



# Merchant Shipping Act 1894

1894 CHAPTER 60 57 and 58 Vict

## PART I

### REGISTRY

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

- C1 Pt. I extended by [Merchant Shipping Act 1921 \(c. 28\), s. 1](#)
- C2 Pt. I (ss. 1–91) excluded by [Merchant Shipping Act 1983 \(c. 13, SIF 111\), s. 5\(2\)](#)
- C3 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)
- C4 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)
- C5 Pt. I (ss. 1–91) excluded by [S.I. 1988/1911, art. 5](#)
- C6 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)
- C7 Pt. I (ss. 1–91) extended by [S.I. 1988/1926, reg. 45](#)

1–3 ..... F1

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- F1 Ss. 1–3 repealed and superseded by [Merchant Shipping Act 1988 \(c. 12, SIF 111\), ss. 1, 10, 57\(5\), Sch. 1 para. 1, Sch. 7](#), (with s. 58(4), Sch. 8 para. 1)

*Status: Point in time view as at 01/02/1991.*

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

### 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)

**F3** S. 4(2) repealed by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), ss. 10, 57(5), Sch. 1 para. 2(b), [Sch. 7](#), (with s. 58(4), Sch. 8 para. 1)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

*Status: Point in time view as at 01/02/1991.*

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

## 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)

**C8** [S. 6](#) excluded by [Merchant Shipping Act 1965 \(c. 47\)](#), s. 1(4)

**C9** [S. 6](#) applied with modifications by [S.I. 1988/1926](#), reg. 60, **Sch. 6**

## 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.]

*Status: Point in time view as at 01/02/1991.*

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- (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.

#### 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)

- C10** [Ss. 8-12](#) restricted (13.6.1992) by [S.I. 1992/1293](#), [art. 12](#), [Sch.](#)

*Status: Point in time view as at 01/02/1991.*

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

## 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) .....<sup>F15</sup>
- (iv) A statement of the number of shares in the ship [<sup>F16</sup>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:]
- [<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)

- C11** 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:—

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- (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 [F19Commissioners 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.”
- (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]][F20level 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)

- C12** [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.

*Status: Point in time view as at 01/02/1991.*

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

#### 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)

**C13** [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)

**C14** [Ss. 8-12](#) restricted (13.6.1992) by [S.I. 1992/1293](#), **art. 12**, Sch.

### 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.

*Status: Point in time view as at 01/02/1991.*

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- (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>F26</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](#)
- 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—



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- (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 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 ..... <sup>F34</sup>

**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)

*Status: Point in time view as at 01/02/1991.*

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

## 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 [F35 [F36 £200]] [F35 level 3 on the standard scale].

### 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 [F37 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 [F38 and the registry of the ship shall terminate forthwith.]
- [F39(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.]

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(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
- (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)

- C15** [S. 21\(1\)](#) amended by [Merchant Shipping Act 1906 \(c. 48\)](#), s. 52(2)

*Status: Point in time view as at 01/02/1991.*

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

## [<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—
  - (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)

*Status: Point in time view as at 01/02/1991.*

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## *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)

### **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.

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- (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 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

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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.

#### 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)

**C16** S. 28(1) applied with modifications by [S.I. 1988/1926](#), reg. 60, [Sch. 6](#)

**C17** 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

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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 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.



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#### 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)

**C18** [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 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.

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#### 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)
- 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 . . . . . <sup>F65</sup>

#### 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.

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- (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 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

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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 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.

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### 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 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.

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

[<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.
- (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

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(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.
- (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)

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

#### 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 . . . <sup>F83</sup> or be receivable by the registrar, and, subject to any rights and powers appearing by the register . . . <sup>F83</sup> 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 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)



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### *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)**

- C19** S. 58 applied with modifications by S.I. 1988/1926, reg. 60, **Sch. 6**  
**C20** 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.]
- (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 [<sup>F86</sup>[<sup>F87</sup>£200]] [<sup>F86</sup>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)**

- C21** S. 59 extended by S.I. 1989/1991, **arts. 7, 9**  
**C22** S. 59 restricted (13.6.1992) by S.I. 1992/1293, **art. 12**, Sch.

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*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 [<sup>F88</sup>Commissioners 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) . . . . . <sup>F89</sup>
- (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.

**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

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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 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.

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- (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 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](#)

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- 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](#)

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

- C23** [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.

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#### 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 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)

**C24** [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

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(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,
- 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)**

**C25** S. 72 excluded by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 25(2), (with s. 58(4), Sch. 8 para. 1)

*Status: Point in time view as at 01/02/1991.*

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

### 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)
- 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)

- C26** [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—
  - (a) 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
  - (b) on entering or leaving any foreign port, and
  - (c) if of fifty tons gross tonnage or upwards, on entering or leaving any British port.



*Status: Point in time view as at 01/02/1991.*

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

- (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 [F122[F123£200]][F122level 3 on the standard scale]
- [F124(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)

- C27** 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**)

## 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; [F125or
- (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, . . . F126 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 [F127or 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 [F128or 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

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

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)

- C28** 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
- C29** S. 76 applied by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 22(10)

## 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>F139</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>F140</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>F141</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>F142</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

- F139** 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)

*Status: Point in time view as at 01/02/1991.*

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

- F140** 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)
- F141** 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)
- F142** 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)**

- C33** 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
- C34** [S. 76](#) applied by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), [s. 22\(10\)](#)

*Measurement of Ship and Tonnage*

**77–81** ..... **F129**

**Textual Amendments**

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

**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)**

- C30** [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)**

- C31** [S. 83](#) restricted by [Merchant Shipping Act 1965 \(c. 47\)](#), [s. 1\(4\)](#)

*Status: Point in time view as at 01/02/1991.*

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

## 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 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)

*Status: Point in time view as at 01/02/1991.*

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

**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)**

**C32** 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)

**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)

**Status:**

Point in time view as at 01/02/1991.

**Changes to legislation:**

There are currently no known outstanding effects for the Merchant Shipping Act 1894, Part I.