four hours after arriving at the port each deliver to the consular officer or judge of the Colonial Court of Admiralty or Vice-Admiralty Court, as the case may be, a statement on oath, specifying so far as possible, and so far as those particulars are applicable, the particulars set out in the first part of the Nineteenth Schedule to this Act, and also in the case of the master or other person his willingness to execute a bond in the form, so far as circumstances will permit, set out in the second part of that schedule.

#### **559 Provisions as to bond to be executed.**

- (1) The bond shall be in such sum as the consular officer or judge thinks sufficient to answer the demand for salvage service, but the sum fixed shall not exceed one half of the amount which, in the opinion of the consular officer or judge, is the value of the property in respect of which salvage has been rendered.
- (2) Where the vessel, cargo, or property in respect of which salvage services are rendered is not owned by persons domiciled in Her Majesty's dominions, the master shall procure such security for the due performance of the bond as the consular officer or judge thinks sufficient to be lodged with that officer or judge, or with that officer or judge and such other persons jointly as the salvor may appoint.

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- (3) The consular officer or judge shall fix the amount of the bond within four days after the receipt of the statements required by this Part of this Act, but if either of those statements is not delivered within the time required by this Part of this Act, he may proceed ex parte.
- (4) A consular officer may for the purposes of this section take affidavits.
- (5) Nothing in this section shall authorise the consular officer or judge to require the cargo of any ship to be unladen.

#### **560 Execution of bond.**

- (1) The consular officer or judge on fixing the sum to be inserted in the bond shall send notice thereof to the salvor and master, and on the execution of the bond by the master in the sum fixed in the presence of the consular officer or judge (who shall attest the same), and upon delivery thereof to the salvor, and in cases where security is to be lodged, on that security being duly lodged, the right of the salvor to detain the vessel, cargo, or property shall cease.
- (2) The bond shall bind the respective owners of the vessel, cargo, and freight, and their heirs, executors, and administrators, for the salvage adjudged to be payable in respect of the vessel, cargo, and freight respectively.

#### **561 Enforcement of bond.**

- (1) The bond shall be adjudicated on and enforced in the High Court in England, unless the salvor and master agree at the time of the execution of the bond that the bond may be adjudicated on and enforced in any specified Colonial Court of Admiralty or Vice-Admiralty Court, but that court shall in that case have the same power and authorities for the purpose as the High Court in England.
- (2) The High Court in England shall have power to enforce any bond given in pursuance of this Part of this Act in any Colonial Court of Admiralty or Vice-Admiralty Court in any part of Her Majesty's dominions, and any court exercising Admiralty jurisdiction in Scotland, Ireland, the Isle of Man, or the Channel Islands shall assist that court in enforcing those bonds.
- (3) Where security has been given for the performance of a bond, the persons with whom the security is lodged shall deal with the same as the court adjudicating upon the bond direct.
- (4) The consular officer or judge shall at the earliest opportunity transmit the statements and documents delivered to him, and the notice of the sum fixed in the bond to the High Court in England or the Colonial Court of Admiralty, or Vice-Admiralty Court in which the bond is to be enforced, as the case may be.

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

**C141** Reference to Ireland to be construed as exclusive of Republic of Ireland: S. R. & O. 1923/405 (Rev. X, p. 298: 1923, p. 400), art. 2

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**Changes to legislation:** There are currently no known outstanding effects for the Merchant Shipping Act 1894. (See end of Document for details)

## 562 Saving for other salvage rights.

- (1) Nothing contained in this Part of this Act shall prejudice the right of the salvor, where salvage services have been rendered by one of Her Majesty's ships, or by the commander or any of the crew thereof, to proceed for the enforcement of the salvage claim otherwise than in manner provided by this Act, but the salvor shall have no right to detain the vessel, cargo, or property saved, unless he elects to proceed under this Part of this Act.
- (2) Nothing contained in this Part of this Act shall affect the right of the salvor, where salvage services have been rendered by one of Her Majesty's ships or by the commander or any of the crew thereof, in any case which is not provided for therein.

## 563 Exemption from stamp duty.

Any bond, statement, agreement, or other document made or executed in pursuance of the provisions of this Part of this Act relating to salvage by Her Majesty's ships shall, if made or executed out of the United Kingdom, be exempt from stamp duty.

## 564 Punishment for forgery and false representations.

If any person in any proceeding under the provisions of this Part of this Act relating to salvage by Her Majesty's ships—

- <sup>F351</sup>(a) forges, assists in forging, or procures to be forged, fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, any document; or
- (b) puts off or makes use of any forged or altered document, knowing the same to be so forged or altered; or
- (c) gives or makes, or assists in giving or making, or procures to be given or made, any false evidence or representation, knowing the same to be false,

that person shall for each offence be liable to imprisonment, . . . <sup>F352</sup>, for any period not exceeding two years, or, on summary conviction, to imprisonment, . . . <sup>F352</sup>, for any period not exceeding six months.

### Textual Amendments

**F351** S. 564(a)(b) repealed (E.W.N.I.) by [Forgery and Counterfeiting Act 1981 \(c. 45, SIF 39:7\)](#), s. 30, **Sch. Pt. I**

**F352** Words omitted by virtue of (E.W.) [Criminal Justice Act 1948 \(c. 58\)](#), s. 1(2) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\)](#), s. 221(2) and repealed (N.I.) by [Criminal Justice Act \(Northern Ireland\) 1953 \(c. 14\)](#), s. 1(2)

### *Jurisdiction of High Court in Salvage*

## <sup>F353</sup>565 Jurisdiction of High Court in salvage.

Subject to the provisions of this Act, the High Court, and in Scotland the Court of Session, shall have jurisdiction to decide upon all claims whatsoever relating to salvage, whether the services in respect of which salvage is claimed were performed on the high seas or within the body of any county, or partly on the high seas and partly

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within the body of any county, and whether the wreck in respect of which salvage is claimed is found on the sea or on the land, or partly on the sea and partly on the land.]

#### Textual Amendments

**F353** S. 565 repealed by [Supreme Court of Judicature \(Consolidation\) Act 1925 \(c. 49\)](#), s. 226, [Sch. 6](#) so far as it relates to the High Court in England: repealed (N.I.) by [Administration of Justice Act 1956 \(c. 46\)](#), [Sch. 1 Pt. III](#)

### *Appointment of Receivers of Wreck*

#### **566 Appointment of receivers of wreck.**

The Board of Trade shall have the general superintendence throughout the United Kingdom of all matters relating to wreck, and may, with the consent of the Treasury, appoint any [<sup>F354</sup>officer of customs and excise] or of the coastguard, or any officer of inland revenue, or, where it appears to such Board to be more convenient, any other person, to be a receiver of wreck (in this Part of this Act referred to as a receiver), in any district, and to perform the duties of receiver under this Part of this Act, and shall give due notice of the appointment.

#### Textual Amendments

**F354** Words substituted by virtue of [Customs and Excise Management Act 1979 \(c. 2\)](#), [Sch. 4 para. 1](#)

### *Fees of Receivers of Wreck*

#### **567 Receivers fees .**

- (1) There shall be paid to every receiver the expenses properly incurred by him in the performance of his duties, and also, in respect of the several matters specified in the Twentieth Schedule to this Act, such fees . . . <sup>F355</sup> as may be directed by the Board of Trade, but a receiver shall not be entitled to any remuneration other than those payments.
- (2) The receiver shall, in addition to all other rights and remedies for the recovery of those expenses or fees, have the same rights and remedies in respect thereof as a salvor has in respect of salvage due to him.
- (3) Whenever any dispute arises in any part of the United Kingdom as to the amount payable to any receiver in respect of expenses or fees, that dispute shall be determined by the Board of Trade, and the decision of that Board shall be final.
- (4) All fees received by a receiver in respect of any services performed by him as receiver shall be carried to and form part of the Mercantile Marine Fund, but a separate account shall be kept of those fees, and the moneys arising from them shall be applied in defraying any expenses duly incurred in carrying into effect this Act in such manner as the Board of Trade direct.

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**Textual Amendments**

**F355** Words repealed by [Merchant Shipping \(Safety Convention\) Act 1949 \(c. 43\)](#), [Sch. 3](#)

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

**C142** [Ss. 567, 568](#) restricted (13.6.1992) by [S.I. 1992/1293](#), [art. 12](#), Sch

**568 Remuneration for services by coastguard .**

- (1) Where services are rendered by any officers or men of the coastguard service in watching or protecting shipwrecked property, then, unless it can be shown that those services have been declined by the owner of the property or his agent at the time they were tendered, or that salvage has been claimed and awarded for those services, the owner of the property shall pay in respect of those services remuneration according to a scale to be fixed by the Board of Trade; and that remuneration shall be recoverable by the same means, and shall be paid to the same persons, and accounted for and applied in the same manner as fees received by receivers under the provisions of this Part of this Act.
- (2) The scale fixed by the Board of Trade shall not exceed the scale by which remuneration to officers and men of the coastguard for extra duties in the ordinary service of the [<sup>F356</sup>Commissioners of Customs and Excise] is for the time being regulated.

**Textual Amendments**

**F356** Words substituted by virtue of [Customs and Excise Management Act 1979 \(c. 2\)](#), [Sch. 4 para. 1](#)

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

**C143** [Ss. 567, 568](#) restricted (13.6.1992) by [S.I. 1992/1293](#), [art. 12](#), Sch.

*Duties on Wreck*

**569 Provisions as to duties, &c. on wrecked goods.**

- (1) ..... <sup>F357</sup>
- (2) The [<sup>F358</sup>Commissioners of Customs and Excise] shall permit all goods, wares, and merchandise saved from any ship stranded or wrecked on her homeward voyage to be forwarded to the port of her original destination, and all goods, wares, and merchandise saved from any ship stranded or wrecked on her outward voyage to be returned to the port at which the same were shipped; but those Commissioners shall take security for the due protection of the revenue in respect of those goods.

**Textual Amendments**

**F357** [S. 569\(1\)](#) repealed by [Customs and Excise Act 1952 \(c. 44\)](#), [Sch. 12 Pt. I](#)

**F358** Words substituted by virtue of [Customs and Excise Management Act 1979 \(c. 2\)](#), [Sch. 4 para. 1](#)

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### Supplemental

#### 570 Powers of sheriff in Scotland.

Any matter or thing which may be done under this Part of this Act by or to a justice of the peace, or a court of summary jurisdiction, may in Scotland be done by or to the sheriff of the [<sup>F359</sup>Sheriffdom].

#### Textual Amendments

**F359** Words substituted by virtue of [Sheriff Courts \(Scotland\) Act 1971 \(c. 58\)](#), [Sch. 1 para. 1](#)

#### 571 Saving for Cinque ports.

Nothing in this Part of this Act shall prejudice or affect any jurisdiction or powers of the Lord Warden or any officers of the Cinque ports or of any court of those ports or of any court having concurrent jurisdiction within the boundaries of these ports, and disputes as to salvage arising within those boundaries shall be determined in the manner in which they have been hitherto determined.

### PART X

572– ..... <sup>F360</sup>  
633

#### Textual Amendments

**F360** Ss. 572–633, repealed by [Pilotage Act 1913 \(2 & 3 Geo. 5 c. 31\)](#), s. 60, [Sch. 2](#)

### PART XI

#### LIGHTHOUSES

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

**C144** Power to extend Pt. XI conferred by [Merchant Shipping Act 1979 \(c. 39\)](#), [s. 34\(3\)](#)

**C145** Pt. XI (ss. 634–675) amended by [Merchant Shipping \(Mercantile Marine Fund\) Act 1898 \(c. 44\)](#), [s. 1\(4\)](#); amended by [S.I. 1986/2285](#), [art. 2](#); and extended by [S.I. 1987/ 171](#), [art. 2](#)  
Pt. XI modified by [S.I. 1991/347](#), [art. 2\(1\)](#)

### General Management

#### 634 Management of lighthouses, buoys, and beacons.

(1) Subject to the provisions of this Part of this Act, and subject also to any powers or rights now lawfully enjoyed or exercised by any person or body of persons having by law or usage authority over local lighthouses, buoys, or beacons, (in this Act

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referred to as “local lighthouse authorities,”) the superintendence and management of all lighthouses, buoys, and beacons shall within the following areas be vested in the following bodies; namely,—

- (a) Throughout England and Wales, [<sup>F361</sup>and the Channel Islands,] and the adjacent seas and islands, [<sup>F362</sup>and at Gibraltar], in the Trinity House;
- (b) Throughout Scotland and the adjacent seas and islands [<sup>F361</sup>, and the Isle of Man,] in the Commissioners of Northern Lighthouses; and
- (c) Throughout Ireland and the adjacent seas and islands, in the Commissioners of Irish Lights,

and those bodies are in this Act referred to as the general lighthouse authorities, and those areas as lighthouse areas.

- (2) Subject to the provisions of this Part of this Act, the general lighthouse authorities shall respectively continue to hold and maintain all property now vested in them in that behalf in the same manner and for the same purposes as they have hitherto held and maintained the same.

#### Textual Amendments

**F361** Words in s. 634(1) repealed (*prosp.*) by 1993 c. 22, ss. 8(3)(4), 10(2), Sch. 4 para. 36, **Sch. 5 Pt.II**;

**F362** Words repealed (*prosp.*) by Merchant Shipping Act 1988 (c. 12, SIF 111), ss. 48, 57(5), 58(2), Schs. 5, 7 (with s. 58(4), **Sch. 8 para. 1**) and by 1993 c. 22, ss. 8(3)(4), 10(2), Sch. 4 para. 36, **Sch. 5 Pt.II**

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

**C146** Definition in s. 634 applied (1.4.1993) by Ports Act 1991 (c. 52, SIF 58), **s. 31(3)**; S.I. 1992/2381, **art. 2**

### 634 Management of lighthouses, buoys, and beacons. **U.K.**

- (1) Subject to the provisions of this Part of this Act, and subject also to any powers or rights now lawfully enjoyed or exercised by any person or body of persons having by law or usage authority over local lighthouses, buoys, or beacons, (in this Act referred to as “local lighthouse authorities,”) the superintendence and management of all lighthouses, buoys, and beacons shall within the following areas be vested in the following bodies; namely,—

- (a) Throughout England and Wales, and the Channel Islands, and the adjacent seas and islands, [<sup>F514</sup>and at Gibraltar], in the Trinity House;
- (b) Throughout Scotland and the adjacent seas and islands, and the Isle of Man, in the Commissioners of Northern Lighthouses; and
- (c) Throughout Ireland and the adjacent seas and islands, in the Commissioners of Irish Lights,

and those bodies are in this Act referred to as the general lighthouse authorities, and those areas as lighthouse areas.

- (2) Subject to the provisions of this Part of this Act, the general lighthouse authorities shall respectively continue to hold and maintain all property now vested in them in that behalf in the same manner and for the same purposes as they have hitherto held and maintained the same.

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#### Textual Amendments

**F514** Words repealed (*prosp.*) by Merchant Shipping Act 1988 (c. 12, SIF 111), ss. 48, 57(5), 58(2), Schs. 5, 7 (with s. 58(4), **Sch. 8 para. 1**)

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

**C195** Definition in s. 634 applied (1.4.1993) by Ports Act 1991 (c. 52, SIF 58), **s. 31(3)**; S.I. 1992/2381, **art.2**

### [<sup>F363</sup> **634A** Joint discharge of functions by general lighthouse authorities.

- (1) Two or more of the general lighthouse authorities may discharge any of their functions jointly; and for that purpose—
  - (a) those authorities may share any part of their respective establishments, and
  - (b) any of them may, in the area of another and on that other's behalf, execute any works or do any other thing which the authority have power to execute or do in their own area;

and any enactment relating to the functions in question or to the authorities by whom or the areas in which those functions are to be discharged shall be construed accordingly.
- (2) Any expenses incurred by any of the general lighthouse authorities in pursuance of this section shall be apportioned between that authority and the other authority or authorities concerned in such manner as may be agreed between them or (in default of agreement) determined by the Secretary of State.]

#### Textual Amendments

**F363** S. 634A inserted by Merchant Shipping Act 1988 (c. 12, SIF 111), **s. 41** (with s. 58(4), **Sch. 8 para. 1**)

### **635 Returns and information to Board of Trade.**

The general lighthouse authorities, and their respective officers, shall at all times give to the Board of Trade all such returns, explanations or information, in relation to the lighthouses, buoys, or beacons within their respective areas, and the management thereof, as the Board require.

### **636 Power of Board of Trade to inspect on complaint made.**

- (1) The Board of Trade may, on complaint that any lighthouse, buoy, or beacon under the management of any of the general lighthouse authorities, or any work connected therewith, is inefficient or improperly managed or is unnecessary, authorise any persons appointed by them to inspect the same.
- (2) A person so authorised may inspect the same accordingly, and make any inquiries in respect thereof, and of the management thereof, which he thinks fit; and all officers and others having the care of any such lighthouses, buoys, or beacons, or concerned in the management thereof, shall furnish any information and explanation in relation thereto which the person inspecting requires.



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637 ..... F364

**Textual Amendments**

**F364** Ss. 637, 640, 641 repealed by Merchant Shipping Act 1979 (c. 39), Sch. 7 Pt. II

*Construction of Lighthouses, &c.*

**638 General powers of lighthouse authorities.**

A general lighthouse authority shall, within their area . . . <sup>F365</sup>, have the following powers (in this Act referred to as Lighthouse powers); namely, powers—

- (a) to erect or place any lighthouse, with all requisite works, roads, and appurtenances:
- (b) to add to, alter, or remove any lighthouse:
- (c) to erect or place any buoy or beacon, or alter or remove any buoy or beacon:
- (d) to vary the character of any lighthouse or the mode of exhibiting lights therein.

**Textual Amendments**

**F365** Words repealed by Merchant Shipping Act 1979 (c. 39), Sch. 7 Pt. II

**639 Powers as to land.**

(1) A general lighthouse authority may take and purchase any land which may be necessary for the exercise of their lighthouse powers, or for the maintenance of their works or for the residence of the light keepers, and for that purpose the Lands Clauses Acts shall be incorporated with this Act and shall apply to all lighthouses to be constructed and all land to be purchased under the powers thereof.

(2) A general lighthouse authority may sell any land belonging to them.

640, ..... F366  
641.

**Textual Amendments**

**F366** Ss. 637, 640, 641 repealed by Merchant Shipping Act 1979 (c. 39), Sch. 7 Pt. II

**642 Additions to lighthouses.**

Where any improved light, or any siren or any description of fog signal has been added to an existing lighthouse, the light, siren or signal may, for the purposes of this Part of this Act, be treated as if it were a separate lighthouse.

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*Light Dues*

**643 Continuance of light dues.**

.....<sup>F367</sup> light dues shall be payable in respect of all ships whatever, except ships belonging to Her Majesty, and ships exempted from payment thereof in pursuance of this Act.

**Textual Amendments**

**F367** Words repealed by Merchant Shipping (Mercantile Marine Fund) Act 1898 (c. 44), **Sch. 4**

VALID FROM 01/05/1994

**[643A** <sup>F368</sup>**Information to determine light dues.**

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

**Textual Amendments**

**F368** S. 643A inserted (1.5.1994) by 1993 c. 22, s. 8(3), **Sch. 4 para.41**; S.I. 1993/3137, **art. 3(2)**

**644–** .....<sup>F369</sup>

**646**

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#### Textual Amendments

**F369** Ss. 644–646 repealed by [Merchant Shipping \(Mercantile Marine Fund\) Act 1898 \(c. 44\)](#), [Sch. 4](#)

### 647 Publication of light dues and regulations.

Tables of all light dues, and a copy of the regulations for the time being in force in respect thereof, shall be posted up at all custom houses in the United Kingdom, and for that purpose each of the general lighthouse authorities shall furnish copies of all such tables and regulations to the [<sup>F370</sup>Commissioners of Customs and Excise] in London, and to the chief officers of customs resident at all places where light dues are collected on account of that lighthouse authority; and those copies shall be posted up by the [<sup>F370</sup>Commissioners of Customs and Excise] at the Custom House in London, and by the chief officers of customs at the custom houses of the places at which they are respectively resident.

#### Textual Amendments

**F370** Words substituted by virtue of [Customs and Excise Management Act 1979 \(c. 2\)](#), [Sch. 4 para. 1](#)

### 648 Application and collection of light dues.

- (1) . . . . . <sup>F371</sup>
- (2) Every person appointed to collect light dues by any of the general lighthouse authorities shall collect all light dues payable at the port at which he is so appointed [<sup>F372</sup>or (as the case may be) such of those dues as he is so appointed to collect], whether they are collected on account of the authority by whom he was appointed or on account of one of the other general lighthouse authorities.
- (3) Any person so appointed to collect light dues shall pay over to the general lighthouse authority by whom he was appointed, or as that authority directs, the whole amount of light dues received by him; and the authority receiving the dues shall keep accounts thereof, and shall cause the dues to be remitted to Her Majesty's Paymaster-General in such manner as the Board of Trade direct.

#### Textual Amendments

**F371** S. 648(1) repealed by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), ss. 48, 57(5), Schs. 5, 7 (with s. 58(4), [Sch. 8 para. 1](#))

**F372** Words inserted by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 48, [Sch. 5](#) (with s. 58(4), [Sch. 8 para. 1](#))

### 649 Recovery of light dues.

- (1) The following persons shall be liable to pay light dues for any ship in respect of which light dues are payable; namely,—
- (a) The owner or master; or

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- (b) Such consignees or agents thereof as have paid, or made themselves liable to pay, any other charge on account of the ship in the port of her arrival or discharge;

and those dues may be recovered in the same manner as fines of a like amount under this Act.

- (2) Any consignee or agent (not being the owner or master of the ship) who is hereby made liable for the payment of light dues in respect of any ship, may, out of any moneys received by him on account of that ship or belonging to the owner thereof, retain the amount of all light dues paid by him, together with any reasonable expenses he may have incurred by reason of the payment of the dues or his liability to pay the dues.

#### **650 Distress on ship for light dues.**

- (1) If the owner or master of any ship fails, on demand of the authorised collector, to pay the light dues due in respect thereof, that collector may, in addition to any other remedy which he or the authority by whom he is appointed is entitled to use, enter upon the ship, and distrain the goods, guns, tackle, or any thing belonging to, or on board, the ship, and detain that distress until the light dues are paid.
- (2) If payment of the light dues is not made within the period of three days next ensuing the distress, the collector may, at any time during the continuance of non-payment, cause the distress to be appraised by two sufficient persons or sworn appraisers, and thereupon sell the same, and apply the proceeds in payment of the light dues due, together with all reasonable expenses incurred by him under this section, paying the surplus (if any), on demand, to the owner or master of the ship.

#### **651 Receipt for light dues.**

A receipt for light dues shall be given by the person appointed to collect the same to every person paying the same, and a ship may be detained at any port where light dues are payable in respect of any ship, until the receipt for the light dues is produced to the proper [<sup>F373</sup> officer of customs and excise].

#### **Textual Amendments**

**F373** Words substituted by virtue of [Customs and Excise Management Act 1979 \(c. 2\)](#), [Sch. 4 para. 1](#)

### *Local Lighthouses*

#### **652 Inspection of local lighthouses.**

- (1) It shall be the duty of each of the general lighthouse authorities, or of any person authorised by that authority for the purpose, to inspect all lighthouses, buoys, and beacons situate within their area, but belonging to or under the management of any local lighthouse authority, and to make such inquiries in respect thereof and of the management thereof as they think fit.
- (2) All officers and others having the care of any such local lighthouses, buoys, or beacons, or concerned in the management thereof, shall furnish all such information and explanations concerning the same as the general lighthouse authority require.

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- (3) All local lighthouse authorities and their officers shall at all times give to the general lighthouse authority all such returns, explanations, or information concerning the lighthouses, buoys, and beacons under their management and the management thereof, as the general lighthouse authority require.
- (4) The general lighthouse authority shall communicate to each local lighthouse authority the results of the inspection of their lighthouses, buoys, and beacons, and shall also make general reports of the results of their inspection of local lighthouses, buoys, and beacons to the Board of Trade . . . <sup>F374</sup>

#### Textual Amendments

**F374** Words repealed by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), ss. 48, 57(5), Schs. 5, 7 (with s. 58(4), Sch. 8 para. 1)

### 653 Control of local lighthouse authorities by general lighthouse authorities.

- (1) A general lighthouse authority may, within their area, with the sanction of the Board of Trade, and after giving due notice of their intention, direct a local lighthouse authority to lay down buoys, or to remove or discontinue any lighthouse, buoy, or beacon, or to make any variation in the character of any lighthouse, buoy, or beacon, or in the mode of exhibiting lights in any lighthouse, buoy, or beacon.
- (2) A local lighthouse authority shall not erect or place any lighthouse, buoy, or beacon, or remove or discontinue any lighthouse, buoy, or beacon, or vary the character of any lighthouse, buoy, or beacon, or the mode of exhibiting lights in any lighthouse, buoy, or beacon, without the sanction of the general lighthouse authority.
- [<sup>F375</sup>(3) A direction under subsection (1) of this section shall be given in writing; and it shall be the duty of a local lighthouse authority to whom such a direction is given to comply with it.]
- (5) Nothing in this section shall apply to local buoys and beacons placed or erected for temporary purposes.

#### Textual Amendments

**F375** S. 653(3) substituted (1.4.1993) for s. 653(3)(4) by [Ports Act 1991 \(c. 52, SIF 58\)](#), s. 31(6); S.I. 1992/2381, art. 2

### 654 Surrender of local lighthouses.

- (1) A local lighthouse authority may, if they think fit, surrender or sell any lighthouse, buoy, or beacon held by them to the general lighthouse authority within whose area it is situated, and that general lighthouse authority may, with the consent of the Board of Trade, accept or purchase the same.
- [<sup>F376</sup>(2) The reference in subsection (1) of this section to a lighthouse, buoy or beacon includes its appurtenances.]

**Status:** Point in time view as at 01/04/1993. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the Merchant Shipping Act 1894. (See end of Document for details)

#### Textual Amendments

**F376** S. 654(2) substituted (1.4.1993) for s. 654(2)(3) by [Ports Act 1991 \(c. 52, SIF 58\)](#), [s. 33\(4\)](#); S.I. 1992/2381, [art.2](#)

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

**C147** S. 654(1) restricted (1.4.1993) by [Ports Act 1991 \(c. 52, SIF 58\)](#), [s. 33\(3\)](#); S.I. 1992/2381, [art.2](#)

### 655 Light dues for local light.

[<sup>F377</sup>(1) If any lighthouse, buoy, or beacon is erected or placed, or reconstructed, repaired, or replaced by a local lighthouse authority, Her Majesty may, on the application of that authority, by Order in Council, fix such dues to be paid to that authority in respect of every ship which enters the port or harbour under the control of that authority or the estuary in which the lighthouse, buoy, or beacon is situate, and which passes the lighthouse, buoy, or beacon and derives benefit therefrom as Her Majesty may think reasonable.]

(2) Any [<sup>F378</sup>dues fixed under this section (in this Act referred to as] local light dues) shall be paid by the same persons and may be recovered in the same manner as light dues under this Part of this Act.

[<sup>F377</sup>(3) Her Majesty may by Order in Council reduce, alter, or increase any local light dues, so that those dues, so far as possible, may be sufficient and not more than sufficient for the payment of the expenses incurred by the local lighthouse authority in respect of the lighthouses, buoys, or beacons for which the dues are levied.]

#### Textual Amendments

**F377** S. 655(1)(3) repealed (E.W.)(S.) by [Harbours Act 1964 \(c. 40\)](#), [Sch. 6](#)

**F378** Words repealed (E.W.)(S.) by [Harbours Act 1964 \(c. 40\)](#), [Sch. 6](#)

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

**C148** S. 655 amended (E.W.)(S.) by [Harbours Act 1964 \(c. 40\)](#), [s. 29\(3\)\(4\)](#)

### 656 Application of local light dues.

(1) All local light dues shall be applied by the authority by whom they are levied for the purpose of the construction, placing, maintenance, and improvement of the lighthouses, buoys, and beacons in respect of which the dues are levied, and for no other purpose.

(2) The local lighthouse authority to whom any local light dues are paid shall keep a separate account of the receipt and expenditure of those dues, and shall, once in every year or at such other time as the Board of Trade may determine, send a copy of that account to the Board of Trade, and shall send the same in such form and shall give such particulars in relation thereto as the Board of Trade requires.

**Status:** Point in time view as at 01/04/1993. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the Merchant Shipping Act 1894. (See end of Document for details)

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

**C149** S. 656 amended (E.W.)(S.) by [Harbours Act 1964 \(c. 40\)](#), s. 29(3)(4)

#### [<sup>F379</sup> 657 Reduction of local light dues.

A local lighthouse authority may, with the consent of Her Majesty in Council (if they have not otherwise power to do so), reduce all or any dues receivable by them in respect of lighthouses, buoys, and beacons.]

#### Textual Amendments

**F379** S. 657 repealed (E.W.)(S.) by [Harbours Act 1964 \(c. 40\)](#), [Sch. 6](#)

### *Expenses of General Lighthouse Authorities*

#### [<sup>F380</sup> 658 Expenses of general lighthouse authorities to be paid out of General Lighthouse Fund.

Any expenses incurred by the general lighthouse authorities in connection with the discharge of their functions under this Part of this Act shall be paid out of the General Lighthouse Fund.]

#### Textual Amendments

**F380** S. 658 substituted by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 48, [Sch. 5](#) (with s. 58(4), [Sch. 8](#) para. 1)

#### 659 Establishments of general lighthouse authorities.

- (1) [<sup>F381</sup>The Secretary of State may determine]the establishments to be maintained by each of the general lighthouse authorities on account of the services of lighthouses, buoys, and beacons, or the annual or other sums to be paid out of [<sup>F382</sup>the General Lighthouse Fund] in respect of those establishments.
- (2) If it appears that any part of the establishments of the general lighthouse authorities is maintained for other purposes as well as for the purposes of their duties as general lighthouse authorities, [<sup>F381</sup>the Secretary of State may determine] the portion of the expense of those establishments to be paid out of [<sup>F382</sup>the General Lighthouse Fund].
- (3) An increase of any establishment or part of an establishment [<sup>F383</sup>determined]under this section shall not be made without the consent of the Board of Trade.

#### Textual Amendments

**F381** Words substituted by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 48, [Sch. 5](#) (with s. 58(4), [Sch. 8](#) para. 1)

**F382** Words substituted by virtue of [Merchant Shipping \(Mercantile Marine Fund\) Act 1898 \(c. 44\)](#), s. 1(1) (c)

**Status:** Point in time view as at 01/04/1993. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the Merchant Shipping Act 1894. (See end of Document for details)

**F383** Word substituted by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 48, **Sch. 5** (with s. 58(4), **Sch. 8** para. 1)

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

**C150** [S. 659](#) extended by [Merchant Shipping \(Amendment\) Act 1920 \(c. 2\)](#), **s. 1**

**C151** [S. 659](#) amended by [Merchant Shipping \(Amendment\) Act 1920 \(c. 2, SIF 111\)](#), **s. 1**

**660 Estimates or accounts of expenses sent to Board of Trade.**

- (1) An expense of a general lighthouse authority in respect of the services of lighthouses, buoys, and beacons shall not be paid out of [<sup>F384</sup>the General Lighthouse Fund] or allowed in account, unless either it has been allowed as part of the establishment expenses under this Act, or an estimate or account thereof has been approved by the Board of Trade.
- (2) For the purpose of approval by the Board of Trade, each of the general lighthouse authorities shall submit to that Board an estimate of all expenses to be incurred by them in respect of lighthouses, buoys, or beacons, other than expenses allowed under this Act on account of their establishments, or, in case it is necessary in providing for any sudden emergency to incur any such expense without waiting for the sanction of an estimate, shall as soon as possible submit to the Board of Trade a full account of the expense incurred.
- (3) The Board of Trade shall consider any estimates and accounts so submitted to them, and may approve them either with or without modification.

**Textual Amendments**

**F384** Words substituted by virtue of [Merchant Shipping \(Mercantile Marine Fund\) Act 1898 \(c. 44\)](#), **s. 1(1)(c)**

**661** ..... <sup>F385</sup>

**Textual Amendments**

**F385** [S. 661](#) repealed with saving by [National Loans Act 1968 \(c. 13\)](#), **Sch. 6 Pt. I**

[<sup>F386</sup>**662 Borrowing powers of general lighthouse authorities.**

- (1) A general lighthouse authority may, with the consent of the Secretary of State and the Treasury, borrow money for the purpose of defraying any expenses incurred or to be incurred by the authority in connection with the discharge of their functions under this Act.
- (2) A general lighthouse authority may, in connection with any advance to them under this section, mortgage any land or other property belonging to them.
- (3) Any sums payable by a general lighthouse authority under the terms of an advance under this section by way of principal, interest or otherwise shall be paid out of the General Lighthouse Fund.]



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**Changes to legislation:** There are currently no known outstanding effects for the Merchant Shipping Act 1894. (See end of Document for details)

#### Textual Amendments

**F386** Ss. 662, 662A, 662B substituted by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 42(1), (with s. 58(4), Sch. 8 para. 1)

#### [<sup>F387</sup> 662A] Limit on borrowing under s. 662.

- (1) The aggregate amount outstanding in respect of the principal of any sums borrowed under section 662 of this Act shall not at any time exceed £100 million.
- (2) The Secretary of State may, by order made by statutory instrument with the approval of the Treasury, increase or further increase that limit, but not by more than £33 million at a time.
- (3) An order shall not be made under subsection (2) of this section unless a draft of the order has been laid before and approved by a resolution of the House of Commons.]

#### Textual Amendments

**F387** Ss. 662, 662A, 662B substituted by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 42(1), (with s. 58(4), Sch. 8 para. 1)

#### [<sup>F388</sup> 662B] Guarantees by Secretary of State.

- (1) The Secretary of State with the consent of the Treasury may guarantee, in such manner and on such conditions as he thinks fit, the repayment of the principal of, the payment of interest on, and the discharge of any other financial obligation in connection with, any sums borrowed by a general lighthouse authority under section 662 of this Act.
- (2) Immediately after a guarantee is given under this section, the Secretary of State shall lay a statement of the guarantee before each House of Parliament, and where any sum is issued for fulfilling a guarantee so given the Secretary of State shall, as soon as possible after the end of each financial year beginning with that in which the sum is issued and ending with that in which all liability in respect of the principal of the sum and in respect of interest thereon is finally discharged, lay before each House of Parliament a statement relating to that sum.
- (3) Any sums required by the Secretary of State for fulfilling any guarantee under this section shall be paid out of money provided by Parliament.
- (4) If any sums are issued in fulfilment of any guarantee given under this section there shall be made to the Secretary of State out of the General Lighthouse Fund, at such times and in such manner as the Secretary of State may determine with the consent of the Treasury, payments of such amounts as the Secretary of State may so determine in or towards repayment of the sums so issued, and payments of interest on what is outstanding for the time being in respect of sums so issued at such rate as the Secretary of State may so determine.
- (5) The Secretary of State, with the consent of the Treasury, may vary or revoke any determination made by him under subsection (4) of this section.
- (6) Any sums received by the Secretary of State under that subsection shall be paid into the Consolidated Fund.]

*Status:* Point in time view as at 01/04/1993. This version of this Act contains provisions that are not valid for this point in time.

*Changes to legislation:* There are currently no known outstanding effects for the Merchant Shipping Act 1894. (See end of Document for details)

**Textual Amendments**

**F388** Ss. 662, 662A, 662B substituted by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 42(1), (with s. 58(4), Sch. 8 para. 1)

**663** ..... **F389**

**Textual Amendments**

**F389** S. 663 repealed by Merchant Shipping Act 1988 (c. 12, SIF 111), ss. 42(2), 57(5), Sch. 7 (with s. 58(4), Sch. 8 para. 1)

**664 Accounts of general lighthouse authorities.**

Each of the general lighthouse authorities shall account to the Board of Trade for their receipts from light dues and for their expenditure in respect of expenses paid out of [<sup>F390</sup>the General Lighthouse Fund] in such form and at such times, and with such details, explanations, and vouchers, as the Board of Trade require, and shall, when required by that Board, permit all books of accounts kept by or under their respective direction to be inspected and examined by such persons as that Board appoint for that purpose.

**Textual Amendments**

**F390** Words substituted by virtue of Merchant Shipping (Mercantile Marine Fund) Act 1898 (c. 44), s. 1(1) (c)

**665** ..... **F391**

**Textual Amendments**

**F391** S. 665 repealed by Superannuation Act 1972 (c. 11), s. 29(4), Sch. 8

*Offences in connexion with Lighthouses, &c.*

**666 Injury to lighthouses, &c.**

- (1) A person shall not wilfully or negligently—
  - (a) injure any lighthouse or the lights exhibited therein, or any buoy or beacon;
  - (b) remove, alter, or destroy any lightship, buoy, or beacon; or
  - (c) ride by, make fast to, or run foul of any lightship or buoy.
- (2) If any person acts in contravention of this section, he shall, in addition to the expenses of making good any damage so occasioned, be liable for each offence to a fine not exceeding [<sup>F392</sup> [<sup>F393</sup>£500]] [<sup>F392</sup>level 4 on the standard scale].

**Status:** Point in time view as at 01/04/1993. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the Merchant Shipping Act 1894. (See end of Document for details)

### Textual Amendments

**F392** Words “level 4 on the standard scale” substituted (E.W.S.) for “£500” by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289G](#)

**F393** Word substituted by virtue of [Merchant Shipping Act 1979 \(c. 39\), s. 43\(1\), Sch. 6 Pt. III](#)

## 667 Prevention of false lights.

- (1) Whenever any fire or light is burnt or exhibited at such place or in such manner as to be liable to be mistaken for a light proceeding from a lighthouse, the general lighthouse authority within whose area the place is situate, may serve a notice upon the owner of the place where the fire or light is burnt or exhibited, or on the person having the charge of the fire or light, directing that owner or person, within a reasonable time to be specified in the notice, to take effectual means for extinguishing or effectually screening the fire or light, and for preventing for the future any similar fire or light.
- (2) The notice may be served either personally or by delivery of the same at the place of abode of the person to be served, or by affixing the same in some conspicuous spot near to the fire or light to which the notice relates.
- (3) If any owner or person on whom a notice is served under this section fails, without reasonable cause, to comply with the directions contained in the notice, he shall be guilty of [<sup>F394</sup>an offence and liable to a fine not exceeding [<sup>F395</sup>one thousand pounds][<sup>F395</sup>level 5 on the standard scale]].
- (4) If any owner or person on whom a notice under this section is served neglects for a period of seven days to extinguish or effectually screen the fire or light mentioned in the notice, the general lighthouse authority may, by their servants or workmen, enter upon the place where the fire or light is, and forthwith extinguish the same, doing no unnecessary damage; and may recover the expenses incurred by them in so doing from the owner or person on whom the notice has been served in the same manner as fines may be recovered under this Act.

### Textual Amendments

**F394** Words substituted by [Merchant Shipping Act 1979 \(c. 39\), Sch. 6 Pt. VI para. 10](#)

**F395** Words “level 5 on the standard scale” substituted (E.W.S.) for “one thousand pounds” by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289G](#)

## *Commissioners of Northern Lighthouses*

## 668 Incorporation of Commissioners of Northern Lights.

- (1) The persons holding the following offices shall be a body corporate under the name of the Commissioners of Northern Lighthouses; (that is to say,)
  - (a) The Lord Advocate and the Solicitor-General for Scotland;
  - (b) The lords provosts of Edinburgh, Glasgow, and Aberdeen, and the [<sup>F396</sup>chairmen of the Inverness and Argyll district councils];

*Status:* Point in time view as at 01/04/1993. This version of this Act contains provisions that are not valid for this point in time.

*Changes to legislation:* There are currently no known outstanding effects for the Merchant Shipping Act 1894. (See end of Document for details)

- (c) ..... F397
  - [<sup>F398</sup>(d) The sheriffs principal of all the sheriffdoms in Scotland]
  - [<sup>F399</sup>(dd) a person nominated by the Lieutenant-Governor of the Isle of Man and appointed by the Secretary of State]
  - (e) Any person elected under this section.
- (2) The Commissioners shall have a common seal; and any five of them shall constitute a quorum, and shall have power to do all such matters and things as might be done by the whole body.
- (3) The Commissioners may elect the [<sup>F396</sup>chairman of any district council which include in their area] any part of the coasts of Scotland . . . <sup>F400</sup> to be a member of their body.
- [<sup>F401</sup>(4) The Commissioners may elect, as members of their body, not more than [<sup>F402</sup>five other persons; but a person shall not be elected in pursuance of this subsection after section 33(2) of the <sup>M9</sup>Merchant Shipping Act 1979 comes into force unless either he appears to the Commissioners to have special knowledge and experience of nautical matters or three persons who so appear are members of the said body.]
- (5) A person appointed by the Secretary of State under subsection (1)(dd) above, or a person appointed by the Commissioners under subsection (4) above, shall hold office for three years, but shall be eligible for re-appointment.]

**Textual Amendments**

**F396** Words substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 27 Pt. II para. 25](#)

**F397** [S. 668\(1\)\(c\)](#) repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 29](#)

**F398** [S. 668\(1\)\(d\)](#) substituted by [S.I. 1974/2087, Sch. II](#)

**F399** [S. 668\(1\)\(dd\)](#) inserted by [Merchant Shipping Act 1974 \(c. 43\), s. 18\(1\)\(2\)](#)

**F400** Words repealed by [S.I. 1974/2087, Sch. III](#)

**F401** [S. 668\(4\)\(5\)](#) added by [Merchant Shipping Act 1974 \(c. 43\), s. 18\(1\)\(3\)](#)

**F402** Words substituted by [Merchant Shipping Act 1979 \(c. 39\), s. 33\(2\)](#)

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**Marginal Citations**

**M9** [1979 c. 39.](#)

*Provision as to Channel Islands*

**669 Restriction on exercise of powers in Channel Islands.**

- (1) The powers of the Trinity House under this Part of this Act with respect to lighthouses, buoys, or beacons already erected or placed, or hereafter to be erected or placed, in the islands of Guernsey or Jersey (other than their powers with respect to the surrender or purchase of local lighthouses, buoys, and beacons, and the prevention of false lights) shall not be exercised without the consent of Her Majesty in Council.
- (2) Dues for any lighthouse, buoy, or beacon erected or placed in or near the islands of Guernsey, Jersey, Sark, or Alderney shall not be taken in the islands of Guernsey or Jersey without the consent of the States of those Islands respectively.

670– ..... F403  
 672

**Status:** Point in time view as at 01/04/1993. This version of this Act contains provisions that are not valid for this point in time.  
**Changes to legislation:** There are currently no known outstanding effects for the Merchant Shipping Act 1894. (See end of Document for details)

**Textual Amendments**

**F403** S. 670–672 repealed by [Merchant Shipping Act 1979 \(c. 39\)](#), [Sch. 7 Pt. II](#)

**673** ..... **F404**

**Textual Amendments**

**F404** S. 673 repealed by [Merchant Shipping \(Mercantile Marine Fund\) Act 1898 \(c. 44\)](#), [Sch. 4](#)

**674** ..... **F405**

**Textual Amendments**

**F405** S. 674 repealed with saving by [National Loans Act 1968 \(c. 13\)](#), [Sch. 6 Pt. I](#)

**675** ..... **F406**

**Textual Amendments**

**F406** S. 675 repealed by [Merchant Shipping Act 1979 \(c. 39\)](#), [Sch. 7 Pt. II](#)

**PART XII**

MERCANTILE MARINE FUND

**676 Sums payable to the Mercantile Marine Fund.**

- (1) [<sup>F407</sup>The following sums (being sums which, in accordance with this subsection as originally enacted, were required to be paid to the former Mercantile Marine Fund) shall be paid into the Consolidated Fund]—
- (a) all fees, charges, and expenses payable in respect of the survey or measurement of ships under this Act:
  - (b) all fees and other sums (other than fines and forfeitures) received by the Board of Trade under the Second and Fifth Parts of this Act, including all fees payable in respect of the medical inspection of seamen under the Second Part of this Act:
  - (c) the moneys arising from the unclaimed property of deceased seamen, except where the same are required to be paid as directed by the Accountant-General of Her Majesty’s Navy:
  - (d) any sums recovered by the Board of Trade in respect of expenses incurred in relation to distressed seamen and apprentices under the Second Part of this Act:

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- (e) all fees and other sums payable in respect of any services performed by any person employed under the authority of the Third Part of this Act:
- (f) all fees paid upon the engagement or discharge of members of the crews of fishing boats when effected before a superintendent:
- (g) ..... <sup>F408</sup>
- (h) any fees received by receivers of wreck under the Ninth Part of this Act:
- (i) ..... <sup>F409</sup>
- (k) all costs and expenses ordered by the court to be paid to the Board of Trade in pursuance of the <sup>M10</sup>Boiler Explosions Acts 1882 <sup>M11</sup> and 1890:
- [<sup>F410</sup>(l) any other sums which are by virtue of any enactment (as it has effect in accordance with subsection (1A) of this section) required to be paid into the Consolidated Fund in accordance with this section.]

[<sup>F411</sup>(1A) References (however phrased) in any enactment not contained in this section to the payment of sums into, or to the carrying of sums to the account of, the Mercantile Marine Fund shall be construed as references to the payment of sums into, or to the carrying of sums to the account of, the Consolidated Fund in accordance with this section, and connected phrases shall be construed accordingly.]

- (2) All fees mentioned in this section shall be paid at such time and in such manner as the Board of Trade direct.

#### Textual Amendments

**F407** Words substituted by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 48, **Sch. 5**, (with s. 58(4), Sch. 8 para. 1)

**F408** S. 676(1)(g) repealed by [Statute Law Revision Act 1908 \(c. 49\)](#)

**F409** S. 676(1)(i) repealed by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), ss. 48, 57(5), Schs. 5, 7 (with s. 58(4), Sch. 8 para. 1)

**F410** S. 676(1)(l) substituted by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 48, **Sch. 5** (with s. 58(4), Sch. 8 para. 1)

**F411** S. 676(1A) inserted by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 48, **Sch. 5** (with s. 58(4), Sch. 8 para. 1)

#### Marginal Citations

**M10** 1882 c. 22.

**M11** 1890 c. 35.

## 677 Application of Mercantile Marine Fund.

[<sup>F412</sup>(1) [<sup>F413</sup>The following expenses and other amounts (being expenses and amounts which, in accordance with this section as originally enacted, were payable out of the former Mercantile Marine Fund) shall be payable out of money provided by Parliament]so far as they are not paid by any private person:—

- (a) The salaries and other expenses connected with local marine boards and mercantile marine offices, and with the examinations conducted under the Second and Fourth Parts of this Act:
- (b) The salaries of all surveyors of ships and officers appointed under this Act and all expenses incurred in connexion with the survey and measurement of ships under this Act and the remuneration of medical inspectors of seamen under the Second Part of this Act:

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- (c) The salaries and expenses of persons employed under the Third Part of this Act:
  - (d) The superannuation allowances, gratuities, pensions, and other allowances granted either before or after the passing of this Act to any of the said surveyors, officers, or persons:
  - (e) The allowances and expenses paid for the relief of distressed British seamen and apprentices, including the expenses declared under this Act to be payable as such expenses, and any contributions to seamen's refuges and hospitals:
  - (f) Any sums which the Board of Trade, in their discretion, think fit to pay in respect of claims to moneys carried to the Mercantile Marine Fund on account of the property of deceased seamen, or on account of the proceeds of wreck:
  - (g) All expenses of obtaining depositions, reports, and returns respecting wrecks and casualties:
  - (h) All expenses incurred in carrying into effect the provisions of this Act with regard to receivers of wrecks and the performance of their duties under this Act:
  - (i) ..... <sup>F414</sup>
  - (k) Any pensions or other sums payable in relation to the duties formerly performed by the Trinity House in respect of lastage and ballastage in the River Thames:
  - (l) Such expenses for establishing and maintaining on the coasts of the United Kingdom proper lifeboats with the necessary crews and equipments, and for affording assistance towards the preservation of life and property in cases of shipwreck and distress at sea, and for rewarding the preservation of life in such cases, as the Board of Trade direct:
  - (m) ..... <sup>F415</sup>
  - (n) All costs and expenses incurred by the Board of Trade under the <sup>M12</sup>Boiler Explosions Acts 1882 <sup>M13</sup> and 1890 (so far as not otherwise provided for), including any remuneration paid in pursuance of section seven of the <sup>M14</sup>Boiler Explosions Act 1882, and any costs and expenses ordered by the court in pursuance of those Acts to be paid by the Board of Trade:
  - [ <sup>F416</sup>(o) any other amounts which are by virtue of any enactment (as it has effect in accordance with subsection (2) of this section) payable out of money provided by Parliament in accordance with this section.]
- (2) References (however phrased) in any enactment not contained in this section or in Part XI of this Act to the charging of amounts on, or to the payment of amounts of, the Mercantile Marine Fund shall be construed as references to the payment of amounts out of money provided by Parliament in accordance with this section, and connected phrases shall be construed accordingly.]

#### Textual Amendments

**F412** S. 677(1) renumbered from S. 677 by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 48, Sch. 5 (with s. 58(4), Sch. 8 para. 1)

**F413** Words substituted by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 48, Sch. 5 (with s. 58(4), Sch. 8 para. 1)

**F414** S. 677(1)(i) repealed by Merchant Shipping Act 1988 (c. 12, SIF 111), ss. 48, 57(5), Schs. 5, 7, (with s. 58(4), Sch. 8 para. 1)

**F415** S. 677(m) repealed by Merchant Shipping Act 1979 (c. 39), Sch. 7 Pt. II

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**Changes to legislation:** There are currently no known outstanding effects for the Merchant Shipping Act 1894. (See end of Document for details)

**F416** S. 677(1)(o) substituted by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 48, **Sch. 5** (with s. 58(4), Sch. 8 para. 1)

#### Marginal Citations

**M12** 1882 c. 22.

**M13** 1890 c. 35.

**M14** 1882 c. 22.

**678** ..... **F417**

#### Textual Amendments

**F417** S. 678 repealed by Merchant Shipping (Mercantile Marine Fund) Act 1898 (c. 44), **Sch. 4**

#### **679** Accounts and audit.

- (1) The accounts of [<sup>F418</sup>the General Lighthouse Fund] shall be deemed to be public accounts within the meaning of section thirty-three of the Exchequer and Audit Departments Act 1866, and shall be examined and audited accordingly.
- (2) The Board of Trade shall as soon as may be after the meeting of Parliament in every year cause the accounts of [<sup>F418</sup>the General Lighthouse Fund] for the preceding year to be laid before both Houses of Parliament.

#### Textual Amendments

**F418** Words substituted by virtue of Merchant Shipping (Mercantile Marine Fund) Act 1898 (c. 44), **s. 1(1)(c)**

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

**C152** S. 679 amended by Merchant Shipping (Mercantile Marine Fund) Act 1898 (c. 44), **s. 1(4)**

## PART XIII

### LEGAL PROCEEDINGS

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

**C153** Power to extend Pt. XIII conferred by Foreign Jurisdiction Act 1890 (c. 37), s. 5, **Sch. 1**

### *Prosecution of Offences*

#### **680** Prosecution of offences.

- (1) Subject to any special provisions of this Act . . . <sup>F419</sup>,—
  - (a) an offence under this Act declared to be a misdemeanor, shall be punishable by fine [<sup>F420</sup>and by imprisonment] not exceeding two years, . . . <sup>F421</sup>, but may,



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instead of being prosecuted as a misdemeanor, be prosecuted summarily in manner provided by the Summary Jurisdiction Acts, and if so prosecuted shall be punishable only with imprisonment for a term not exceeding six months, . . .<sup>F421</sup>, [<sup>F420</sup> and with a fine not exceeding one thousand pounds];

(b) an offence under this Act made punishable with imprisonment for any term not exceeding six months, . . .<sup>F421</sup>, or by a fine not exceeding [<sup>F422</sup>level 5 on the standard scale], shall be prosecuted summarily in manner provided by the Summary Jurisdiction Acts.

(2) Any offence committed or fine recoverable under a byelaw made in pursuance of this Act may be prosecuted or recovered in the same manner as an offence or fine under this Act.

(3) . . . . .<sup>F423</sup>

[<sup>F424</sup>(4) Subsection (2) above shall extend to Scotland, but save as aforesaid this section shall not extend to Scotland.]

**Textual Amendments**

**F419** Words repealed by Criminal Justice Act 1982 (c. 48, SIF 39:1), Sch. 15 para. 3(a), Sch. 16, Sch. 17 para. 18

**F420** Words substituted by Merchant Shipping Act 1979 (c. 39), Sch. 6 Pt. VII para. 9

**F421** Words omitted by virtue of (E.W.) Criminal Justice Act 1948 (c. 58), s. 1(2) and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21), s. 221(2) and repealed (N.I.) by Criminal Justice Act (Northern Ireland) 1953 (c. 14), s. 1(2)

**F422** Words substituted by Criminal Justice Act 1982 (c. 48, SIF 39:1), Sch. 14 para. 2(1)

**F423** S. 680(3) added by Criminal Justice Act 1982 (c. 48, SIF 39:1), Sch. 14 para. 2(2) and repealed by S.I. 1984/703 (N.I. 3), Sch. 7

**F424** S. 680(4) inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), Sch. 15 para. 3(b), Sch. 17 para. 18

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

**C154** S. 680(1)(a) amended by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 49(1)

**681 Application of Summary Jurisdiction Acts in certain cases.**

(1) The Summary Jurisdiction Acts shall, so far as applicable, apply—

- (a) to any proceeding under this Act before a court of summary jurisdiction, whether connected with an offence punishable on summary conviction or not; and
- (b) to the trial of any case before one justice of the peace, where, under this Act, such a justice may try the case.

(2) Where under this Act any sum may be recovered as a fine under this Act, that sum, if recoverable before a court of summary jurisdiction, shall, in England, be recovered as a civil debt, in manner provided by the Summary Jurisdiction Acts.

**682** . . . . .<sup>F425</sup>

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#### Textual Amendments

**F425** S. 682 repealed by [Courts Act 1971 \(c. 23\)](#), [Sch. 11 Pt. IV](#)

### 683 Limitation of time for summary proceedings.

- (1) Subject to any special provisions of this Act neither a conviction for an offence nor an order for payment of money shall be made under this Act in any summary proceeding instituted in the United Kingdom, unless that proceeding is commenced within six months after the commission of the offence, or after the cause of complaint arises as the case may be; or, if both or either of the parties to the proceeding happen during that time to be out of the United Kingdom, unless the same is commenced, in the case of a summary conviction within two months, and in the case of a summary order within six months, after they both first happen to arrive, or to be at one time, within the United Kingdom [<sup>F426</sup>and, in the case of a summary conviction, before the expiration of three years beginning with the date on which the offence was committed].
- (2) Subject to any special provisions of this Act neither a conviction for an offence nor an order for payment of money shall be made under this Act in any summary proceeding instituted in any British possession, unless that proceeding is commenced within six months after the commission of the offence or after the cause of complaint arises as the case may be; or if both or either of the parties to the proceeding happen during that time not to be within the jurisdiction of any court capable of dealing with the case, unless the same is commenced in the case of a summary conviction within two months, and in the case of a summary order within six months after they both first happen to arrive, or to be at one time, within that jurisdiction.
- (3) No law for the time being in force under any Act, ordinance, or otherwise, which limits the time within which summary proceedings may be instituted shall affect any summary proceeding under this Act.
- (4) . . . . . <sup>F427</sup>

#### Textual Amendments

**F426** Words inserted by [Merchant Shipping Act 1979 \(c. 39\)](#), [s. 42\(1\)](#)

**F427** S. 683(4) repealed by [Statute Law \(Repeals\) Act 1986 \(c. 12\)](#), s. 1(1), [Sch. 1 Pt. XI](#)

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

**C155** S. 683(1) restricted by [Merchant Shipping Act 1979 \(c. 39\)](#), [s. 42](#)

### *Jurisdiction*

### 684 Provision as to jurisdiction in case of offences.

For the purpose of giving jurisdiction under this Act, every offence shall be deemed to have been committed and every cause of complaint to have arisen either in the place in which the same actually was committed or arose, or in any place in which the offender or person complained against may be.

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

C156 S. 684 applied (1.5.1994) by 1993 c. 22, s. 8(3), Sch. 4 para.60; S.I. 1993/3137, art. 3(2)

**685 Jurisdiction over ships lying off the coasts.**

- (1) Where any district within which any court, justice of the peace, or other magistrate, has jurisdiction either under this Act or under any other Act or at common law for any purpose whatever is situate on the coast of any sea, or abutting on or projecting into any bay, channel, lake, river, or other navigable water, every such court, justice, or magistrate shall have jurisdiction over any vessel being on, or lying or passing off, that coast, or being in or near that bay, channel, lake, river, or navigable water, and over all persons on board that vessel or for the time being belonging thereto, in the same manner as if the vessel or persons were within the limits of the original jurisdiction of the court, justice, or magistrate.
- (2) The jurisdiction under this section shall be in addition to and not in derogation of any jurisdiction or power of a court under the Summary Jurisdiction Acts.

**686 Jurisdiction in case of offences on board ship.**

- (1) Where any person, being a British subject, is charged with having committed any offence on board any British ship on the high seas or in any foreign port or harbour or on board any foreign ship to which he does not belong, or, not being a British subject, is charged with having committed any offence on board any British ship on the high seas, and that person is found within the jurisdiction of any court in Her Majesty's dominions, which would have had cognizance of the offence if it had been committed on board a British ship within the limits of its ordinary jurisdiction, that court shall have jurisdiction to try the offence as if it had been so committed.
- (2) Nothing in this section shall affect the <sup>M15</sup>Admiralty Offences (Colonial) Act 1849.

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

C157 S. 686 restricted by Merchant Shipping Act 1970 (c. 36), s. 77(2)

**Marginal Citations**

M15 1849 c. 96.

**687 Offences committed by British seamen at foreign ports to be within Admiralty Jurisdiction.**

All offences against property or person committed in or at any place either ashore or afloat out of Her Majesty's dominions by any master, seaman, or apprentice who at the time when the offence is committed is, or within three months previously has been, employed in any British ship shall [<sup>F428</sup>be deemed to be offences of the same nature respectively, and] be liable to the same punishments respectively, and be inquired of, heard, tried, determined, and adjudged in the same manner and by the same courts and in the same places as if those offences had been committed within the jurisdiction of the Admiralty of England; and the costs and expenses of the prosecution of any such

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offence may be directed to be paid as in the case of costs and expenses of prosecutions for offences committed within the jurisdiction of the Admiralty of England.

#### Textual Amendments

**F428** Words repealed (E.W.) by [Criminal Law Act 1967 \(c. 58\)](#), [Sch. 3 Pt. III](#) and (N.I.) by [Criminal Law Act \(Northern Ireland\) 1967 \(c. 18\)](#), [Sch. 2 Pt. II](#)

VALID FROM 01/05/1994

#### [687A <sup>F429</sup> 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.]

#### Textual Amendments

**F429** Ss. 687A, 687B inserted (1.5.1994) by 1993 c. 22, s. 8(3), [Sch. 4 para.63](#); S.I. 1993/3137, [art. 3\(2\)](#)

VALID FROM 01/05/1994

#### <sup>F430</sup> 687B Offences by partners, etc in Scotland

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

#### Textual Amendments

**F430** Ss. 687A, 687B inserted (1.5.1994) by 1993 c. 22, s. 8(3), [Sch. 4 para.63](#); S.I. 1993/3137, [art. 3\(2\)](#)

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### *Damage occasioned by Foreign Ship*

#### **[<sup>F431</sup>688 Power to arrest foreign ship that has occasioned damage.**

- (1) Whenever any injury has in any part of the world been caused to any property belonging to Her Majesty or to any of Her Majesty's subjects by any foreign ship, and at any time thereafter that ship is found in any port or river of the United Kingdom or within three miles of the coast thereof, a judge of any court of record in the United Kingdom (and in Scotland the Court of Session and also the sheriff of the [<sup>F432</sup>sheriffdom] within whose jurisdiction the ship may be) may, upon its being shown to him by any person applying summarily that the injury was probably caused by the misconduct or want of skill of the master or mariners of the ship, issue an order directed to any [<sup>F433</sup>officer of customs and excise] or other officer named by the judge, court, or sheriff, requiring him to detain the ship until such time as the owner, master, or consignee thereof has made satisfaction in respect of the injury, or has given security, to be approved by the judge, court, or sheriff, to abide the event of any action, suit, or other legal proceeding that may be instituted in respect of the injury, and to pay all costs and damages that may be awarded thereon; and any [<sup>F433</sup>officer of customs and excise] or other officer to whom the order is directed shall detain the ship accordingly.
- (2) Where it appears that, before an application can be made under this section, the ship in respect of which the application is to be made will have departed from the limits of the United Kingdom or three miles from the coast thereof, the ship may be detained for such time as will allow the application to be made, and the result thereof to be communicated to the officer detaining the ship, and that officer shall not be liable for any costs or damages in respect of the detention unless the same is proved to have been made without reasonable grounds.
- (3) In any legal proceeding in relation to any such injury aforesaid, the person giving security shall be made defendant or defender, and shall be stated to be the owner of the ship that has occasioned the damage; and the production of the order of the judge, court, or sheriff made in relation to the security shall be conclusive evidence of the liability of the defendant or defender to the proceeding.]

#### **Textual Amendments**

**F431** S. 688 repealed (E.W.)(N.I.) by [Administration of Justice Act 1956 \(c. 46\)](#), s. 7, Sch. 1 Pt. I para. 7, Pt. III, [Sch. 2](#)

**F432** Words substituted by virtue of [Sheriff Courts \(Scotland\) Act 1971 \(c. 58\)](#), [Sch. 1 para. 1](#)

**F433** Words substituted by virtue of [Customs and Excise Management Act 1979 \(c. 2\)](#), [Sch. 4 para. 1](#)

### *Provisions in case of Offences Abroad*

#### **689 Conveyance of offenders and witnesses to United Kingdom or British possession.**

- (1) Whenever any complaint is made to any British consular officer—
  - (a) that any offence against property or person has been committed at any place, either ashore or afloat, out of Her Majesty's dominions by any master, [<sup>F434</sup>or seaman], who at the time when the offence was committed, or within three months before that time, was employed in any British ship; or

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- (b) that any offence on the high seas has been committed by any master, [<sup>F434</sup>or seaman] belonging to any British ship, that consular officer may inquire into the case upon oath, and may, if the case so requires, take any steps in his power for the purpose of placing the offender under the necessary restraint and of sending him as soon as practicable in safe custody to the United Kingdom, or to any British possession in which there is a court capable of taking cognizance of the offence, in any ship belonging to Her Majesty or to any of Her subjects, to be there proceeded against according to law.
- (2) The consular officer may order the master of any ship belonging to any subject of Her Majesty bound to the United Kingdom or to such British possession as aforesaid to receive and afford a passage and subsistence during the voyage to any such offender as aforesaid, and to the witnesses, so that the master be not required to receive more than one offender for every one hundred tons of his ship's registered tonnage, or more than one witness for every fifty tons of that tonnage; and the consular officer shall endorse upon the agreement of the ship such particulars with respect to any offenders or witnesses sent in her as the Board of Trade require.
- (3) Any master of a ship to whose charge an offender has been so committed shall, on his ship's arrival in the United Kingdom or in such British possession as aforesaid, give the offender into the custody of some police officer or constable, and that officer or constable shall take the offender before a justice of the peace or other magistrate by law empowered to deal with the matter, and the justice or magistrate shall deal with the matter as in cases of offences committed upon the high seas.
- (4) If any master of a ship, when required by any British consular officer to receive and afford a passage and subsistence to any offender or witness, does not receive him and afford a passage and subsistence to him, or does not deliver any offender committed to his charge into the custody of some police officer or constable as herein-before directed, he shall for each offence be liable to a fine not exceeding [<sup>F435</sup>[<sup>F436</sup>£1,0]] [<sup>F435</sup>level 5 on the standard scale].
- (5) The expense of imprisoning any such offender and of conveying him and the witnesses to the United Kingdom or to such British possession as aforesaid in any manner other than in the ship to which they respectively belong, shall, where not paid as part of the costs of the prosecution, be paid out of moneys provided by Parliament.

#### Textual Amendments

**F434** Words substituted by [Merchant Shipping Act 1970 \(c. 36\), Sch. 3 para. 2](#)

**F435** Words “level 5 on the standard scale” substituted (E.W.S) for “£1000” by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289G](#)

**F436** Word substituted by virtue of [Merchant Shipping Act 1979 \(c. 39\), s. 43\(1\), Sch. 6 Pt. IV](#)

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

**C158** [S. 689](#) restricted (1.5.1994) by [1993 c. 22, s. 8\(3\), Sch. 4 para. 6\(1\)\(a\)](#); [S.I. 1993/3137, art. 3\(2\)](#)

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### Textual Amendments

F437 S. 690 repealed by [Merchant Shipping Act 1970 \(c. 36\)](#), s. 100, [Sch. 5](#)

## 691 Depositions to be received in evidence when witness cannot be produced.

- (1) Whenever in the course of any legal proceeding instituted in any part of Her Majesty's dominions before any judge or magistrate, or before any person authorised by law or by consent of parties to receive evidence, the testimony of any witness is required in relation to the subject matter of that proceeding, then upon due proof, if the proceeding is instituted in the United Kingdom that the witness cannot be found in that kingdom, or if in any British possession that he cannot be found in that possession, any deposition that the witness may have previously made on oath in relation to the same subject matter before any justice or magistrate in Her Majesty's dominions, or any British consular officer elsewhere, shall be admissible in evidence, provided that—
  - (a) if the deposition was made in the United Kingdom, it shall not be admissible in any proceeding instituted in the United Kingdom; and
  - (b) if the deposition was made in any British possession, it shall not be admissible in any proceeding instituted in that British possession; and
  - (c) if the proceeding is criminal it shall not be admissible, unless it was made in the presence of the person accused.
- (2) A deposition so made shall be authenticated by the signature of the judge, magistrate, or consular officer before whom it is made; and the judge, magistrate, or consular officer shall certify, if the fact is so, that the accused was present at the taking thereof.
- (3) It shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition, and in any criminal proceeding a certificate under this section shall, unless the contrary is proved, be sufficient evidence of the accused having been present in manner thereby certified.
- (4) Nothing herein contained shall affect any case in which depositions taken in any proceeding are rendered admissible in evidence by any Act of Parliament, or by any Act or ordinance of the legislature of any colony, so far as regards that colony, or interfere with the power of any colonial legislature to make those depositions admissible in evidence, or to interfere with the practice of any court in which depositions not authenticated as herein-before mentioned are admissible.

### *Detention of Ship and Distress on Ship*

## 692 Enforcing detention of ship.

- (1) Where under this Act a ship is to be or may be detained, any commissioned officer on full pay in the naval or military service of Her Majesty, or any officer of the Board of Trade, or any <sup>F438</sup>officer of customs and excise], or any British consular officer may detain the ship, and if the ship after detention or after service on the master of any notice of or order for detention proceeds to sea before it is released by competent authority, the master of the ship, and also the owner, and any person who sends the ship to sea, if that owner or person is party or privy to the offence, shall be <sup>F439</sup>liable on conviction on indictment to a fine and on summary conviction to a fine not exceeding fifty thousand pounds.].

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- (2) Where a ship so proceeding to sea takes to sea when on board thereof in the execution of his duty any officer authorised to detain the ship, or any surveyor or officer of the Board of Trade or any [<sup>F438</sup>officer of customs and excise], the owner and master of the ship shall each be liable to pay all expenses of and incidental to the officer or surveyor being so taken to sea, and also [<sup>F440</sup>on conviction on indictment to a fine or on summary conviction to a fine not exceeding one thousand pounds.]
- (3) Where under this Act a ship is to be detained, an [<sup>F438</sup>officer of customs and excise] shall, and where under this Act a ship may be detained an [<sup>F438</sup>officer of customs and excise] may, refuse to clear that ship outwards or to grant a transire to that ship.
- (4) Where any provision of this Act provides that a ship may be detained until any document is produced to the proper [<sup>F438</sup>officer of customs and excise], the proper officer shall mean, unless the context otherwise requires, the officer able to grant a clearance or transire to such ship.
- [<sup>F441X2</sup>(5) In its application to the Isle of Man, this section shall have effect as if for any reference to an officer of customs there were substituted a reference to an officer of the Isle of Man Harbour Board.]
- [<sup>F442X2</sup>(5) Any reference in this section to proceeding to sea includes a reference to going on a voyage or excursion that does not involve going to sea, and references to sending or taking to sea shall be construed accordingly.]

#### Editorial Information

- X2** S. 692(5) commencing “In its application” inserted at the end of S. 692 by S.I. 1980/399, **Sch. Pt. I para. 9** and another S. 692(5) commencing “Any reference” added by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 57(4), **Sch. 6** (with s. 58(4), Sch. 8 para. 1)

#### Textual Amendments

- F438** Words substituted by virtue of Customs and Excise Management Act 1979 (c. 2), **Sch. 4 para. 1**
- F439** Words substituted by Merchant Shipping Act 1979 (c. 39), **Sch. 6 Pt. VII para. 10**
- F440** Words substituted by Merchant Shipping Act 1979 (c. 39), **Sch. 6 Pt. VII para. 11**
- F441** S. 692(5) inserted by S.I. 1980/399, **Sch. Pt. I para. 9**
- F442** S. 692(5) added by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 57(4), **Sch. 6** (with s. 58(4), Sch. 8 para. 1)

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

- C159** Power to modify s. 692 conferred by Merchant Shipping Act 1979 (c. 39), **s. 21(6)(a)**
- C160** S. 692 extended (with modifications) by S.I. 1983/708, **regs. 2, 6**
- C161** S. 692 modified by S.I. 1980/529, **reg. 30**, 1980/538, reg. 54, 1981/572, reg. 81, 1981/573, reg. 9, 1981/583, reg. 8, 1981/1729, reg. 17, 1981/1747, reg. 15, 1982/1699, regs. 3, 12(4), 1983/808, regs. 3, 14, 1983/1398, regs. 2(1)(2), 33(1)(2), 1984/408, regs. 3, 14, 1984/1203, regs. 2(4), 47, 1984/1216, regs. 1(3), 87, 1984/1217, regs. 1(3)(a), 65, 1984/1218, regs. 1(4), 147, 1985/1217, regs. 2, 9, 1985/1218, regs. 1, 76, 1985/1664, regs. 3, 15
- C162** S. 692 applied by Aviation and Maritime Security Act 1990 (c.31, SIF 39:2), **s. 35(4)**
- C163** S. 692 applied with modifications by S.I. 1989/100, **reg. 14**, 1989/1798, reg. 6
- C164** S. 692 applied with modifications (2.4.1991) by S.I. 1991/65, **reg.12**
- C165** S. 692 extended (with modifications) (1.2.1992) by S.I. 1992/3, **reg.46**
- C166** S. 692 applied (with modifications) (28.7.1992) by S.I. 1992/1564, **reg. 8**
- C167** S. 692 modified (31.10.1995) by S.I. 1995/2498, **reg. 18**
- C168** S. 692 modified (1.8.1995) by S.I. 1995/1802, **reg. 15**



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- C169** S. 692 applied (with modifications) by S.I. 1995/157, **reg. 9**
- C170** S. 692(1)–(3) applied with modifications by S.I. 1986/144, **reg. 13**, 1986/1066, reg. 29, 1986/1068, reg. 11, 1986/1073, reg. 11, 1987/549, reg. 11, 1987/550, reg. 11, 1987/551, reg. 30, 1988/38, reg. 7, 1988/1547, reg. 12, 1988/1636, reg. 9, 1988/1637, reg. 15, 1988/1638, reg. 12, 1988/1639, reg. 15, 1988/1641, reg. 16, 1988/1716, reg. 11, 1989/102, reg. 10, 1990/660, reg. 8, 1990/2605, reg. 18(1) S. 692(1)–(3) modified by: (15.2.1993) S.I. 1993/69, **reg.47**; (13.5.1993 and 1.4.1994) S.I. 1993/1072, **regs. 1,19**; (1.10.1993) S.I. 1993/1213, **reg.16**
- C171** S. 692(1) applied with modifications by Prevention of Oil Pollution Act 1971 (c.60, SIF 111), **s. 19A(2)** (as inserted by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 148(1), **Sch. 14 para. 3**)
- C172** S. 692(1)(2) applied with modifications (12.2.1992) by S.I. 1983/1398, **reg. 36(2)** (as inserted by S.I. 1992/98, **reg. 2**)
- C173** S. 692(1)–(3) applied (with modifications) (31.10.1992) by S.I. 1992/2359, **reg. 25(1)**
- C174** S. 692(1)–(3) modified (19.5.1994) by S.I. 1994/1383, **reg. 8**
- C175** S. 692(1)–(3) applied (with modifications) (1.10.1994) by S.I. 1994/2464, **reg. 11**
- C176** S. 692(2) amended by Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 49(1)**
- C177** S. 692(2) applied with modifications by Prevention of Oil Pollution Act 1971 (c. 60, SIF 111), **s. 19A(2)** (as inserted by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 148(1), **Sch. 14 para. 3**)
- C178** S. 692(5) modified by S.I. 1988/1636, reg. 9, 1988/1637, reg. 15, 1988/1638, reg. 12, 1988/1639, reg. 15, 1988/1641, reg. 16  
S. 692(5) modified (15.2.1993) by S.I. 1993/69, **reg.47**

### 693 Sums ordered to be paid leviable by distress on ship.

Where any court, justice of the peace, or other magistrate, has power to make an order directing payment to be made of any seaman’s wages, fines, or other sums of money, then, if the party so directed to pay the same is the master or owner of a ship, and the same is not paid at the time and in manner prescribed in the order, the court, justice of the peace, or magistrate who made the order may, in addition to any other powers they may have for the purpose of compelling payment, direct the amount remaining unpaid to be levied by distress or [<sup>F443</sup>poinding][<sup>F443</sup>arrestment]and sale of the ship, her tackle, furniture, and apparel.

#### Textual Amendments

- F443** Word “arrestment” substituted (S.) for word “poinding” by Debtors (Scotland) Act 1987 (c. 18, SIF 45:2), s. 108(1), **Sch. 6 para. 10** (with Sch. 7 para. 5)

### *Evidence, Service of Documents, and Declarations*

### 694 Proof of attestation not required.

Where any document is required by this Act to be executed in the presence of or to be attested by any witness or witnesses, that document may be proved by the evidence of any person who is able to bear witness to the requisite facts without calling the attesting witness or the attesting witnesses or any of them.

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## 695 Admissibility of documents in evidence.

- (1) Where a document is by this Act declared to be admissible in evidence, such document shall, on its production from the proper custody, be admissible in evidence in any court or before any person having by law or consent of parties authority to receive evidence, and, subject to all just exceptions, shall be evidence [<sup>F444</sup>and in Scotland sufficient evidence] of the matters stated therein in pursuance of this Act or by any officer in pursuance of his duties as such officer.
- (2) A copy of any such document or extract therefrom shall also be so admissible in evidence [<sup>F444</sup>and be evidence, and in Scotland sufficient evidence, of those matters] if proved to be an examined copy or extract, or if it purports to be signed and certified as a true copy or extract by the officer to whose custody the original document was entrusted, and that officer shall furnish such certified copy or extract to any person applying at a reasonable time for the same, upon payment of a reasonable sum for the same . . . <sup>F445</sup> but a person shall be entitled to have—
- (a) . . . . . <sup>F446</sup>
- (b) a certified copy of any declaration, or document, a copy of which is made evidence by this Act,  
on the payment . . . <sup>F445</sup> for each copy.
- (3) If any such officer wilfully certifies any document as being a true copy or extract knowing the same not to be a true copy or extract, he shall for each offence be guilty of a misdemeanor, and be liable on conviction to imprisonment for any term not exceeding eighteen months.
- [<sup>F447</sup>(4) If any person forges the seal, stamp, or signature of any document to which this section applies, or tenders in evidence any such document with a false or counterfeit seal, stamp, or signature thereto, knowing the same to be false or counterfeit, he shall for each offence be guilty of felony, and be liable to penal servitude for a term not exceeding seven years, or to imprisonment for a term not exceeding two years, . . . <sup>F448</sup>, and whenever any such document has been admitted in evidence, the court or the person who admitted the same may on request direct that the same shall be impounded, and be kept in the custody of some officer of the court or other proper person, for such period or subject to such conditions as the court or person thinks fit.]

### Textual Amendments

**F444** Words inserted by Merchant Shipping Act 1970 (c. 36), **Sch. 3 para. 3**

**F445** Words repealed by Merchant Shipping (Safety Convention) Act 1949 (c. 43), **Sch. 3**

**F446** S. 695(2)(a) repealed by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 57(5), **Sch. 7** (with s. 58(4), Sch. 8 para. 1)

**F447** S. 695(4) repealed (E.W.N.I.) by Forgery and Counterfeiting Act 1981 (c. 45, SIF 39:7), s. 30, **Sch. Pt. I**

**F448** Words omitted by virtue of (E.W.) Criminal Justice Act 1948 (c. 58), s. 1(2) and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21), s. 221(2) and repealed (N.I.) by Criminal Justice Act (Northern Ireland) 1953 (c. 14), s. 1(2)

### Modifications etc. (not altering text)

**C179** Reference to penal servitude to be construed as reference to imprisonment: Criminal Justice Act 1948 (c. 58), s. 1(2) Criminal Procedure (Scotland) Act 1975 (c. 21), s. 221(1) and Criminal Justice Act (Northern Ireland) 1953 (c. 14), s. 1(1)

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## 696 Service of documents.

- (1) Where for the purposes of this Act any document is to be served on any person, that document may be served—
- (a) in any case by delivering a copy thereof personally to the person to be served, or by leaving the same at his last place of abode; and,
  - (b) if the document is to be served on the master of a ship, where there is one, or on a person belonging to a ship, by leaving the same for him on board that ship with the person being or appearing to be in command or charge of the ship; and,
  - (c) if the document is to be served on the master of a ship, where there is no master, and the ship is in the United Kingdom, on the managing owner of the ship, or, if there is no managing owner, on some agent of the owner residing in the United Kingdom, or where no such agent is known or can be found, by affixing a copy thereof to the mast of the ship.
- (2) If any person obstructs the service on the master of a ship of any document under the provisions of this Act relating to the detention of ships as unseaworthy, that person shall for each offence be liable [<sup>F449</sup> on conviction on indictment to a fine or summary conviction to a fine not exceeding one thousand pounds, and], if the owner or master of the ship is party or privy to the obstruction, he shall in respect of each offence be guilty of a misdemeanor.

### Textual Amendments

**F449** Words substituted by [Merchant Shipping Act 1979 \(c. 39\), Sch. 6 Pt. VII para. 12](#)

### Modifications etc. (not altering text)

**C180** [S. 696\(2\)](#) amended by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 49\(1\)](#)

## 697 Proof, &c. of exemption.

Any exception, exemption, proviso, excuse, or qualification, in relation to any offence under this Act, whether it does or does not accompany in the same section the description of the offence, may be proved by the defendant, but need not be specified or negatived in any information or complaint, and, if so specified or negatived, no proof in relation to the matter so specified or negatived shall be required on the part of the informant or complainant.

## 698 Declarations.

Any declaration required by this Act to be taken before a justice of the peace or any particular officer may be taken before a commissioner for oaths.

### *Application of Penalties and Costs of Prosecutions*

## 699 Application of penalties.

- (1) Where any court, justice of the peace, or other magistrate, imposes a fine under this Act for which no specific application is herein provided, that court, justice of the peace, or magistrate, may if they think fit direct the whole or any part of the fine to be applied

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in compensating any person for any wrong or damage which he may have sustained by the act or default in respect of which the fine is imposed, [<sup>F450</sup>or to be applied in or towards payment of the expenses of the proceedings.]

(2) Subject to any directions under this section or to any specific application provided under this Act, all fines under this Act shall notwithstanding anything in any other Act—

- (a) if recovered in [<sup>F451</sup>Great Britain], be paid into the Exchequer in such manner as the Treasury may direct, and be carried to and form part of the Consolidated Fund; and
- (b) if recovered in any British possession, be paid over into the public treasury of that possession, and form part of the public revenue thereof.

#### Textual Amendments

**F450** Words repealed (E.W.) in relation to courts of summary jurisdiction by [Justices of the Peace Act 1949 \(c. 101\)](#), [Sch. 7 Pt. III](#)

**F451** Words substituted by [Northern Ireland Act 1962 \(c. 30\)](#), [s. 25\(1\)\(a\)](#)

## 700 Expenses of prosecution of misdemeanor.

Where an offence under this Act is prosecuted as a misdemeanor, the court before whom the offence is prosecuted [<sup>F452</sup>may] in England [<sup>F452</sup>make the same allowances and order payment of the same costs and expenses as if the offence were a felony], and in any other part of Her Majesty's dominions may make such allowances and order payment of such costs and expenses as are payable or allowable upon the trial of any misdemeanor or under any law for the time being in force therein.

#### Textual Amendments

**F452** Words repealed (E.W.) by [Criminal Law Act 1967 \(c. 58\)](#), [Sch. 3 Pt. III](#) and (N.I.) by [Criminal Law Act \(Northern Ireland\) 1967 \(c. 18\)](#), [Sch. 2 Pt. II](#)

## 701 ..... <sup>F453</sup>

#### Textual Amendments

**F453** [S. 701](#) repealed by Costs in [Criminal Cases Act 1908 \(c. 15\)](#), [Sch.](#)

### *Procedure in Scotland*

## 702 Offences punishable as misdemeanors.

[<sup>F454</sup>Subject to section 703 of this Act,]In Scotland every offence which by this Act is described as a felony or misdemeanor may be prosecuted by indictment or criminal letters at the instance of Her Majesty's Advocate before the High Court of Justiciary [<sup>F455</sup>or the sheriff court], . . . <sup>F456</sup> and shall be punishable [<sup>F455</sup>, subject to any maximum penalty prescribed in respect of any particular offence in this Act.] with a fine and with

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imprisonment . . . <sup>F457</sup> in default of payment, or with imprisonment . . . <sup>F457</sup>, or with both, as the court may think fit, or in the case of felony with penal servitude where the court is competent thereto; and such court may also, if it think fit, order payment by the offender of the costs and expenses of the prosecution.

#### Textual Amendments

**F454** Words inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), ss. 77, 79, Sch. 15 para. 4, **Sch. 17 para. 18**

**F455** Words inserted by [Merchant Shipping Act 1979 \(c. 39\)](#), **Sch. 6 Pt. VII para. 13**

**F456** Words repealed by virtue of [Merchant Shipping Act 1906 \(c. 48\)](#), **s. 82(3)**

**F457** Words omitted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\)](#), **s. 221(2)**

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

**C181** [S. 702](#) amended by [Merchant Shipping Act 1906 \(c. 48\)](#), **s. 82(3)**

**C182** Reference to penal servitude to be construed as reference to imprisonment: [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\)](#), **s. 221(1)**

### 703 Summary proceedings.

<sup>F458</sup>In Scotland—

<sup>F459</sup>(a) [ subject to section 43(2) of the <sup>M16</sup>Merchant Shipping Act 1979 (which among other things makes certain offences triable either summarily or on indictment), any offence under this Act which was triable only summarily immediately before 1st January 1980 (the date of commencement of the said section 43) shall continue to be so triable and shall be deemed to have been so triable at all times since that date;

(aa) subject to any special provisions of this Act —

(i) an offence under this Act described as a misdemeanour shall be triable either summarily or on indictment and, subject to any other penalty prescribed in respect of any particular offence, shall be punishable on summary conviction with a fine not exceeding the statutory maximum or imprisonment for a term not exceeding 6 months or both, and on conviction on indictment with a fine or imprisonment for a term not exceeding 2 years or both;

(ii) subject to sub-paragraph (i) above, an offence under this Act made punishable with imprisonment for any term not exceeding 6 months or with a fine or a maximum fine which does not exceed level 5 on the standard scale shall be triable only summarily;

(iii) an offence under this Act not falling within paragraph (a) above or the preceding provisions of this paragraph shall be triable either summarily or on indictment:

Provided that in relation to the period before the commencement of section 54 of the Criminal Justice Act 1982 sub-paragraph (ii) above shall have effect as if for “level 5 on the standard scale” there were substituted “£1,0”;

(b) all prosecutions in respect of offences under this Act in respect of which the maximum penalty which may be imposed does not exceed imprisonment for a period of three months or a fine of [<sup>F460</sup>two hundred pounds][<sup>F460</sup>level 4 on the standard scale] or both may be tried in a summary manner before the district court.]

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#### Textual Amendments

**F458** S. 703 substituted by [Merchant Shipping Act 1979 \(c. 39\)](#), [Sch. 6 Pt. VII para. 14](#)

**F459** S. 703(a)(aa) substituted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [Sch. 15 para. 5](#), [Sch. 17 para. 18](#)

**F460** Words “level 4 on the standard scale” substituted (S.) for “two hundred pounds” by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 56, [Sch. 7 para. 1](#)

#### Marginal Citations

**M16** [1979 c.39 \(111\)](#).

### 704 Form of complaint.

Where in any summary proceedings under this Act in Scotland any complaint or action is brought in whole or in part for the enforcement of a pecuniary debt or demand, the complaint may contain a prayer for warrant to arrest upon the dependence.

### 705 Warrants on summary proceedings.

On any summary proceedings in Scotland the deliverance of the sheriff clerk or clerk of the peace shall contain warrant to arrest upon the dependence in common form, where that warrant has been prayed for in the complaint or other proceeding: Provided always, that where the apprehension of any party, with or without a warrant, is authorised by this Act, such party may be detained in custody until he can be brought at the earliest opportunity before any two justices or the sheriff who may have jurisdiction in the place, to be dealt with as this Act directs, and no citation or induciae shall in such case be necessary.

### 706 Backing arrestments.

When it becomes necessary to execute such arrestment on the dependence against goods or effects of the defender within Scotland, but not locally situated within the jurisdiction of the sheriff or justices of the peace by whom the warrant to arrest has been granted, it shall be competent to carry the warrant into execution on its being endorsed by the sheriff clerk or clerk of the peace of the county or burgh respectively within which such warrant comes to be executed.

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

**C183** Reference to sheriff clerk of the county to be construed as reference to sheriff clerk of the sheriff court district concerned: [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 27 Pt. I para 1\(3\)](#)

### 707 Form of decree for payment of money.

Where on any summary proceedings in Scotland there is a decree for payment of any sum of money against a defender, the decree shall contain warrant for arrestment, poiding, and imprisonment in default of payment.

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**708 Sentence and penalties in default of defender’s appearance.**

In all summary complaints and proceedings for recovery of any penalty or sum of money in Scotland, if a defender who has been duly cited shall not appear at the time and place required by the citation, he shall be held as confessed, and sentence or decree shall be pronounced against him in terms of the complaint, with such costs and expenses as to the court shall seem fit: Provided that he shall be entitled to obtain himself reponed against any such decree at any time before the same be fully implemented, by lodging with the clerk of court a reponing note, and consigning in his hands the sum decreed for, and the costs, which had been awarded by the court, and on the same day delivering or transmitting through the post to the pursuer or his agent a copy of such reponing note; and a certificate by the clerk of court of such note having been lodged shall operate as a sist of diligence till the cause shall have been reheard and finally disposed of, which shall be on the next sitting of the court, or on any day to which the court shall then adjourn it.

**709 Orders not to be quashed for want of form and to be final.**

No order, decree, or sentence pronounced by any sheriff or justice of the peace in Scotland under the authority of this Act shall be quashed or vacated for any misnomer, informality, or defect of form; and all orders, decrees, and sentences so pronounced shall be final and conclusive, and not subject to suspension, reduction, or to any form of review or stay of execution, except on the ground of corruption or malice on the part of the sheriff or justices, in which case the suspension, or reduction must be brought within fourteen days of the date of the order, decree, or sentence complained of: Provided that no stay of execution shall be competent to the effect of preventing immediate execution of such order, decree, or sentence.

**710 General rules, so far as applicable, to extend to penalties and proceedings in Scotland.**

Nothing in this Act shall be held in any way to annul or restrict the common law in Scotland with regard to the prosecution or punishment of offences at the instance or by the direction of the Lord Advocate, or the rights of owners or creditors in regard to enforcing a judicial sale of any ship and tackle, or to give to the High Court in England any jurisdiction in respect of salvage in Scotland which it has not heretofore had or exercised.

*Prosecution of Offences in Colonies*

**711 Prosecution of offences in British possession.**

Any offence under this Act shall, in any British possession, be punishable by any court or magistrate by whom an offence of a like character is ordinarily punishable, or in such other manner as may be determined by any Act or ordinance having the force of law in that possession.

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### *Application of Part XIII*

#### **712 Application of Part XII**

This Part of this Act shall, except where otherwise provided, apply to the whole of Her Majesty's dominions.

## **PART XIV**

### **SUPPLEMENTAL**

#### *General Control of Board of Trade*

#### **713 Superintendence of merchant shipping by Board of Trade.**

The Board of Trade shall be the department to undertake the general superintendence of all matters relating to merchant shipping and seamen, and are authorised to carry into execution the provisions of this Act and of all Acts relating to merchant shipping and seamen for the time being in force, except where otherwise provided by those Acts, or except so far as those Acts relate to the revenue.

#### **714 Returns as to merchant shipping to Board of Trade.**

All consular officers and officers of customs abroad, and all . . . <sup>F461</sup> superintendents, shall make and send to the Board of Trade such returns or reports on any matter relating to British merchant shipping or seamen as the Board may require.

#### **Textual Amendments**

**F461** Words repealed by [Merchant Shipping Act 1970 \(c. 36\)](#), s. 100, [Sch. 5](#)

#### **715 Production of log books, &c. by superintendents.**

All superintendents shall, when required by the Board of Trade, produce to that Board or to its officers all official log books and other documents which are delivered to them under this Act.

#### **716 Application of fees, fines, &c.**

- (1) All fees and other sums (other than fines) received by the Board of Trade under the [<sup>F462</sup>Second, Fourth, and] Fifth Parts of this Act shall be carried to the account of the Mercantile Marine Fund.
- (2) All fines coming into the hand of the Board of Trade under this Act shall be paid into the Exchequer as the Treasury may direct, and shall be carried to and form part of the Consolidated Fund.



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#### Textual Amendments

**F462** Words repealed (*prosp.*) by [Merchant Shipping Act 1970 \(c. 36\)](#), ss. 100, 101(4), [Sch. 5](#)

### 717 Legal proceedings.

The Board of Trade may take any legal proceedings under this Act in the name of any of their officers.

#### *Expenses of Commissioners of Customs*

### 718 Expenses incurred by Commissioners of Customs.

All expenses incurred by the [<sup>F463</sup>Commissioners of Customs and Excise] in the conduct of suits or prosecutions, or otherwise in carrying into effect the provisions of this Act, shall be considered as expenses having reference to the Revenues of Customs, and shall be paid accordingly; but the Board of Trade may, with the consent of the Treasury, repay out of the Mercantile Marine Fund all or any part of such of the expenses so paid as are under this Act chargeable on that fund.

#### Textual Amendments

**F463** Words substituted by virtue of [Customs and Excise Management Act 1979 \(c. 2\)](#), [Sch. 4 para. 1](#)

#### *Documents and Forms*

### 719 Proof of documents.

All documents purporting to be made, issued, or written by or under the direction of the Board of Trade, and to be sealed with the seal of the Board, or to be signed by their secretary or one of their assistant secretaries, or, if a certificate, by one of the officers of the Marine Department, shall be admissible in evidence in manner provided by this Act.

### 720 Power of Board of Trade to prescribe forms.

- (1) Subject to any special provisions of this Act the Board of Trade may prepare and sanction forms for any book, instrument, or paper required under this Act, other than those required under the First Part of this Act, and may make such alterations in these forms as they think fit.
- (2) The Board shall cause every such form to be sealed with their seal or marked with some other distinguishing mark, and before finally issuing any form or making any alteration in a form shall cause public notice thereof to be given in such manner as the Board think requisite in order to prevent inconvenience.
- (3) The Board of Trade shall cause all such forms to be supplied at all customs houses and mercantile marine offices in the United Kingdom, free of charge, or at such moderate prices as the Board may fix, or the Board may license any person to print and sell the forms.

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- (4) Every such book, instrument, or paper, required under this Act shall be made in the form (if any) approved by the Board of Trade, or as near thereto as circumstances permit, and unless so made shall not be admissible in evidence in any civil proceeding on the part of the owner or master of any ship.
- (5) Every such book, instrument, or paper, if made in a form purporting to be the proper form, and to be sealed or marked in accordance with this section, shall be deemed to be in the form required by this Act unless the contrary is proved.

## 721 Exemption from stamp duty.

The following instruments shall be exempt from stamp duty:—

- (a) Any instruments used for carrying into effect the First Part of this Act; and
- (b) Any instruments used by or under the direction of the Board of Trade in carrying into effect the Second Fifth, Eleventh, and Twelfth Parts of this Act; and
- (c) Any instruments which are by those Parts of this Act required to be in a form approved by the Board of Trade, if made in that form.

## 722 Offences as to use of forms.

[<sup>F464</sup>(1) If any person—

- (a) forges, assists in forging, or procures to be forged, the seal or any other distinguishing mark of the Board of Trade on any form issued by the Board of Trade under this Act; or
- (b) fraudulently alters, or assists in fraudulently altering, or procures to be fraudulently altered, any such form,

that person shall in respect of each offence be guilty of a misdemeanor.]

(2) If any person—

- (a) when a form approved by the Board is, under the Second Part of this Act, required to be used, uses without reasonable cause a form not purporting to be a form so approved; or
- (b) prints, sells, or uses any document purporting to be a form approved by the Board of Trade, knowing the same not to be the form approved for the time being, or not to have been prepared or issued by the Board of Trade,

that person shall, for each offence, be liable to a fine not exceeding [<sup>F465</sup>[<sup>F466</sup>£50]][<sup>F465</sup>level 2 on the standard scale]

### Textual Amendments

**F464** S. 722(1) repealed (E.W.N.I.) by [Forgery and Counterfeiting Act 1981 \(c. 45, SIF 39:7\)](#), s. 30, **Sch. Pt. I**

**F465** Words “level 2 on the standard scale” substituted (E.W.S.) for “£50” by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 46 and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), s. 289G

**F466** Word substituted by virtue of [Merchant Shipping Act 1979 \(c. 39\)](#), s. 43(1), **Sch. 6 Pt. I**

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### *Powers for enforcing Compliance with Act*

#### **723 Powers for seeing that Act is complied with.**

- (1) Where any of the following officers, namely,—  
 any officer of the Board of Trade,  
 any commissioned officer of any of Her Majesty’s ships on full pay,  
 any British consular officer,  
 the Registrar-General of Shipping and Seamen or his assistant,  
 any chief officer of Customs in any place in Her Majesty’s dominions, or  
 any superintendent,  
 has reason to suspect that the provisions of this Act, or any law for the time being in force relating to merchant seamen or navigation, is not complied with, that officer may—
- (a) require the owner, master, or any of the crew of any British ship to produce any official log-books or other documents relating to the crew or any member thereof in their respective possession or control;
  - (b) require any such master to produce a list of all persons on board his ship, and take copies of the official log-books or documents, or of any part thereof;
  - (c) muster the crew of any such ship; and
  - (d) summon the master to appear and give any explanation concerning the ship or her crew or the official log-books or documents produced or required to be produced.
- (2) If any person, on being duly required by an officer authorised under this section, fails without reasonable cause to produce to that officer any such official log-book or document as he is required to produce under this section, [<sup>F467</sup>that person shall be liable to a fine not exceeding two hundred pounds and if any person on being so required refuses to allow such a book or document] to be inspected or copied, or impedes any muster of the crew required under this section, or refuses or neglects to give any explanation which he is required under this section to give, or knowingly misleads or deceives any officer authorised under this section to demand any such explanation, that person shall [<sup>F468</sup>be liable to a fine not exceeding one thousand pounds]

#### **Textual Amendments**

**F467** Words substituted by [Merchant Shipping Act 1979 \(c. 39\), Sch. 6 Pt. VI para. 11\(a\)](#)

**F468** Words substituted by [Merchant Shipping Act 1979 \(c. 39\), Sch. 6 Pt. VI para. 11\(b\)](#)

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

**C184** [S. 723](#) extended by [Sea Fisheries Act 1968 \(c. 77\), s. 8\(6\)](#)

[S. 723](#) restricted (1.5.1994) by [1993 c. 22, s. 8\(3\)](#), [Sch. 4 para. 6\(1\)\(a\)](#); [S.I. 1993/3137, art. 3\(2\)](#)

### *Surveyors of Ships*

#### **724 Appointment of surveyors.**

- (1) The Board of Trade may, at such ports as they think fit, appoint either generally or for special purposes, and on special occasion, any person they think fit to be a surveyor

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of ships for the purposes of this Act, and a person so appointed (in this Act referred to as a surveyor of ships) may be appointed either as a <sup>F469</sup>ship surveyor] or as an engineer surveyor or as both.

- (2) The Board of Trade may also appoint a surveyor-general of ships for the United Kingdom.
- (3) The Board of Trade may remove any surveyors of ships and fix and alter their remuneration, and may make regulations as to the performance of their duties, and in particular as to the manner in which surveys of <sup>F470</sup>ships] are to be made, as to the notice to be given by them when surveys are required, and as to the amount and payment of any travelling or other expenses incurred by them in the execution of their duties, and may by such regulations determine the persons by whom and the conditions under which the payment of those expenses is to be made.
- (4) ..... <sup>F471</sup>
- (5) The duties of a surveyor of ships shall be performed under the direction of the Board of Trade, and in accordance with the regulations made by that Board.

**Textual Amendments**  
**F469** Words substituted by virtue of [Merchant Shipping Act 1906 \(c. 48\), s. 75\(1\)](#)  
**F470** Word substituted by [Merchant Shipping \(Safety Convention\) Act 1949 \(c. 43\), s. 35\(1\)](#)  
**F471** [S. 724\(4\)](#) repealed by [Merchant Shipping Act 1979 \(c. 39\), Sch. 7 Pt. II](#)

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**Modifications etc. (not altering text)**  
**C185** [S. 724](#) amended by [Merchant Shipping Act 1906 \(c. 48\), s. 75](#), [Merchant Shipping \(Safety and Load Line Conventions\) Act 1932 \(c. 9\), s. 8](#) and [Merchant Shipping \(Safety Convention\) Act 1949 \(c. 43\), s. 4](#)

**725** ..... <sup>F472</sup>

**Textual Amendments**  
**F472** [S. 725](#) repealed by [Merchant Shipping Act 1970 \(c. 36\), s. 100, Sch. 5](#)

**726 Returns by surveyors to Board of Trade.**

- (1) Surveyors of ships shall make such returns to the Board of Trade as that Board may require with respect to the build, dimensions, draught, burden, rate of sailing, room for fuel, and the nature and particulars of machinery and equipments of ships surveyed by them.
- (2) The owner, master, and engineer of any ship so surveyed shall, on demand, give to the surveyors all such information and assistance within his power as they require for the purpose of those returns.
- (3) If any owner, master, or engineer, on being applied to for that purpose, fails without reasonable cause to give any such information or assistance, he shall for each offence be liable to a fine not exceeding [<sup>F473</sup>£200][<sup>F474</sup>level 3 on the standard scale].

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**Changes to legislation:** There are currently no known outstanding effects for the Merchant Shipping Act 1894. (See end of Document for details)

#### Textual Amendments

- F473** Words “level 3 on the standard scale” substituted (E.W.S.) for “£200” by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [s. 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [s. 289G](#)
- F474** Word substituted by virtue of [Merchant Shipping Act 1979 \(c. 39\)](#), [s. 43\(1\)](#), [Sch. 6 Pt. II](#)

### 727 Appointment of surveyors in colonies.

The governor of a British possession may appoint and remove surveyors of ships within the limits of the possession for any purposes of this Act to be carried into effect in that possession.

#### *Board of Trade Inspectors*

### 728 Appointment of inspectors to report on accidents, &c.

The Board of Trade may as and when they think fit appoint any person as an inspector to report to them—

- [<sup>F475</sup>(a) upon the nature and causes of any accident or damage which any ship has sustained or caused, or is alleged to have sustained or caused; or]
- (b) whether the provisions of this Act, or any regulations made under or by virtue of this Act [<sup>F476</sup>or the terms of any approval, licence, consent, direction or exemption given by virtue of such regulations] have been complied with; or
- (c) whether the hull and machinery of any steamship are sufficient and in good condition.

#### Textual Amendments

- F475** [S. 728\(a\)](#) repealed (*prosp.*) by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), [ss. 57\(5\), 58\(2\)](#), [Sch. 7](#), (with [s. 58\(4\)](#), [Sch. 8 para. 1](#))
- F476** Words inserted by [Merchant Shipping Act 1979 \(c. 39\)](#), [s. 26](#)

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

- C186** [S. 728](#) extended with modifications by [S.I. 1987/316](#), [reg. 16](#), [Sch. 5](#)
- C187** [S. 728](#) extended by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), [s. 39\(6\)](#), (with [s. 58\(4\)](#), [Sch. 8 para. 1](#))
- C188** [S. 728](#) extended with modifications by [S.I. 1989/1350](#), [art. 2](#), [Sch. 1](#) (as substituted by [S.I. 1990/2594](#), [art. 3](#))

729, ..... <sup>F477</sup>  
730.

#### Textual Amendments

- F477** [Ss. 729, 730](#) repealed by [Merchant Shipping Act 1979 \(c. 39\)](#), [Sch. 7 Pt. II](#)

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### *Exemption from Rates and Harbour Dues*

#### **731 Exemption from rates.**

All lighthouses, buoys, beacons, and all light dues, and other rates, fees, or payments accruing to or forming part of the [<sup>F478</sup>General Lighthouse Fund], and all premises or property belonging to or occupied by any of the general lighthouse authorities . . . <sup>F479</sup>, which are used or applied for the purposes of any of the services for which those dues, rates, fees, and payments are received, and all instruments or writings used by or under the direction of any of the general lighthouse authorities . . . <sup>F479</sup> in carrying on those services, shall be exempted from all public, parochial, and local taxes, duties, and rates of every kind.

#### **Textual Amendments**

**F478** Words substituted by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 48, **Sch. 5**, (with s. 58(4), Sch. 8 para. 1)

**F479** Words repealed by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), ss. 48, 57(5), **Sch. 5** (with s. 58(4), Sch. 8 para. 1)

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

**C189** [S.731](#) amended by [General Rate Act 1967 \(c.9\)](#), s. 41; excluded (N.I.) by [S.I. 1977/2157 \(N.I. 28\)](#), art. 37, **Sch. 11**

#### **732 Exemption from harbour dues.**

All vessels belonging to or used by any of the general lighthouse authorities or the Board of Trade shall be entitled to enter, resort to, and use any harbours, ports, docks, or piers in the United Kingdom without payment of any tolls, dues or rates of any kind.

### *Private Signals*

#### **733 Registration of private code of signals.**

- (1) If the shipowner desires to use for the purpose of a private code any rockets, lights, or other similar signals, he may register those signals with the Board of Trade, and that Board shall give public notice of the signals so registered in such manner as they think requisite for preventing those signals from being mistaken for signals of distress or signals for pilots.
- (2) The Board may refuse to register any signals which in their opinion cannot easily be distinguished from signals of distress or signals for pilots.
- (3) Where a signal has been registered under this section, the use or display thereof by any person acting under the authority of the shipowner in whose name it is registered shall not subject any person to any fine or liability under this Act for using or displaying signals improperly.

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### *Application of Act to Foreign Ships by Order in Council*

#### **734 Application by Order in Council of provisions of Merchant Shipping Acts to foreign ships.**

Where it has been made to appear to Her Majesty that the government of any foreign country is desirous that any of the provisions of this Act, or of any Act hereafter to be passed amending the same, which do not apply to the ships of that country, should so apply and there are no special provisions in this Act for that application, Her Majesty in Council may order that such of those provisions as are in the Order specified shall (subject to the limitations, if any, contained therein) apply to the ships of that country, and to the owners, masters, seamen, and apprentices of those ships, when not locally within the jurisdiction of the government of that country, in the same manner in all respects as if those ships were British ships.

### *Powers of Colonial Legislature*

#### **735 Power of colonial legislature to alter provisions of Act.**

- (1) The legislature of any British possession may by any Act or Ordinance, confirmed by Her Majesty in Council, repeal, wholly or in part, any provisions of this Act (other than those of the Third Part thereof which relate to emigrant ships), relating to ships registered in that possession; but any such Act or Ordinance shall not take effect until the approval of Her Majesty has been proclaimed in the possession, or until such time thereafter as may be fixed by the Act or Ordinance for the purpose.
- (2) Where any Act or Ordinance of the legislature of a British possession has repealed in whole or in part as respects that possession any provision of the Acts repealed by this Act, that Act or Ordinance shall have the same effect in relation to the corresponding provisions of this Act as it had in relation to the provision repealed by this Act.

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

C190 S. 735 restricted by enactments listed in Chronological Table of the Statutes

#### **736 Regulation of coasting trade by clonial legislature.**

The legislature of a British possession, may, by any Act or Ordinance, regulate the coasting trade of that British possession, subject in every case to the following conditions:—

- (a) The Act or Ordinance shall contain a suspending clause providing that the Act or Ordinance shall not come into operation until Her Majesty's pleasure thereon has been publicly signified in the British possession in which it has been passed:
- (b) The Act or Ordinance shall treat all British ships (including the ships of any other British possession) in exactly the same manner as ships of the British possession in which it is made:
- (c) Where by treaty made before the passing of the <sup>M17</sup>Merchant Shipping (Colonial) Act 1869 (that is to say, before the thirteenth day of May eighteen hundred and sixty-nine), Her Majesty has agreed to grant to any ship of any foreign state any rights or privileges in respect of the coasting trade of any

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British possession, those rights and privileges shall be enjoyed by those ships for so long as Her Majesty has already agreed or may hereafter agree to grant the same, anything in the Act or Ordinance to the contrary notwithstanding.

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

C191 S. 736 restricted by enactments listed in Chronological Table of the Statutes

**Marginal Citations**

M17 1869 c. 11.

*Provision for Foreign Places where Her Majesty has Jurisdiction*

**737 Provision for foreign places where Her Majesty has jurisdiction.**

Where under this Act anything is authorised to be done by to or before a British consular officer, and in any place outside Her Majesty's dominions in which Her Majesty has jurisdiction there is no such officer, such thing may be done in that place by to or before such officer as Her Majesty in Council may direct.

*Orders in Council*

**738 Provision as to Orders in Council.**

(1) Where Her Majesty has power under this Act, or any Act hereafter to be passed amending the same, to make an Order in Council, Her Majesty may from time to time make that Order in Council, and by Order in Council revoke alter or add to any Order so made.

(2) Every such Order in Council . . . <sup>F480</sup> shall be laid before both Houses of Parliament . . .  
F480

(3) . . . . .<sup>F481</sup>

**Textual Amendments**

F480 Words repealed by Statute Law (Repeals) Act 1986 (c. 12), s. 1(1), Sch. 1 Pt. XII

F481 S. 738(3) repealed by Statute Law (Repeals) Act 1986 (c. 12), s. 1(1), Sch. 1 Pt. XII

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

C192 S. 738 excluded by Merchant Shipping Act 1979 (c. 39), s. 49(2)

*Transmission and Publication of Documents*

**739 Notices, &c. to be in writing and provision as to sending by post.**

(1) Where by this Act any notice, authority, order, direction, or other communication is required or authorised to be given or made by the Board of Trade, or the [<sup>F482</sup>Commissioners of Customs and Excise], or the governor of a British possession,



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to any person not being an officer of such Board, or Commissioners, or governor, the same shall be given or made in writing.

- (2) Where any notice or document is by this Act required or authorised to be transmitted or sent, the same may be transmitted or sent by post.

**Textual Amendments**

**F482** Words substituted by virtue of [Customs and Excise Management Act 1979 \(c. 2\)](#), [Sch. 4 para. 1](#)

**740** ..... **F483**

**Textual Amendments**

**F483** [S. 740](#) repealed by [Statute Law \(Repeals\) Act 1986 \(c. 12\)](#), s. 1(1), [Sch. 1 Pt. XII](#)

*Exemption of Her Majesty's Ships*

**741 Exemption of Her Majesty's ships.**

This Act shall not, except where specially provided, apply to ships belonging to Her Majesty.

*Definitions and Provisions as to Application of Act*

**742 Definitions.**

In this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them; (that is to say,)

“Vessel” including any ship or boat, or any other description of vessel used in navigation;

“Ship” includes every description of vessel used in navigation not propelled by oars;

“Foreign-going Ship” includes every ship employed in trading or going between some place or places in the United Kingdom, and some place or places situate beyond the following limits; that is to say, the coasts of the United Kingdom, the Channel Islands, and Isle of Man, and the continent of Europe between the River Elbe and Brest inclusive;

“Home trade ship” includes every ship employed in trading or going within the following limits; that is to say, the United Kingdom, the Channel Islands, and Isle of Man, and the continent of Europe between the River Elbe and Brest inclusive;

“Home trade passenger ship” means every home trade ship employed in carrying passengers;

“Master” includes every person (except a pilot) having command or charge of any ship;

“Seaman” includes every person (except [<sup>F484</sup>masters and pilots] employed or engaged in any capacity on board any ship;

“Wages” includes emoluments;

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“Effects” includes clothes and documents;

“Salvor” means, in the case of salvage services rendered by the officers or crew or part of the crew of any ship belonging to Her Majesty, the person in command of that ship;

“Pilot” means any person not belonging to a ship who has the conduct thereof;

“Court” in relation to any proceeding includes any magistrate or justice having jurisdiction in the matter to which the proceeding relate;

“Colonial Court of Admiralty” has the same meaning as in the <sup>M18</sup>Colonial Courts of Admiralty Act 1890;

“A Commissioner for Oaths” means a commissioner for oaths within the meaning of the <sup>M19</sup>Commissioners for Oaths Act 1889;

“Chief Officer of Customs” includes the collector, superintendent, principal coast officer, or other chief [<sup>F485</sup>officer of customs and excise] at each port;

[<sup>F486</sup>“the Governor in Council” means the Governor of the Isle of Man (including the Lieutenant-Governor, Deputy Governor, Deputy Lieutenant-Governor, and the Acting Governor or Acting Lieutenant-Governor) acting on the advice and with the concurrence of the Executive Council of the Isle of Man;]

“Superintendent” shall, so far as respects a British possession, include any shipping master or other officer discharging in that possession the duties of a superintendent;

“Consular officer” when used in relation to a foreign country, means the officer recognised by Her Majesty as a consular officer of that foreign country;

“Bankruptcy” includes insolvency;

“Representation” means probate, administration confirmation, or other instrument constituting a person the executor, administrator, or other representative of a deceased person;

“Legal personal representative” means the person so constituted executor, administrator, or other representative, of a deceased person;

“Name” includes a surname;

“Port” includes place;

“Harbour” includes harbours properly so called, whether natural or artificial, estuaries, navigable rivers, piers, jetties, and other works in or at which ships can obtain shelter, or ships and unship goods or passengers;

“Tidal water” means any part of the sea and any part of a river within the ebb and flow of the tide at ordinary spring tides, and not being a harbour;

“Harbour authority” includes all persons or bodies of persons, corporate or unincorporate, being proprietors of, or intrusted with the duty or invested with the power of constructing, improving, managing, regulating, maintaining or lighting a harbour;

“Conservancy authority” includes all persons or bodies of persons, corporate or unincorporate, intrusted with the duty or invested with the power of conserving, maintaining, or improving the navigation of a tidal water;

“Lighthouse” shall in addition to the ordinary meaning of the word include any floating and other light exhibited for the guidance of ships, and also any sirens and any other description of fog signals, and also any addition to a lighthouse of any improved light, or any siren, or any description of fog signal;

“Buoys and beacons” includes all other marks and signs of the sea;

The Trinity House” shall mean the master wardens and assistants of the guild, fraternity, or brotherhood of the most glorious and undivided Trinity and of St.

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Clement in the parish of Deptford Strond in the county of Kent, commonly called the corporation of the Trinity House of Deptford Strond;

“The Commissioners of Irish Lights” means the body incorporated by that name under the <sup>M20</sup>Dublin Port Act 1867 and any Act amending the same;

“Lifeboat service” means the saving, or attempted saving of vessels, or of life, or property on board vessels, wrecked or aground or sunk, or in danger of being wrecked or getting aground or sinking.

Any reference to failure to do any act or thing shall include a reference to refusal to do that act or thing.

**Textual Amendments**

**F484** Words substituted by [Merchant Shipping Act 1970 \(c. 36\), Sch. 3 para. 4](#)

**F485** Words substituted by virtue of [Customs and Excise Management Act 1979 \(c. 2\), Sch. 4 para. 1](#)

**F486** Words inserted by [S.I. 1980/399, Sch. Pt. I para. 10](#)

**Marginal Citations**

**M18** 1890 c. 27.

**M19** 1889 c. 10.

**M20** 1867 c. lxxxii.

**743 Application of Act to ships propelled by electricity, &c.**

Any provisions of this Act applying to steamers or steamships shall apply to ships propelled by electricity or other mechanical power with such modifications as the Board of Trade may prescribe for the purpose of adaptation.

**744** ..... <sup>F487</sup>

**Textual Amendments**

**F487** S. 744 repealed by [Merchant Shipping Act 1988 \(c. 12, SIF 111\), ss. 48, 57\(5\), Schs. 5, 7 \(with s. 58\(4\), Sch. 8 para. 1\)](#)

*Repeal and Savings*

**745 Repeal.**

(1) ..... <sup>F488</sup>

- (a) Any Order in Council, licence, certificate, byelaw, rule, or regulation made or granted under any enactment hereby repealed shall continue in force as if it had been made or granted under this Act;
- (b) Any officer appointed, any body elected or constituted, and any . . . <sup>F489</sup> office established, under any enactment hereby repealed shall continue and be deemed to have been appointed, elected, constituted, or established, as the case may be, under this Act;
- (c) Any document referring to any Act or enactment hereby repealed shall be construed to refer to this Act, or to the corresponding enactment of this Act;

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- (d) Any penalty may be recovered, and any offence may be prosecuted, under any provision of the Merchant Shipping Acts, 1854 to 1892, which is not repealed by this Act, in the same manner as fines may be recovered and offences prosecuted under this Act;
- (e) Ships registered under the <sup>M21</sup>Merchant Shipping Act 1854, and the Acts amending the same, or duly registered before the passing of the <sup>M22</sup>Merchant Shipping Act 1854, shall be deemed to have been registered under this Act;
- (f) Nothing in this Act shall affect the <sup>M23</sup>Behring Sea Award Act 1894, and that Act shall have effect as if this Act had not passed.
- (2) The mention of particular matters in this section shall not be held to prejudice or affect the general application of [<sup>F490</sup>sections 16(1) and 17(2)(a) of the <sup>M24</sup>Interpretation Act 1978], with regard to the effect of repeals.

The tonnage of every ship not measured or remeasured in accordance with the <sup>M25</sup>Merchant Shipping Tonnage Act 1889, shall be estimated for all purposes as if any deduction prohibited by the Merchant Shipping (Tonnage) Act 1889, had not been made, and the particulars relating to the ship's tonnage in the registry book and in her certificate of registry shall be corrected accordingly.

#### Textual Amendments

**F488** Words repealed by [Statute Law Revision Act 1908 \(c. 49\)](#)

**F489** Words repealed by [Merchant Shipping Act 1970 \(c. 36\), s. 100, Sch. 5](#)

**F490** Words substituted by virtue of [Interpretation Act 1978 \(c. 30\), s. 25\(2\)](#)

#### Marginal Citations

**M21** 1854 c. 120.

**M22** 1854 c. 120.

**M23** 1894 c. 2.

**M24** 1978 c. 30.

**M25** 1889 c. 43.

#### 746 Savings.

- (1) ..... <sup>F491</sup>
- (2) Any local Act which repeals or affects any provisions of the Acts repealed by this Act shall have the same effect on the corresponding provisions of this Act as it had on the said provisions repealed by this Act.
- (3) ..... <sup>F492</sup>

#### Textual Amendments

**F491** S. 746(1) repealed by [Statute Law \(Repeals\) Act 1977 \(c. 18\), Sch. 1 Pt. XV](#)

**F492** S. 746(3) repealed by [Statute Law Revision Act 1953 \(2 & 3 Eliz. 2 c. 5\)](#)

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*Short Title and Commencement*

**747 Short title.**

This Act may be cited as the Merchant Shipping Act 1894.

**748** ..... **F493**

**Textual Amendments**

**F493** S. 748 repealed by Statute Law Revision Act 1908 (c. 49)

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# SCHEDULES

## FIRST SCHEDULE

### <sup>F494</sup>PART I

**Textual Amendments**

**F494** Sch. 1 Pt. I repealed by Merchant Shipping Act 1988 (c. 12, SIF 111), ss. 10, 57(5), Sch. 1 para. 52(a), Sch. 7 (with s. 58(4), Sch. 8 para. 1)

..... <sup>F494</sup>

### PART II

*Documents of which the forms are to be prescribed by the Commissioners of Customs and sanctioned by the Board of Trade*

Certificate of surveyor.

Declaration of ownership by individual owner.

Declaration of ownership on behalf of a corporation as owner.

Certificate of registry.

Provisional certificate.

Declaration of ownership by individual transferee.

Declaration of ownership on behalf of a corporation as transferee.

Declaration of owner taking by transmission.

Declaration of mortgagee taking by transmission.

..... <sup>F495</sup>

**Textual Amendments**

**F495** Words repealed by Merchant Shipping Act 1988 (c. 12, SIF 111), ss. 10, 57(5), Sch. 1 para. 52(b)(i), Sch. 7 (with s. 58(4), Sch. 8 para. 1)

..... <sup>F495</sup>

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F495

[<sup>F496</sup>Bill of Sale]

**Textual Amendments**

**F496** Words added by [Merchant Shipping Act 1965 \(c. 47\)](#), [Sch. 1](#)

[<sup>F497</sup>Mortgage.]

**Textual Amendments**

**F497** Words added by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 10, [Sch. 1 para. 52\(b\)\(ii\)](#) (with s. 58(4), [Sch. 8 para. 1](#))

[<sup>F497</sup>Transfer of Mortgage.]

**F498F498** SECOND SCHEDULE

**Textual Amendments**

**F498** [Sch. 2](#) repealed by [Merchant Shipping Act 1965 \(c. 47\)](#), [Sch. 2](#)

F498

**F499F499** THIRD SCHEDULE,  
FOURTH SCHEDULE

**Textual Amendments**

**F499** [Schs. 3, 4](#) repealed by [Merchant Shipping \(Safety Convention\) Act 1949 \(c. 43\)](#), [Sch. 3](#)

F499

FIFTH SCHEDULE

REGULATIONS TO BE OBSERVED WITH RESPECT TO ANTI-SCORBUTICS

*Furnishing of Anti-Scorbutics*

- (1) The anti-scorbutics to be furnished shall be lime or lemon juice, or such other anti-scorbutics (if any) of such quality, and composed of such materials, and packed and kept in such manner as Her Majesty by Order in Council may direct.

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- (2) No lime or lemon juice shall be deemed fit and proper to be taken on board ship, for the use of the crew or passengers thereof, unless it has been obtained from a bonded warehouse for and to be shipped as stores.
- (3) Lime or lemon juice shall not be so obtained or delivered from a warehouse as aforesaid, unless—
  - (a) it is shown, by a certificate under the hand of an inspector appointed by the Board of Trade, to be proper for use on board ship, the certificate to be given upon inspection of a sample, after deposit of the lime or lemon juice in the warehouse; and
  - (b) it contains fifteen per cent. of proper and palatable proof spirit, to be approved by the inspector or by the proper <sup>[F500]</sup>officer of customs and excise, and to be added before or immediately after the inspection thereof; and
  - (c) it is packed in such bottles at such time and in such manner and is labelled in such manner as the <sup>[F500]</sup>Commissioners of Customs and Excise may direct.
- (4) If the lime or lemon juice is deposited in a bonded warehouse, and has been approved as aforesaid by the inspector, the spirit, or the amount of spirit necessary to make up fifteen per cent., may be added in the warehouse, without payment of any duty thereon; and when any spirit has been added to any lime or lemon juice, and the lime or lemon juice has been labelled as aforesaid, it shall be deposited in the warehouse for delivery as ship's stores only, upon such terms and subject to such regulations of the <sup>[F500]</sup>Commissioners of Customs and Excise as are applicable to the delivery of ship's stores from the warehouse.
- (5) The lime or lemon juice with which a ship is required by this Act to be provided shall be taken from the warehouse duly labelled as aforesaid, and the labels shall remain intact until twenty-four hours at least after the ship has left her port of departure on her foreign voyage.

#### Textual Amendments

**F500** Words substituted by virtue of [Customs and Excise Management Act 1979 \(c. 2\)](#), [Sch. 4 para. 1](#)

#### *Serving out of Anti-Scorbutics*

- (6) The lime or lemon juice shall be served out with sugar (the sugar to be in addition to any sugar required by the agreement with the crew).
- (7) The anti-scorbutics shall be served out to the crew so soon as they have been at sea for ten days; and during the remainder of the voyage, except during such time as they are in harbour and are there supplied with fresh provision.
- (8) The lime or lemon juice and sugar shall be served out daily at the rate of an ounce each per day to each member of the crew, and shall be mixed with a due proportion of water before being served out.
- (9) The other anti-scorbutics, if any, provided in pursuance of an Order in Council shall be served out at such times and in such quantities as the Order in Council directs.

#### SIXTH SCHEDULE

- (1) Every place in a ship occupied by seamen or apprentices, and appropriated to their use, shall be such as to make the space which it is required by the Second Part of this Act to contain available for the proper accommodation of the men who are to occupy it, and shall be securely constructed, properly lighted and ventilated, properly protected from weather



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and sea, and as far as practicable properly shut off and protected from effluvium which may be caused by cargo or bilge water.

(2- ..... F501  
5)

**Textual Amendments**

**F501** Sch. 6 paras. (2)–(5) repealed by Merchant Shipping Act 1965 (c. 47), Sch. 2

*Maximum Fees for Inspection*

6 7 ..... F502

8 When the accommodation is inspected at the same time with the measurement of the tonnage, no separate fee shall be charged for the inspection.

**Textual Amendments**

**F502** Sch. 6 paras. (6)(7) repealed by Merchant Shipping (Safety Convention) Act 1949 (c. 43), Sch. 3

F503F503  
SEVENTH  
SCHEDULE,  
EIGHTH SCHEDULE

**Textual Amendments**

**F503** Schs. 7, 8 repealed by Merchant Shipping Act 1970 (c. 36), s. 100, Sch. 5

..... F503

F504F504  
NINTH SCHEDULE

**Textual Amendments**

**F504** Sch. 9 repealed by Merchant Shipping (Safety Convention) Act 1949 (c. 43), Sch. 3

..... F504

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F505F505 TENTH–  
FOURTEENTH SCHEDULES

**Textual Amendments**

**F505** Schs. 10–14 repealed by [Merchant Shipping Act 1906 \(c. 48\)](#), **Sch. 2**

F505

F506F506 FIFTEENTH  
SCHEDULE

**Textual Amendments**

**F506** Sch. 15 repealed by [Merchant Shipping Act 1937 \(c. 23\)](#), **s. 2**

F506

F507F507 SIXTEENTH  
SCHEDULE

**Textual Amendments**

**F507** Schs. 16, 18 repealed by [Merchant Shipping \(Safety Convention\) Act 1949 \(c. 43\)](#), **Sch. 3**

F507

SEVENTEENTH SCHEDULE

Section 429.

LIFE SAVING APPLIANCES

*Constitution of the Committee*

- (1) Three shipowners selected by the Council of the Chamber of Shipping of the United Kingdom.
- (2) One shipowner selected by the Shipowners Associations of Glasgow and one shipowner selected by the Liverpool Steamship Owners Association and the Liverpool Shipowners Association conjointly.
- (3) Two shipbuilders selected by the Council of the Institution of Naval Architects.
- (4) Three persons practically acquainted with the navigation of vessels selected by the shipmasters societies recognised by the Board of Trade for this purpose.
- (5) Three persons being or having been able-bodied seamen selected by seamen's societies recognised by the Board of Trade for this purpose.

**Status:** Point in time view as at 01/04/1993. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the Merchant Shipping Act 1894. (See end of Document for details)

- (6) Two persons selected conjointly by the Committee of Lloyd's the Committee of Lloyd's Register Society, and the Committee of the Institute of London Underwriters.

EIGHTEENTH  
SCHEDULE.....  
F508

**Textual Amendments**

**F508** Schs. 16, 18 repealed by [Merchant Shipping \(Safety Convention\) Act 1949 \(c. 43\)](#), [Sch. 3](#)

NINETEENTH SCHEDULE

**PART I.**

STATEMENTS IN THE CASE OF SALVAGE BY HER MAJESTY'S SHIPS

- (1) Particulars to be stated both by the salvor and by the master or other person in charge of the vessel, cargo, or property saved:—
- (a) The place, condition, and circumstances in which the vessel, cargo, or property was at the time when the services were rendered for which salvage is claimed:
  - (b) The nature and duration of the services rendered.
- (2) Additional particulars to be stated by the salvor:—
- (a) The proportion of the value of the vessel, cargo, and property, and of the freight which he claims for salvage, or the values at which he estimates the vessel, freight, cargo, and property respectively, and the several amounts that he claims for salvage in respect of the same:
  - (b) Any other circumstances which he thinks relevant to the said claim.
- (3) Additional particulars to be stated by the said master or other person in charge of the said vessel, cargo, or property:—
- (a) A copy of the certificate of registry of the said vessel, and of the endorsements thereon, stating any change which (to his knowledge or belief) has occurred in the particulars contained in the certificate; and stating also to the best of his knowledge and belief, the state of the title to the vessel for the time being, and of the incumbrances and certificates of mortgage or sale, if any, affecting the same, and the names and places of business of the owners and incumbrancers:
  - (b) the name and place of business or residence of the freighter (if any) of the said vessel, and the freight to be paid for the voyage on which she then is:
  - (c) A general account of the quantity and nature of the cargo at the time the salvage services were rendered:
  - (d) The name and place of business or residence of the owner of the cargo and of the consignee thereof:
  - (e) The values at which the master or person making the statement estimates the vessel, cargo, and property, and the freight respectively, or if he thinks fit, in lieu of the estimated value of the cargo, a copy of the vessel's manifest:

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**Changes to legislation:** There are currently no known outstanding effects for the Merchant Shipping Act 1894. (See end of Document for details)

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- (f) The amounts which the master thinks should be paid as salvage for the services rendered:
- (g) An accurate list of the property saved in cases where the vessel is not saved:
- (h) An account of the proceeds of the sale of the vessel, cargo, or property, in cases where the same or any of them are sold at the port where the statement is made:
- (i) The number, capacities, and condition of the crew of the vessel at the time when the services were rendered; and
- (k) Any other circumstances he thinks relevant to the matters in question.

## PART II

### SALVAGE BOND

*[N.B.-Any of the Particulars not known, or not required, by reason of the Claim being only against the Cargo, &c., may be omitted.]*

Whereas certain salvage services are alleged to have been rendered by the vessel [ insert names of vessel and of commander ], commander, to the merchant vessel [ insert names of vessel and master ], master, belonging to [ name and place of business or residence of owner of vessel ], freighted by [ the name of the freighter ], and to the cargo therein, consisting of [ state very shortly the descriptions and quantities of the goods, and the names and addresses of their owners and consignees ]:

And whereas the said vessel and cargo have been brought into the port of [ insert name and situation of port ], and a statement of the salvage claim has been sent to [ insert the name of the consular officer or judge of the Colonial Court of Admiralty or Vice-Admiralty Court and of the office he fills ], and he has fixed the amount to be inserted in this bond at the sum of [ state the sum ].

Now I, the said [ master's name ], do hereby, in pursuance of the Merchant Shipping Act, 1894, bind the several owners for the time being of the said vessel and of the cargo therein and of the freight payable in respect of that cargo and their respective heirs, executors, and administrators, to pay among them such sum not exceeding the said sum of [ state the sum fixed ], in such proportions and to such persons as [ if the parties agree on any other court, substitute the name of it here ], the High Court in England shall adjudge to be payable as salvage for the services so alleged to have been rendered as aforesaid.

In witness whereof I have hereunto set my hand and seal, this [ insert the date ] day of

Signed, sealed, and delivered by the said [ master's name ].(L.S.)

In the presence of [ name of consular officer or judge of the Colonial Court of Admiralty or Vice-Admiralty Court, and of the office he fills. ]

**Status:**

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**Changes to legislation:**

There are currently no known outstanding effects for the Merchant Shipping Act 1894.