

---

STATUTORY INSTRUMENTS

---

**1988 No. 1926**

**The Merchant Shipping (Registration  
of Fishing Vessels) Regulations 1988**

**PART III**

**MORTGAGES**

**Form of Mortgages**

- (a) (a) A mortgage produced for registration in pursuance of paragraph 2(3) of Schedule 3 to the Act,
- (b) a transfer of a registered mortgage, and
- (c) a discharge of a registered mortgage

shall be in a form approved by the Secretary of State, in each case with appropriate attestation.

**Evidence of transmission of mortgage**

**40.** Evidence of transmission of a mortgage produced pursuant to paragraph 7 of Schedule 3 to the Act shall be that specified in sub-paragraph (a), (b) or (c) of regulation 12.

**Subsisting mortgages on vessels no longer registered**

**41.** Any undischarged mortgage registered in a Part I register or in a Scottish Register in respect of a fishing vessel which is not transferred to the Register pursuant to Part VII of these Regulations shall, notwithstanding the repeal of the enactment under which such Register was established and the provisions of section 13(3) of the Act, continue in effect; and such undischarged mortgage may, if the vessel comes within the jurisdiction of any court in the United Kingdom which has jurisdiction to enforce it, be enforced by any lawful means without prejudice, where the fishing vessel has been sold under a judgment of a court, to the effect of that judgment.

**Subsisting mortgages on fishing vessels registered anew**

**42.** Any mortgage registered under Part I of the 1894 Act or the Scottish Act which remains undischarged and which relates to a fishing vessel which was not transferred to the Register during the Transitional Period but becomes a registered fishing vessel with full registration after 31st March 1989, shall (subject to regulation 44) be transferred to the Register and registered therein as a mortgage in respect of the vessel in question.

**Priority of subsisting mortgages**

**43.** The priority of any mortgage so transferred shall, notwithstanding paragraphs 3 and 4 of Schedule 3 to the Act, be determined as if it had been produced to the Secretary of State for the

purposes of registration on the date on which it was registered under Part I of the 1894 Act or the Scottish Act as the case may be.

#### **Deletion of registered mortgages**

44. Where, notwithstanding that a mortgage was recorded in a Part I register or a Scottish Act register in respect of a fishing vessel or is recorded in the Register as undischarged, there is reason to doubt whether it in fact remains undischarged, the Secretary of State may request the mortgagee in writing by recorded delivery post sent to the address recorded in the Part I or Scottish Act register and to any other address which the Secretary of State has reason to believe is the present address of the mortgagee, to state whether the mortgage remains undischarged; and if the mortgagee fails to respond within 30 days of the date of dispatch of that request or states that the mortgage has been discharged or is to the best of his knowledge no longer subsisting, the Secretary of State may delete that mortgage from the Register.

#### **Mortgages transferred to Part I register**

45. Where an undischarged mortgage is registered in the Register in respect of a vessel and that vessel becomes a ship registered under Part I of the 1894 Act, the undischarged mortgage shall be transferred to the Part I register in which the ship is registered and shall thereafter for all the purposes of the said Part I be treated as a mortgage registered under that Part.

#### **Priority of transferred mortgages**

46. Any such transferred mortgage shall be entitled to priority according to the date at which it was registered in the Register and section 33 of the 1894 Act shall be construed accordingly.

#### **Notice of intended mortgage**

47. A person who is an intending mortgagee under a proposed mortgage of a fishing vessel or of a share in any such vessel, and desires that interest to be recorded pursuant to paragraph 4 of Schedule 3 of the Act, may give notice to the Secretary of State of his intention to register a mortgage. The notice shall be in a form approved by the Secretary of State and shall contain the following particulars:—

- (a) if the vessel is a registered vessel, the name, RSS number and Port Letters and Number of the vessel, the name, address and signature of the intending mortgagor, and the number of shares to be mortgaged, and the name and address of the intending mortgagee;
- (b) if the vessel is not for the time being a registered vessel:—
  - (i) the present name of the vessel;
  - (ii) the intended name of the vessel;
  - (iii) the intended port of registry;
  - (iv) the approximate length of the vessel;
  - (v) where the vessel is registered outside the United Kingdom a copy of its Certificate of Registry or other document evidencing that registration and giving its port of registry and its registered port letters and numbers, if any;
  - (vi) where the vessel is a new vessel, the builder's certificate or, if that is not available, the name and address of the builder and the vessel's yard number;
  - (vii) where the vessel is neither a new vessel nor a registered vessel, details of any permanent marks thereon which enable the vessel to be clearly identified;
  - (viii) the name, address and signature of the intending mortgagor, the number of shares to be mortgaged, and the name and address of the intending mortgagee.