

Status: Point in time view as at 18/03/1991.

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SCHEDULES

SCHEDULE 1

Section 10.

AMENDMENTS OF PART I OF MERCHANT SHIPPING ACT 1894

- 1 Omit sections 1 to 3 (qualification for owning British ships and registration of such ships).
- 2 In section 4 (registrars of British ships)—
 - (a) for subsection (1) substitute—

“(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.”; and
 - (b) omit subsection (2).
- 3 In section 5 (register books), for the words from “a book” to “that book” substitute “a register of such ships (referred to in this Part of this Act as “the register”), and entries in the register”.
- 4 In section 6 (survey and measurement of ships), omit “British”.
- 5 In section 7 (marking of ships)—
 - (a) in subsection (1), omit “British”;
 - (b) omit subsection (2); and
 - (c) in subsection (5), for the words from “British” to “so marked” substitute “registered ship neglects to keep his ship marked as required by this section”.
- 6 In section 9 (declaration of ownership on registry)—
 - (a) omit paragraph (iii);
 - (b) in paragraph (iv), for the words from “of which” onwards substitute “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.”;
 - (c) for paragraph (v) substitute—

“(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,

Status: Point in time view as at 18/03/1991.

Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1988 (repealed). (See end of Document for details)

and the ship is otherwise entitled to be registered”;
and

(d) at the end add—

“(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.”

7 In section 11 (entry of particulars in register book), omit “book”.

8 In section 13 (port of registry), omit “British”.

9 In section 14 (certificate of registry), for “book, with the name of her master” substitute “in pursuance of section 11 of this Act.”

10 In section 18 (provision for loss of certificate)—

(a) for subsection (2) substitute—

“(2) If—

(a) the port where the ship is at the time of the event (or, as the case may be, where it first arrives thereafter) is a port in a country outside the British Islands, and

(b) the master of the ship, or some other person having knowledge of the facts of the case, makes a declaration before the appropriate person stating—

(i) the facts of the case, and

(ii) the names and descriptions of the registered owners of the ship to the best of the declarant’s knowledge and belief,

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

(b) in subsection (3), for the words from “her port” (where first occurring) to “that port” substitute “a port in the United Kingdom”; and

(c) at the end add—

“(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

Status: Point in time view as at 18/03/1991.

Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1988 (repealed). (See end of Document for details)

- (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."

- 11 Omit section 19 (endorsement of change of master on certificate).

- 12 In section 21 (delivery up of certificate of ship lost or ceasing to be British-owned)—
 - (a) in subsection (1)—
 - (i) for the words from "ceasing" to "every owner" substitute "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", and
 - (ii) for the words from "book and" onwards substitute "and the registry of the ship shall terminate forthwith.";
 - (b) for subsection (2) substitute—

"(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."; and
 - (c) at the end add—

"(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—

Status: Point in time view as at 18/03/1991.

Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1988 (repealed). (See end of Document for details)

- (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.”

13 For section 22 substitute—

“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.

Status: Point in time view as at 18/03/1991.

Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1988 (repealed). (See end of Document for details)

- (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.”
- 14 In section 23 (temporary passes in lieu of certificates of registry)—
- (a) omit “, or to the governor of a British possession,”;
 - (b) for the words from “any port” to “dominions”, in the second place where it occurs, substitute “one port in the United Kingdom to another”; and
 - (c) omit “or the governor”.
- 15 In section 24 (transfer of ships or shares), for subsection (1) substitute—
- “(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.”
- 16 In section 25 (declaration of transfer)—
- (a) after “transferred” insert “in accordance with section 24(1) of this Act”;
 - (b) for paragraph (b) substitute—
 - “(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.”; and
 - (c) at the end add—
 - “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.”
- 17 In section 26 (registration of transfers), omit “book” wherever occurring.
- 18 In section 27 (transmission of property in ship on death, etc.)—
- (a) in subsection (1)—

Status: Point in time view as at 18/03/1991.

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- (i) for the words from “a person” to “under this Act” substitute “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”, and
- (ii) omit paragraph (b); and
- (b) in subsection (2), omit “book”.
- 19 In section 28 (order for sale on transmission to unqualified person), for subsection (1) substitute—
- “(1) Where the property in a registered ship or share therein is transmitted to any person by any lawful means other than a transfer under section 24 of this Act, but as a result a majority interest in the ship no longer remains in the ownership of persons qualified to be owners of British ships, then—
- (a) if the ship is registered in England and Wales or in Northern Ireland, the High Court, or
- (b) if the ship is registered in Scotland, the Court of Session,
- may, on an application by or on behalf of that person, order a sale of the property so transmitted and direct that the proceeds of sale, after deducting the expenses of the sale, shall be paid to that person or otherwise as the court direct.”
- 20 In section 30 (power of courts to prohibit transfer), for paragraphs (a) to (d) substitute—
- “(a) in England and Wales or in Northern Ireland, the High Court; and
- (b) in Scotland, the Court of Session.”
- 21 In section 31 (mortgage of registered ship or share), for subsection (1) substitute—
- “(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.”
- 22 In sections 32 and 33 (other provisions about mortgages), omit “book” wherever occurring.
- 23 In section 37 (transfer of mortgages), for the words from “and the instrument” to “book” substitute “and on production of the instrument effecting the transfer the registrar shall record it by entering in the register”.
- 24 In section 38 (transmission of interest in mortgage otherwise than by transfer)—
- (a) in subsection (1), omit “marriage,”; and
- (b) in subsection (2), omit “book”.

Status: Point in time view as at 18/03/1991.

Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1988 (repealed). (See end of Document for details)

- 25 Omit sections 39 to 46 (certificates of mortgage and sale).
- 26 In the following provisions, namely—
section 47(4) and (5) (rules as to name of ship), and
section 48(1) (registration of alterations),
omit “book” wherever occurring.
- 27 In section 49(2) (rules as to registration of alterations), for “his register book” substitute “the register”.
- 28 In section 50(2) (provisional certificate and endorsement where ship is to be registered anew), for the words from “her port” (where first occurring) to “register thereof” substitute “a port in the United Kingdom, be delivered up to the registrar of the ship’s port of registry.”
- 29 In section 53 (transfer of registry)—
(a) in subsection (1)—
(i) at the beginning insert “Subject to subsection (5) of this section,”
and
(ii) after “one port” insert “in the United Kingdom”;
(b) in subsection (4)—
(i) before “grant” insert “(subject to subsection (5) of this section),”
and
(ii) for “his register book” substitute “the register”; and
(c) after subsection (4) add—
“(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.”
- 30 After section 53 insert—

“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

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Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1988 (repealed). (See end of Document for details)

existing port of registry shall not proceed to deal with the application unless he is satisfied that registration of the ship under this Part of this Act at the intended port of registry is not precluded by—

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

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;

Status: Point in time view as at 18/03/1991.

Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1988 (repealed). (See end of Document for details)

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.”

- 31 Omit section 54 (restrictions on re-registration of abandoned ships).
- 32 Omit section 55 (provision for cases of infancy or other incapacity).
- 33 In sections 56 and 57 (trusts and equitable rights), omit “book”, wherever occurring.
- 34 In section 59 (registration of managing owner or manager), for subsection (1) substitute—
 - “(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.”
- 35 Omit section 61(1) (mode of making declarations).
- 36 In section 62 (application of fees), omit—
 - (a) “, if taken in any part of the United Kingdom,”; and
 - (b) the words from “if taken in a British possession” onwards.
- 37 In section 63 (returns to be made by registrars)—
 - (a) in subsection (1)—
 - (i) omit “in the United Kingdom”,
 - (ii) omit the words from “, and every” to “Seamen,”, and
 - (iii) for “him” (where it first occurs) substitute “the Registrar-General of Shipping and Seamen”; and
 - (b) in subsection (2), omit “at a port in the United Kingdom”.
- 38 In section 64 (inspection and evidence of register book and other documents)—
 - (a) in subsection (1), for “any register book” substitute “the information contained in any entries in the register”;

Status: Point in time view as at 18/03/1991.

Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1988 (repealed). (See end of Document for details)

- (b) in subsection (2)—
 - (i) omit paragraph (a), and
 - (ii) in paragraph (d), omit “in respect of a British ship”; and
- (c) for subsection (3) substitute—
 - “(3) A person shall be entitled, on payment of the prescribed fee, to obtain—
 - (a) a copy, certified as a true copy by the registrar, of any information contained in an entry in a register kept under this Part of this Act; or
 - (b) a copy, certified as a true copy by the Registrar-General of Shipping and Seamen, of any information contained in an entry in the register of British ships kept by him under the direction of the Secretary of State;
 and any document purporting to be such a certified copy shall be evidence, and in Scotland sufficient evidence, of the matters stated in the document.
 - (4) A person shall be entitled, on payment of the prescribed fee, to obtain such a certified copy of the information entered in a register on the registry of a ship, together with a statement certified by the registrar showing who is for the time being the owner of the ship.
 - (5) The provisions of subsection (3), and (in Scotland) of subsection (4), of section 695 of this Act shall apply to any document supplied in pursuance of subsection (3) or (4) of this section as they apply to any document to which that section applies.
 - (6) In subsection (3) or (4) of this section “the prescribed fee” means such fee as the Secretary of State may prescribe for the purposes of that subsection by regulations made with the approval of the Treasury.”

- 39 In section 65 (forms of documents and instructions as to registry)—
 - (a) in subsection (1), omit the words from “, and also” to “schedule”;
 - (b) in subsections (2) and (4), omit “book” wherever occurring; and
 - (c) omit subsection (3).
- 40 In section 67(2) (false declarations), after “any share therein,” insert “or the entitlement of a ship to be registered.”
- 41 In section 69(1) (penalty for unduly assuming British character), for the words from “owned” to “own a British ship,” substitute “in which a majority interest is not owned by persons qualified to be owners of British ships, and does so”.
- 42 For section 70 substitute—

Status: Point in time view as at 18/03/1991.

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“70 Penalty for concealing British character of a ship.

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

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

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

43 Omit section 71 (penalty for acquiring ownership if unqualified).

44 For section 72 substitute—

“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.”

45 In section 73 (national colours for ships and penalty for carrying improper colours)—

- (a) in subsection (1)—
 - (i) for “ships and boats belonging to any British subject” substitute “British ships”, and
 - (ii) omit “or boats” and “or boat”;
- (b) in subsection (2)—
 - (i) for “ship or boat belonging to any British subject” substitute “British ship”, and

Status: Point in time view as at 18/03/1991.

Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1988 (repealed). (See end of Document for details)

- (ii) omit “or boat” (where last occurring); and
 - (c) in subsection (3), omit “or boat”.
- 46 In section 74 (penalty for ship not showing colours)—
- (a) in subsection (1), for “A ship belonging to a British subject” substitute “A British ship”; and
 - (b) for subsection (3) substitute—
 - “(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.”
- 47 (1) Section 76 (proceedings on forfeiture of ship) shall be amended as follows.
- (2) In subsection (1)—
- (a) for paragraphs (b) and (c) substitute “or
 - (b) any person appointed by the Secretary of State for the purposes of this section;”;
 - (b) omit the words from “and elsewhere” to “dominions,”; and
 - (c) after “the officer” insert “or other person”.
- (3) In subsection (2), for “as in this section mentioned” substitute “or other person as is mentioned in subsection (1) of this section”.
- 48 In section 84(1) (tonnage of ships of foreign countries adopting tonnage regulations)
- (a) for “Her Majesty’s dominions” substitute “the United Kingdom”;
 - (b) for “British”, in the first and second places where it occurs, substitute “registered”; and
 - (c) for “British ship registered in the United Kingdom” substitute “registered ship”.
- 49 Omit section 85 (space occupied by deck cargo to be liable to dues).
- 50 Omit sections 88 to 90 (registration of ships abroad).
- 51 Omit section 91 (application of Part I).
- 52 In Schedule 1 (forms relating to registration)—
- (a) omit Part I; and
 - (b) in Part II—
 - (i) omit “Certificate of mortgage”, “Certificate of sale” and “Revocation of certificate of sale or mortgage”, and
 - (ii) at the end add—

Status: Point in time view as at 18/03/1991.

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“Mortgage.”
“Transfer of mortgage.”

SCHEDULE 2

Section 13.

REGISTRATION OF FISHING VESSELS: SUPPLEMENTARY PROVISIONS

Interpretation

- 1 In this Schedule—
- “declaration of British character” means a declaration, in such form as may be prescribed, relating to the eligibility of a fishing vessel to be registered as a British fishing vessel;
 - “regulations” means regulations made under section 13;
 - “relevant statutory provision” means any provision of this Part or of regulations;
 - “specified” means specified in regulations.

Regulations: general provisions

- 2 Regulations may make provision—
- (a) for the persons by whom and the manner in which applications in connection with registration are to be made (including provision limiting the persons who may apply for registration, whether by reference to residence or place of business or otherwise);
 - (b) for the information and evidence to be provided in connection with such applications and for such supplementary information or evidence as may be required by any authority specified in the regulations for the purpose to be so provided, and for the production, in connection with such applications, of declarations of British character;
 - (c) for the registration of vessels as vessels to which the provisions of this Part relating to transfers by bill of sale and the registration of mortgages do not apply;
 - (d) for the issue of certificates of registration (including temporary certificates), their production and surrender;
 - (e) for the marking of registered vessels;
 - (f) for the period for which the registration of a vessel is to remain effective without renewal;
 - (g) for matters arising out of the expiration or termination of registration (including the removal of marks and the cancellation of certificates);
 - (h) for declarations of British character to be produced to the Secretary of State, as respects registered vessels, at specified intervals or at the request of the Secretary of State;
 - (i) for the payment of fees determined with the approval of the Treasury;

Status: Point in time view as at 18/03/1991.

Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1988 (repealed). (See end of Document for details)

- (j) excluding from registration, or from any provision of the regulations, any specified class or description of vessel;
- (k) for the manner in which notices or other documents required or authorised to be given or served by virtue of any relevant statutory provision are to be given or served;
- (l) for prescribing anything which is authorised to be prescribed under this Part;
- (m) for any of the provisions of Part I of the 1894 Act to have effect in relation to the registration of fishing vessels subject to such modifications (if any) as may be specified;
- (n) for any other matters relating to the establishment and maintenance of the register (including its inspection).

Modifications etc. (not altering text)

C1 Sch. 2 para. 2(c) excluded by S.I. 1988/1926, reg. 72(1)

Provisional registration

- 3 Regulations may make provision—
- (a) for fishing vessels acquired outside the United Kingdom which are eligible to be registered as British fishing vessels to be provisionally registered as such pending their registration in the register;
 - (b) for any such provisional registration to terminate in specified circumstances (including failure to comply with requirements imposed by or under the regulations).

Transfers of registration

- 4 (1) Regulations may make provision with respect to the transfer to the register of—
- (a) fishing vessels to which section 13(3) applies where those vessels are eligible to be registered as British fishing vessels, and
 - (b) undischarged mortgages affecting those vessels,
- and with respect to matters consequential on the termination of the registration of fishing vessels under any of the enactments specified in section 13(2) (including vessels which are not transferred to the register).
- (2) Any such regulations may make provision—
- (a) for any of the matters specified in sub-paragraphs (a), (b) and (i) of paragraph 2;
 - (b) for applications under sections 19(3) and 20(1) to be treated, in cases where those provisions apply by virtue of section 13(4), as applications for registration of the vessels in question;
 - (c) for the issue of certificates of registration under this Part (including temporary certificates) and for the surrender of certificates of registration issued under any of the enactments specified in section 13(2);

Status: Point in time view as at 18/03/1991.

Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1988 (repealed). (See end of Document for details)

- (d) for preserving the effect of entries in any register kept under either of the enactments specified in section 13(2)(a) and (c) so far as those entries relate to undischarged mortgages affecting vessels which are not transferred to the register kept under this Part.
- (3) Nothing in this paragraph prejudices the generality of paragraph 2.

Offences

- 5 (1) Regulations may provide for the creation of offences and their punishment on summary conviction in any of the following cases—
- (a) where a person with intent to deceive, uses, or lends to or allows to be used by another, a certificate of registration, whether in force or not;
 - (b) where a person required by regulations to ensure that any requirement of the regulations as to the marking of a fishing vessel is satisfied fails to ensure that that requirement is satisfied;
 - (c) where a person required by regulations to surrender a certificate of registration fails without reasonable excuse to surrender the certificate.
- (2) Any such regulations shall—
- (a) in the case of an offence created by virtue of sub-paragraph (1)(a), provide for the offence to be punishable with a fine not exceeding the fifth level on the standard scale; and
 - (b) in the case of an offence created by virtue of sub-paragraph (1)(b) or (c), provide for it to be punishable with a fine not exceeding the third level on the standard scale.
- (3) Regulations providing for the creation of an offence by virtue of sub-paragraph (1)(b) shall provide that it shall be a defence for a person charged with the offence to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

Operation of regulations in territorial waters

- 6 Regulations may provide for any of their provisions to extend to the territorial sea of the United Kingdom.

Discharge of functions by persons appointed by Secretary of State

- 7 (1) The Secretary of State may appoint persons to discharge such functions in connection with—
- (a) applications for registration, or
 - (b) the issue, production or surrender of certificates of registration,
- as he may specify; and regulations may provide for references to the Secretary of State in any relevant statutory provision to be read as, or as including, references to any person so appointed.

Status: Point in time view as at 18/03/1991.

Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1988 (repealed). (See end of Document for details)

- (2) Sub-paragraph (1) does not authorise the appointment of any person to determine applications for registration.

Construction of references in other enactments to fishing vessels excluded from registration

- 8 References in any statutory provision (apart from section 2(1)(c)) to fishing vessels excluded from registration by regulations under section 13 shall be construed as references to fishing vessels which, being eligible to be registered under this Part by virtue of section 14, are excluded from registration by such regulations (and are not registered under the law of any country outside the United Kingdom).

SCHEDULE 3

Section 21.

MORTGAGES OF REGISTERED FISHING VESSELS

Modifications etc. (not altering text)

C2 Sch. 3 excluded by S.I. 1988/1926, reg. 77

Interpretation

- 1 In this Schedule—
- “mortgage” shall be construed in accordance with paragraph 2(2) below;
- “registered mortgage” means a mortgage registered in pursuance of paragraph 2(3) below; and
- “registered vessel” means a vessel registered otherwise than in pursuance of paragraph 2(c) of Schedule 2.

Mortgages of registered vessels

- 2 (1) Any registered vessel or share in a registered vessel may be made a security for the repayment of a loan or the discharge of any other obligation.
- (2) The instrument creating any such security (referred to in this Schedule as a mortgage) shall be in such form as is prescribed or approved by the Secretary of State.
- (3) Where a mortgage executed in accordance with sub-paragraph (2) is produced to the Secretary of State, he shall—
- (a) register the mortgage by causing it to be recorded in the register, and
 - (b) endorse on it the fact that it has been recorded, together with the date and time when it was recorded.
- (4) Mortgages shall be registered under sub-paragraph (3) in the order in which they are produced to the Secretary of State for the purposes of registration.

Status: Point in time view as at 18/03/1991.

Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1988 (repealed). (See end of Document for details)

Priority of registered mortgages

- 3 Where two or more mortgages are registered in respect of the same vessel or share, the priority of the mortgagees between themselves shall (subject to paragraph 4) be determined by the order in which the mortgages were registered (and not by reference to any other matter).

Modifications etc. (not altering text)

C3 Sch. 3 paras. 3, 4 excluded by S.I. 1988/1926, reg. 43

Notices by intending mortgagees

- 4 (1) Where any person who is an intending mortgagee under a proposed mortgage of—
- (a) a registered vessel, or
 - (b) a share in a registered vessel,
- notifies the Secretary of State in writing of the interest which it is intended that he should have under the proposed mortgage, the Secretary of State shall cause that interest to be recorded in the register.
- (2) Where any person who is an intending mortgagee under a proposed mortgage of—
- (a) a fishing vessel which is not for the time being a registered vessel, or
 - (b) a share in any such vessel,
- notifies the Secretary of State in writing of the interest which it is intended that he should have under the proposed mortgage and furnishes him with such particulars of that vessel as may be prescribed, the Secretary of State—
- (i) shall cause that interest to be recorded in the register, and
 - (ii) if the vessel is subsequently registered (otherwise than in pursuance of paragraph 2(c) of Schedule 2), shall cause the vessel to be registered subject to that interest or, if the mortgage has by then been executed in accordance with paragraph 2(2) and produced to the Secretary of State, subject to that mortgage.
- (3) In a case where—
- (a) paragraph 3 operates to determine the priority between two or more mortgagees, and
 - (b) any of those mortgagees gave a notification under sub-paragraph (1) or (2) above with respect to his mortgage,
- paragraph 3 shall have effect in relation to that mortgage as if it had been registered at the time when the relevant entry was made in the register under sub-paragraph (1) or (2) above.
- (4) Any notification given by a person under sub-paragraph (1) or (2) (and anything done as a result of it) shall cease to have effect—
- (a) if the notification is withdrawn, or
 - (b) at the end of the period of 30 days beginning with the date of the notification, unless the notification is renewed in accordance with sub-paragraph (5).

Status: Point in time view as at 18/03/1991.

Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1988 (repealed). (See end of Document for details)

- (5) The person by whom any such notification is given may renew or further renew the notification, on each occasion for a period of 30 days, by notice in writing given to the Secretary of State—
- (a) before the end of the period mentioned in sub-paragraph (4)(b), or
 - (b) before the end of the current period of renewal,
- as the case may be.
- (6) Any notification or notice purporting to be given under this paragraph (and anything done as a result of it) shall not have any effect if the Secretary of State determines that it was not validly given.

Modifications etc. (not altering text)

C4 Sch. 3 paras. 3, 4 excluded by S.I. 1988/1926, reg. 43

Registered mortgagee's power of sale

- 5 (1) Subject to sub-paragraph (2), every registered mortgagee shall have power, if the mortgage money or any part of it is due, to sell the vessel or share in respect of which he is registered, and to give effectual receipts for the purchase money.
- (2) Where two or more mortgagees are registered in respect of the same vessel or share, a subsequent mortgagee shall not, except under an order of a court of competent jurisdiction, sell the vessel or share without the concurrence of every prior mortgagee.

Transfer of registered mortgage

- 6 (1) A registered mortgage may be transferred by an instrument made in such form as is prescribed or approved by the Secretary of State.
- (2) Where any such instrument is produced to the Secretary of State, he shall—
- (a) cause the name of the transferee to be entered in the register as mortgagee of the vessel or share in question, and
 - (b) endorse on the instrument the fact that that entry has been made, together with the date and time when it was made.

Transmission of registered mortgage by operation of law

- 7 Where the interest of a mortgagee in a registered mortgage is transmitted to any person by any lawful means other than by a transfer under paragraph 6, the Secretary of State shall, on production of such evidence of the transmission as may be prescribed, cause the name of that person to be entered in the register as mortgagee of the vessel or share in question.

Status: Point in time view as at 18/03/1991.

Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1988 (repealed). (See end of Document for details)

Discharge of registered mortgage

- 8 Where a registered mortgage has been discharged, the Secretary of State shall, on production of the mortgage deed with such evidence of the discharge of the mortgage as is prescribed, cause an entry to be made in the register to the effect that the mortgage has been discharged.

Transfer of mortgages from one system of registration to another

- 9 (1) Regulations may provide—
- (a) for the transfer to the register of undischarged mortgages that have been registered under Part I of the 1894 Act and affect ships registered under that Part of that Act which become registered vessels otherwise than in pursuance of paragraph 4 of Schedule 2 to this Act; and
 - (b) for any provisions of this Part to have effect in relation to any such mortgages, or in relation to any mortgages transferred in pursuance of paragraph 4 of that Schedule, subject to such modifications as may be specified in the regulations.
- (2) Regulations may also provide—
- (a) for the transfer to registers kept under Part I of the 1894 Act of undischarged registered mortgages affecting registered vessels which become ships registered under that Part of that Act; and
 - (b) for any provisions of that Part of that Act to have effect in relation to any such mortgages subject to such modifications as may be specified in the regulations.
- (3) Without prejudice to the generality of sub-paragraphs (1) and (2)—
- (a) regulations made by virtue of sub-paragraph (1) may make provision, in connection with the transfer of mortgages in pursuance of that sub-paragraph, for the transmission of information relating to such mortgages which is recorded in registers kept under Part I of the 1894 Act, and for the recording of such information in the register kept under this Part; and
 - (b) regulations made by virtue of sub-paragraph (2) may make corresponding provision, in connection with the transfer of mortgages in pursuance of that sub-paragraph, for the transmission and recording of information relating to such mortgages which is recorded in the register kept under this Part.
- (4) In this paragraph “regulations” means regulations made under section 13.

Status: Point in time view as at 18/03/1991.

Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1988 (repealed). (See end of Document for details)

SCHEDULE 4

Section 34.

AMENDMENTS RELATING TO LIABILITY AND COMPENSATION FOR OIL POLLUTION DAMAGE

PART I

AMENDMENTS OF MERCHANT SHIPPING (OIL POLLUTION) ACT 1971

1 For section 1 substitute—

“1 Liability for oil pollution.

- (1) Where, as a result of any occurrence, any oil is discharged or escapes from a ship to which this section applies, then (except as otherwise provided by this Act) the owner of the ship shall be liable—
 - (a) for any damage caused outside the ship in the area of the United Kingdom by contamination resulting from the discharge or escape; and
 - (b) for the cost of any measures reasonably taken after the discharge or escape for the purpose of preventing or minimising any damage so caused in the area of the United Kingdom by contamination resulting from the discharge or escape; and
 - (c) for any damage so caused in the area of the United Kingdom by any measures so taken.
- (2) Where, as a result of any occurrence, there arises a grave and imminent threat of damage being caused outside a ship to which this section applies by contamination resulting from a discharge or escape of oil from the ship, then (except as otherwise provided by this Act) the owner of the ship shall be liable—
 - (a) for the cost of any measures reasonably taken for the purpose of preventing or minimising any such damage in the area of the United Kingdom; and
 - (b) for any damage caused outside the ship in the area of the United Kingdom by any measures so taken;and in this Act any such threat is referred to as a relevant threat of contamination.
- (3) Subject to subsection (4) of this section, this section applies to any ship constructed or adapted for carrying oil in bulk as cargo.
- (4) Where any ship so constructed or adapted is capable of carrying other cargoes besides oil, this section shall apply to any such ship—
 - (a) while it is carrying oil in bulk as cargo; and
 - (b) unless it is proved that no residues from the carriage of any such oil remain in the ship, while it is on any voyage following the carriage of any such oil,but not otherwise.

Status: Point in time view as at 18/03/1991.

Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1988 (repealed). (See end of Document for details)

- (5) Where a person incurs a liability under subsection (1) or (2) of this section he shall also be liable for any damage or cost for which he would be liable under that subsection if the references in it to the area of the United Kingdom included the area of any other Convention country.
- (6) Where—
- (a) as a result of any occurrence, a liability is incurred under this section by the owner of each of two or more ships, but
 - (b) the damage or cost for which each of the owners would be liable cannot reasonably be separated from that for which the other or others would be liable,
- each of the owners shall be liable, jointly with the other or others, for the whole of the damage or cost for which the owners together would be liable under this section.
- (7) For the purposes of this Act—
- (a) references to a discharge or escape of oil from a ship are references to such a discharge or escape wherever it may occur, and whether it is of oil carried in a cargo tank or of oil carried in a bunker fuel tank;
 - (b) where more than one discharge or escape results from the same occurrence or from a series of occurrences having the same origin, they shall be treated as one, but any measures taken after the first of them shall be deemed to have been taken after the discharge or escape; and
 - (c) where a relevant threat of contamination results from a series of occurrences having the same origin, they shall be treated as a single occurrence.
- (8) The Law Reform (Contributory Negligence) Act 1945 and, in Northern Ireland, the Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1948 shall apply in relation to any damage or cost for which a person is liable under this section, but which is not due to his fault, as if it were due to his fault.”

2 For section 2 substitute—

“2 Exceptions from liability under s.1.

No liability shall be incurred by the owner of a ship under section 1 of this Act by reason of any discharge or escape of oil from the ship, or by reason of any relevant threat of contamination, if he proves that the discharge or escape, or (as the case may be) the threat of contamination—

- (a) resulted from an act of war, hostilities, civil war, insurrection or an exceptional, inevitable and irresistible natural phenomenon; or
- (b) was due wholly to anything done or omitted to be done by another person, not being a servant or agent of the owner, with intent to do damage; or
- (c) was due wholly to the negligence or wrongful act of a government or other authority in exercising its function of maintaining lights or other navigational aids for the maintenance of which it was responsible.”

Status: Point in time view as at 18/03/1991.

Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1988 (repealed). (See end of Document for details)

3 For section 3 substitute—

“3 Restriction of liability for oil pollution.

- (1) Where, as a result of any occurrence—
- (a) any oil is discharged or escapes from a ship to which section 1 of this Act applies, or
 - (b) there arises a relevant threat of contamination,
- then, whether or not the owner of the ship in question incurs a liability under section 1 of this Act—
- (i) he shall not be liable otherwise than under that section for any such damage or cost as is mentioned in it, and
 - (ii) no person to whom this paragraph applies shall be liable for any such damage or cost unless it resulted from anything done or omitted to be done by him either with intent to cause any such damage or cost or recklessly and in the knowledge that any such damage or cost would probably result.
- (2) Subsection (1)(ii) of this section applies to—
- (a) any servant or agent of the owner of the ship;
 - (b) any person not falling within paragraph (a) above but employed or engaged in any capacity on board the ship or to perform any service for the ship;
 - (c) any charterer of the ship (however described and including a bareboat charterer), and any manager or operator of the ship;
 - (d) any person performing salvage operations with the consent of the owner of the ship or on the instructions of a competent public authority;
 - (e) any person taking any such measures as are mentioned in subsection (1)(b) or (2)(a) of section 1 of this Act;
 - (f) any servant or agent of a person falling within paragraph (c), (d) or (e) above.
- (3) The liability of the owner of a ship under section 1 of this Act for any impairment of the environment shall be taken to be a liability only in respect of—
- (a) any resulting loss of profits, and
 - (b) the cost of any reasonable measures of reinstatement actually taken or to be taken.”

4 For section 4 substitute—

“4 Limitation of liability under s.1.

- (1) Where, as a result of any occurrence, the owner of a ship incurs a liability under section 1 of this Act by reason of a discharge or escape or by reason of any relevant threat of contamination, then (subject to subsection (3) of this section)—
- (a) he may limit that liability in accordance with the provisions of this Act, and

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Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1988 (repealed). (See end of Document for details)

- (b) if he does so, his liability (that is to say, the aggregate of his liabilities under section 1 resulting from the occurrence) shall not exceed the relevant amount.
- (2) In subsection (1) of this section “the relevant amount” means—
- (a) in relation to a ship not exceeding 5,000 tons, 3 million special drawing rights;
- (b) in relation to a ship exceeding 5,000 tons, 3 million special drawing rights together with an additional 420 special drawing rights for each ton of its tonnage in excess of 5,000 tons up to a maximum amount of 59.7 million special drawing rights;
- but the Secretary of State may by order made by statutory instrument make such amendments of paragraphs (a) and (b) above as appear to him to be appropriate for the purpose of giving effect to the entry into force of any amendment of the limits of liability laid down in paragraph 1 of Article V of the Convention.
- (3) Subsection (1) of this section shall not apply in a case where it is proved that the discharge or escape, or (as the case may be) the relevant threat of contamination, resulted from anything done or omitted to be done by the owner either with intent to cause any such damage or cost as is mentioned in section 1 of this Act or recklessly and in the knowledge that any such damage or cost would probably result.
- (4) For the purposes of this section a ship’s tonnage shall be its gross tonnage calculated in such manner as may be prescribed by an order made by the Secretary of State by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) Any such order shall, so far as it appears to the Secretary of State to be practicable, give effect to the regulations in Annex 1 of the International Convention on Tonnage Measurement of Ships 1969.”
- 5 In section 5 (limitation actions), after subsection (6) add—
- “(7) No lien or other right in respect of any ship or other property shall affect the proportions in which any amount is distributed in accordance with subsection (2)(b) of this section.”
- 6 In section 7 (concurrent liabilities of owners and others), for the words from the beginning to “of that section,” substitute “Where, as a result of any discharge or escape of oil from a ship or as a result of any relevant threat of contamination, the owner of a ship incurs a liability under section 1 of this Act and any other person incurs a liability, otherwise than under that section, for any such damage or cost as is mentioned in subsection (1) or (2) of that section,”.
- 7 In section 9 (extinguishment of claims), after “escape” insert “, or (as the case may be) in the relevant threat of contamination,”.
- 8 In section 10 (compulsory insurance against liability for pollution)—

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Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1988 (repealed). (See end of Document for details)

- (a) in subsection (1), omit “persistent”;
 - (b) in subsection (3)(c), for the words from “a certificate recognised” onwards substitute “by or under the authority of the government of any Convention country other than the United Kingdom”; and
 - (c) omit subsection (4).
- 9 In section 12 (rights of third parties against insurers)—
- (a) in subsection (1), after “occurring” insert “, or as a result of any relevant threat of contamination arising”;
 - (b) in subsection (2), after “escape” insert “, or (as the case may be) the threat of contamination,”; and
 - (c) in subsection (3), for “occurred without the owner’s actual fault or privity” substitute “, or (as the case may be) the threat of contamination, resulted from anything done or omitted to be done by the owner as mentioned in section 4(3) of this Act.”
- 10 In section 13 (jurisdiction of United Kingdom courts, etc.), for subsection (2) substitute—
- “(2) Where—
- (a) any oil is discharged or escapes from a ship but does not result in any damage caused by contamination in the area of the United Kingdom and no measures are reasonably taken to prevent or minimise such damage in that area, or
 - (b) any relevant threat of contamination arises but no measures are reasonably taken to prevent or minimise damage caused by contamination in the area of the United Kingdom resulting from a discharge or escape of oil from the ship,
- no court in the United Kingdom shall entertain any action (whether in rem or in personam) to enforce a claim arising from any relevant damage or cost—
- (i) against the owner of the ship, or
 - (ii) against any person to whom section 3(1)(ii) of this Act applies, unless any such damage or cost resulted from anything done or omitted to be done as mentioned in that provision.
- (2A) In subsection (2) of this section “relevant damage or cost” means—
- (a) in relation to any such discharge or escape as is mentioned in paragraph (a) of that subsection, any damage caused in the area of another Convention country by contamination resulting from the discharge or escape, or any cost incurred in taking measures to prevent or minimise such damage in the area of another Convention country;
 - (b) in relation to any such threat of contamination as is mentioned in paragraph (b) of that subsection, any cost incurred in taking measures to prevent or minimise damage caused by contamination in the area of another Convention country resulting from a discharge or escape of oil from the ship; or
 - (c) any damage caused by any measures taken as mentioned in paragraph (a) or (b) above;

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Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1988 (repealed). (See end of Document for details)

and section 3(2)(e) of this Act shall have effect for the purposes of subsection (2)(ii) of this section as if it referred to any person taking any such measures as are mentioned in paragraph (a) or (b) above.”

11 In section 14(2) (Government ships), for the words from “Article V” onwards substitute “Article V of the Convention”.

12 In section 15 (liability for cost of preventive measures where section 1 does not apply)—

(a) for subsection (1)(a) substitute—

“(a) after a discharge or escape of oil from a ship, measures are reasonably taken for the purpose of preventing or minimising damage in the area of the United Kingdom which may be caused outside the ship by contamination resulting from the discharge or escape; and”;

(b) after subsection (1) insert—

“(1A) Where—

(a) after there has arisen a grave and imminent threat of damage being caused outside a ship by contamination resulting from a discharge or escape of oil from the ship, measures are reasonably taken for the purpose of preventing or minimising any such damage in the area of the United Kingdom, but

(b) section 1(2) of this Act does not apply,

the owner of the ship shall be liable for the cost of the measures, whether or not the person taking them does so for the protection of his interests or in the performance of a duty.

(1B) Where a person is, by virtue of subsection (1) or (1A) of this section, liable for the cost of any measures, he shall also be liable for any damage caused in the area of the United Kingdom by those measures.”

13 In section 19(1) (meaning of “the Convention” etc.), for the definition of “the Convention” substitute—

““the Convention” means the International Convention on Civil Liability for Oil Pollution Damage 1984;”.

14 For section 20 substitute—

“20 General interpretation.

(1) In this Act—

“the court” means the High Court in England and Wales, the Court of Session, or the High Court in Northern Ireland;

“damage” includes loss;

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“oil” means persistent hydrocarbon mineral oil;

“owner” means the person or persons registered as the owner of the ship or, in the absence of registration, the person or persons owning the ship, except that, in relation to a ship owned by a State which is operated by a person registered as the ship’s operator, it means the person registered as its operator;

“relevant threat of contamination” shall be construed in accordance with section 1(2) of this Act;

“ship” means any sea-going vessel or sea-borne craft of any type whatsoever.

- (2) In relation to any damage or cost resulting from the discharge or escape of any oil from a ship, or from a relevant threat of contamination, references in this Act to the owner of the ship are references to the owner at the time of the occurrence or first of the occurrences resulting in the discharge or escape or (as the case may be) in the threat of contamination.
- (3) References in this Act to the area of any country include the territorial sea of that country and—
- (a) in the case of the United Kingdom, any area within the British fishery limits set by or under the Fishery Limits Act 1976; and
 - (b) in the case of any other Convention country, the exclusive economic zone of that country established in accordance with international law, or, if such a zone has not been established, such area adjacent to the territorial sea of that country and extending not more than 200 nautical miles from the baselines from which the breadth of that sea is measured as may have been determined by the Convention State in question in accordance with international law.”

PART II

AMENDMENTS OF THE MERCHANT SHIPPING ACT 1974

15 For section 1 substitute—

“1 Interpretation of Part I.

- (1) In this Part of this Act—
- (a) “the Liability Convention” means the International Convention on Civil Liability for Oil Pollution Damage 1984;
 - (b) “the Fund Convention” means the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage 1984;
 - (c) “the Fund” means the International Fund established by the Fund Convention; and
 - (d) “Fund Convention country” means a country in respect of which the Fund Convention is in force.
- (2) If Her Majesty by Order in Council declares that any State specified in the Order is a party to the Fund Convention in respect of any country so

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Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1988 (repealed). (See end of Document for details)

specified, the Order shall, while in force, be conclusive evidence that that State is a party to the Convention in respect of that country.

- (3) In this Part of this Act, unless the context otherwise requires—
- “the Act of 1971” means the Merchant Shipping (Oil Pollution) Act 1971;
 - “damage” includes loss;
 - “discharge or escape”, in relation to pollution damage, means the discharge or escape of oil from the ship;
 - “guarantor” means any person providing insurance or other financial security to cover the owner’s liability of the kind described in section 10 of the Act of 1971;
 - “incident” means any occurrence, or series of occurrences having the same origin, resulting in a discharge or escape of oil from a ship or in a relevant threat of contamination;
 - “oil”, except in sections 2 and 3, means persistent hydrocarbon mineral oil;
 - “owner” means the person or persons registered as the owner of the ship or, in the absence of registration, the person or persons owning the ship, except that, in relation to a ship owned by a State which is operated by a person registered as the ship’s operator, it means the person registered as its operator;
 - “pollution damage” means (subject to subsection (4) below)—
 - (a) damage caused outside a ship by contamination resulting from a discharge or escape of oil from the ship,
 - (b) the cost of preventive measures, and
 - (c) further damage caused by preventivemeasures;“preventive measures” means any reasonable measures taken by any person to prevent or minimise pollution damage, being measures taken—
 - (a) after an incident has occurred, or
 - (b) in the case of an incident consisting of a series of occurrences, after the first of those occurrences;“relevant threat of contamination” means a grave and imminent threat of damage being caused outside a ship by contamination resulting from a discharge or escape of oil from the ship;
 - “ship” means any ship (within the meaning of the Act of 1971) to which section 1 of that Act applies.
- (4) In this Part of this Act “pollution damage” does not include any damage attributable to any impairment of the environment except to the extent that any such damage consists of—
- (a) any loss of profits, or
 - (b) the cost of any reasonable measures of reinstatement actually taken or to be taken.
- (5) For the purposes of this Part of this Act—
- (a) references to a discharge or escape of oil from a ship are references to such a discharge or escape wherever it may occur, and whether it is of oil carried in a cargo tank or of oil carried in a bunker fuel tank; and

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- (b) where more than one discharge or escape results from the same occurrence or from a series of occurrences having the same origin, they shall be treated as one.
- (6) References in this Part of this Act to the area of any country include (in addition to its territorial sea)—
- (a) in the case of the United Kingdom, any area within the British fishery limits set by or under the Fishery Limits Act 1976; and
- (b) in the case of any other Fund Convention country, the exclusive economic zone of that country established in accordance with international law, or, if such a zone has not been established, such area adjacent to the territorial sea of that country and extending not more than 200 nautical miles from the baselines from which the breadth of that sea is measured as may have been determined by the State in question in accordance with international law;
- and references to pollution damage in the United Kingdom shall be construed accordingly.”
- 16 In section 2 (contributions by importers of oil and others), in subsection (7), for paragraph (a) substitute—
- “(a) be of such amount as may be determined by the Director of the Fund under Article 12 of the Fund Convention and notified to that person by the Fund;”.
- 17 (1) Section 4 (liability of the Fund) shall be amended as follows.
- (2) In subsection (1)—
- (a) for “causing the damage” substitute “, or the relevant threat of contamination, by reason of which the damage was caused”; and
- (b) for “left undone” substitute “omitted to be done”.
- (3) For subsections (8) and (9) substitute—
- “(8) If the Fund proves that the pollution damage resulted wholly or partly—
- (a) from anything done or omitted to be done with intent to cause damage by the person who suffered the damage, or
- (b) from the negligence of that person,
- the Fund may (subject to subsection (9A) below) be exonerated wholly or partly from its obligation to pay compensation to that person.
- (9) Where the liability under section 1 of the Act of 1971 in respect of the pollution damage is limited to any extent by subsection (8) of that section (contributory negligence), the Fund shall (subject to subsection (9A) below) be exonerated to the same extent.
- (9A) Subsections (8) and (9) above shall not apply where the pollution damage consists of the cost of preventive measures or any damage caused by such measures.”
- (4) Omit subsections (10) to (13).
- (5) After section 4 insert—

Status: Point in time view as at 18/03/1991.

Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1988 (repealed). (See end of Document for details)

“4A Limitation of Fund’s liability under s. 4.

- (1) The Fund’s liability under section 4 of this Act shall be subject to the limits imposed by paragraphs 4 and 5 of Article 4 of the Fund Convention (which impose an overall limit on the liabilities of the Fund and the text of which is set out in Schedule 1 to this Act); and in those provisions references to the 1984 Liability Convention are references to the Liability Convention within the meaning of this Part of this Act.
- (2) A certificate given by the Director of the Fund stating that sub-paragraph (c) of paragraph 4 of Article 4 of the Fund Convention is applicable to any claim under section 4 of this Act shall be conclusive evidence for the purposes of this Part of this Act that it is so applicable.
- (3) For the purpose of giving effect to paragraphs 4 and 5 of Article 4 of the Fund Convention a court giving judgment against the Fund in proceedings under section 4 of this Act shall notify the Fund, and—
 - (a) no steps shall be taken to enforce the judgment unless and until the court gives leave to enforce it,
 - (b) that leave shall not be given unless and until the Fund notifies the court either that the amount of the claim is not to be reduced under those paragraphs, or that it is to be reduced to a specified amount, and
 - (c) in the latter case the judgment shall be enforceable only for the reduced amount.
- (4) Any steps taken to obtain payment of an amount or a reduced amount in pursuance of such a judgment as is mentioned in subsection (3) above shall be steps to obtain payment in sterling; and—
 - (a) for the purpose of converting such an amount from special drawing rights into sterling one special drawing right shall be treated as equal to such a sum in sterling as the International Monetary Fund have fixed as being the equivalent of one special drawing right for—
 - (i) the relevant day, namely the day on which the Assembly of the Fund decide the date for the first payment of compensation in respect of the incident, or
 - (ii) if no sum has been so fixed for the relevant day, the last day before that day for which a sum has been so fixed; and
 - (b) a certificate given by or on behalf of the Treasury stating—
 - (i) that a particular sum in sterling has been so fixed for the relevant day, or
 - (ii) that no sum has been so fixed for the relevant day and that a particular sum in sterling has been so fixed for a day which is the last day for which a sum has been so fixed before the relevant day,shall be conclusive evidence of those matters for the purposes of this Part of this Act.
- (5) The Secretary of State may by order made by statutory instrument make such amendments of this section and of Schedule 1 to this Act as appear to him to

Status: Point in time view as at 18/03/1991.

Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1988 (repealed). (See end of Document for details)

be appropriate for the purpose of giving effect to the entry into force of any amendment of the provisions set out in that Schedule.

- (6) Any document purporting to be such a certificate as is mentioned in subsection (2) or (4)(b) above shall, in any legal proceedings, be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.”

18 Omit section 5 (indemnification of shipowners).

19 In section 6 (jurisdiction and effect of judgments)—

- (a) in subsection (4), omit “or 5”; and
- (b) in subsection (5)(a), omit “as amended”.

20 In section 7 (extinguishment of claims)—

- (a) in subsection (2), after “escape” insert “, or (as the case may be) in therelevant threat of contamination,”; and
- (b) omit subsection (3).

21 In section 8 (subrogation and rights of recourse)—

- (a) omit subsection (2); and
- (b) for subsection (3) substitute—

“(3) In respect of any sum paid under section 4(1)(a) or (c) of this Act (exclusion or limitation of liability for pollution damage) the Fund shall acquire by subrogation any rights of recourse in respect of the damage in question which the recipient has against any person other than the owner or guarantor.”

22 After section 8 insert—

“8A Supplementary provisions as to proceedings involving the Fund.

- (1) Any proceedings by or against the Fund may either be instituted by or against the Fund in its own name or be instituted by or against the Director of the Fund as the Fund’s representative.
- (2) Evidence of any instrument issued by any organ of the Fund or of any document in the custody of the Fund, or any entry in or extract from such a document, may be given in any legal proceedings by production of a copy certified as a true copy by an official of the Fund; and any document purporting to be such a copy shall, in any such proceedings, be received in evidence without proof of the official position or handwriting of the person signing the certificate.”

23 In section 23(2) (construction etc.), omit the words from “, and references” onwards.

Status: Point in time view as at 18/03/1991.

Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1988 (repealed). (See end of Document for details)

24 For Schedule 1 substitute—

“SCHEDULE 1

OVERALL LIMIT ON LIABILITY OF FUND

Article 4 — paragraphs 4 and 5

- 4 (a) Except as otherwise provided in sub-paragraphs (b) and (c) of this paragraph, the aggregate amount of compensation payable by the Fund under this Article shall in respect of any one incident be limited, so that the total sum of that amount and the amount of compensation actually paid under the 1984 Liability Convention for pollution damage within the scope of application of this Convention as defined in Article 3 shall not exceed 135 million units of account.
- (b) Except as otherwise provided in sub-paragraph (c), the aggregate amount of compensation payable by the Fund under this Article for pollution damage resulting from a natural phenomenon of an exceptional, inevitable and irresistible character shall not exceed 135 million units of account.
- (c) The maximum amount of compensation referred to in sub-paragraphs (a) and (b) shall be 200 million units of account with respect to any incident occurring during any period when there are three Parties to this Convention in respect of which the combined relevant quantity of contributing oil received by persons in the territories of such Parties, during the preceding calendar year, equalled or exceeded 600 million tons.
- (d) Interest accrued on a fund constituted in accordance with Article V, paragraph 3, of the 1984 Liability Convention, if any, shall not be taken into account for the computation of the maximum compensation payable by the Fund under this Article.
- (e) The amounts mentioned in this Article shall be converted into national currency on the basis of the value of that currency by reference to the Special Drawing Right on the date of the decision of the Assembly of the Fund as to the first date of payment of compensation.
- 5 Where the amount of established claims against the Fund exceeds the aggregate amount of compensation payable under paragraph 4, the amount available shall be distributed in such a manner that the proportion between any established claim and the amount of compensation actually recovered by the claimant under this Convention shall be the same for all claimants.”

Status: Point in time view as at 18/03/1991.

Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1988 (repealed). (See end of Document for details)

SCHEDULE 5

Section 48.

MISCELLANEOUS AMENDMENTS OF MERCHANT SHIPPING ACTS

MERCHANT SHIPPING LAW AMENDMENT ACT 1853 (C. 131)

Omit section 13 (power to commute pensions and grant superannuation allowances).

MERCHANT SHIPPING LAW AMENDMENT ACT 1894 (C. 60)

1 Omit section 463 (survey of ship alleged to be unseaworthy in proceedings for desertion of seaman).

2 In section 531 (power of lighthouse authority to remove wreck), for subsection (2) substitute—

“(2) Where a general lighthouse authority have incurred expenses in the exercise of their powers under this section in relation to any vessel, then—

- (a) if the proceeds of any sale made under section 530 of this Act in connection with the exercise of those powers in relation to the vessel are insufficient to reimburse the authority for the full amount of those expenses, the authority may recover the amount of the deficiency from the relevant person, or
- (b) if there is no such sale, the authority may recover the full amount of those expenses from the relevant person.

(3) Any expenses so incurred which are not recovered by the authority either out of the proceeds of any such sale or in accordance with subsection (2) of this section shall be paid out of the General Lighthouse Fund, but section 660 of this Act shall apply to those expenses as if they were expenses of the authority falling within subsection (1) of that section other than establishment expenses.

(4) In this section “the relevant person”, in relation to any vessel, means the owner of the vessel at the time of the sinking, stranding or abandonment of the vessel.”

3 At the end of section 546 (salvage of cargo or wreck) add—

“(2) In this section “tidal water” means—

- (a) any waters within the ebb and flow of the tide at ordinary spring tides; or
- (b) the waters of any dock which is directly, or (by means of one or more other docks) indirectly, connected with any such waters.”;

and the existing provisions of section 546 shall accordingly constitute subsection (1) of that section.

Status: Point in time view as at 18/03/1991.

Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1988 (repealed). (See end of Document for details)

- 4 In section 634(1)(a) (management of lighthouses etc.), omit “and at Gibraltar”.
- 5 In section 648 (application and collection of light dues)—
- (a) omit subsection (1); and
 - (b) in subsection (2), after “so appointed” insert “or (as the case may be) such of those dues as he is so appointed to collect”.
- 6 In section 652(4) (inspection of local lighthouses), omit the words from “; and those reports” onwards.
- 7 For section 658 substitute—

“658 Expenses of general lighthouse authorities to be paid out of General Lighthouse Fund.

Any expenses incurred by the general lighthouse authorities in connection with the discharge of their functions under this Part of this Act shall be paid out of the General Lighthouse Fund.”

- 8 In section 659 (establishments of general lighthouse authorities)—
- (a) in subsection (1), for “Her Majesty may by Order in Council fix” substitute “the Secretary of State may determine”;
 - (b) in subsection (2), for “Her Majesty may by Order in Council fix” substitute “the Secretary of State may determine”; and
 - (c) in subsection (3), for “fixed” substitute “determined”.
- 9 In section 676 (sums payable to Mercantile Marine Fund)—
- (a) in subsection (1)—
 - (i) for the words from the beginning to “that fund—” substitute “The following sums (being sums which, in accordance with this subsection as originally enacted, were required to be paid to the former Mercantile Marine Fund) shall be paid into the Consolidated Fund—”,
 - (ii) omit paragraph (i), and
 - (iii) for paragraph (1) substitute—
 - “(1) any other sums which are by virtue of any enactment (as it has effect in accordance with subsection (1A) of this section) required to be paid into the Consolidated Fund in accordance with this section.”; and
 - (b) after subsection (1) insert—
 - “(1A) References (however phrased) in any enactment not contained in this section to the payment of sums into, or to the carrying of sums to the account of, the Mercantile Marine Fund shall be construed as references to the payment of sums into, or to the carrying of sums

Status: Point in time view as at 18/03/1991.

Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1988 (repealed). (See end of Document for details)

to the account of, the Consolidated Fund in accordance with this section, and connected phrases shall be construed accordingly.”

- 10 In section 677 (application of Mercantile Marine Fund)—
- (a) for the words from the beginning to “the following expenses” substitute “The following expenses and other amounts (being expenses and amounts which, in accordance with this section as originally enacted, were payable out of the former Mercantile Marine Fund) shall be payable out of money provided by Parliament”;
 - (b) omit paragraph (i);
 - (c) for paragraph (o) substitute—
 - “(o) any other amounts which are by virtue of any enactment (as it has effect in accordance with subsection (2) of this section) payable out of money provided by Parliament in accordance with this section.”; and
 - (d) at the end add—
 - “(2) References (however phrased) in any enactment not contained in this section or in Part XI of this Act to the charging of amounts on, or to the payment of amounts out of, the Mercantile Marine Fund shall be construed as references to the payment of amounts out of money provided by Parliament in accordance with this section, and connected phrases shall be construed accordingly.”;
 and accordingly the existing provisions of section 677, as amended by subparagraphs (a) to (c) above, shall constitute subsection (1) of that section.
- 11 In section 731 (exemption from rates)—
- (a) for “Mercantile Marine Fund” substitute “General Lighthouse Fund”; and
 - (b) omit “or by the Board of Trade” and “or of the Board of Trade”.
- 12 Omit section 744 (application of Act to vessels fishing for whales, etc.).

MERCHANT SHIPPING (MERCANTILE MARINE FUND) ACT 1898 (C. 44)

For section 1 substitute—

“1 Constitution of General Lighthouse Fund.

- (1) There shall continue to be a fund called the General Lighthouse Fund.
- (2) All light dues and other sums received by or accruing to any of the general lighthouse authorities by virtue of, or in connection with the discharge of their functions under, Part XI of the Merchant Shipping Act 1894 shall be accounted for and paid to the General Lighthouse Fund.
- (3) The General Lighthouse Fund shall be applied to the payment of such expenses of the general lighthouse authorities and the Secretary of State as are, by virtue of any enactment, payable out of the Fund.

Status: Point in time view as at 18/03/1991.

Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1988 (repealed). (See end of Document for details)

- (4) References to the Mercantile Marine Fund in Part XI and section 679 of the Merchant Shipping Act 1894 shall be construed as references to the General Lighthouse Fund.”

MERCHANT SHIPPING ACT 1906 (C. 48)

Omit section 52 (provisions with respect to mortgages of ships sold to foreigners).

MERCHANT SHIPPING ACT 1970 (C. 36)

- 1 Omit section 23 (power of seamen to complain to master or proper officer about master, other seamen or conditions).
- 2 In section 30 (continued or concerted disobedience, neglect of duty etc. by seamen), omit paragraphs (a) and (b).
- 3 In section 42 (trade disputes involving seamen), omit subsection (2).
- 4 In section 56 (formal investigation into shipping casualty or incident), for subsections (5) and (6) substitute—
 - “(5) The wreck commissioner or sheriff may make such awards as he thinks just with regard to the costs of the investigation and of any parties at the investigation, and with regard to the parties by whom those costs are to be paid; and any such award of the wreck commissioner may, on the application of any party named in it, be made an order of the High Court.
 - (6) Any costs directed by an award to be paid shall be taxable—
 - (a) in the High Court, or
 - (b) where the investigation was held in Scotland, by the auditor of the sheriff court in which it was held and in accordance with the table of fees regulating the taxation of solicitors’ accounts.
 - (6A) The wreck commissioner or sheriff shall make a report on the investigation to the Secretary of State.”
- 5 Omit sections 65 and 66 (custody and disposal of property of deceased seamen).
- 6 After section 75 insert—

“75A Inspection and admissibility in evidence of copies of certain documents.

- (1) Where under any enactment a document is open to public inspection when in the custody of the Registrar General of Shipping and Seamen—
 - (a) there may be supplied for public inspection a copy or other reproduction of the document instead of the original; but

Status: Point in time view as at 18/03/1991.

Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1988 (repealed). (See end of Document for details)

- (b) the original shall nevertheless be made available for public inspection if the copy or other reproduction is illegible.
 - (2) Where the Registrar General of Shipping and Seamen destroys any document which has been sent to him under or by virtue of any enactment, and keeps a copy or other reproduction of that document, then—
 - (a) any enactment providing for the document to be admissible in evidence or open to public inspection, and
 - (b) in the case of a document falling within subsection (1), that subsection,
 shall apply to the copy or other reproduction as if it were the original.
 - (3) For the purposes of this section, and of section 695(2) of the Merchant Shipping Act 1894 in its application to documents in the custody of the Registrar General of Shipping and Seamen, a copy is to be taken to be the copy of a document notwithstanding that it is taken from a copy or other reproduction of the original.”
- 8 In section 92 (unregistered British ships)—
- (a) omit “British”; and
 - (b) after “employed in them,” insert “or shall so extend in such circumstances as may be so specified, in either case”.
- 9 In section 96 (non-sea-going ships)—
- (a) in subsection (1)—
 - (i) after “20,” insert “27, 32 (in its application in relation to section 27),” and
 - (ii) after “60,” insert “76,”; and
 - (b) for subsection (2) substitute—
 - “(2) In relation to ships which are not sea-going ships—
 - (a) section 32 of this Act shall (in its application in relation to section 27) have effect as if the words “goes to sea in a ship” were omitted and the words “is on board a ship while it is on a voyage or excursion” were inserted after “to give it”; and
 - (b) section 45 of this Act shall have effect as if for the words “goes to sea or attempts to go to sea” there were substituted the words “goes on a voyage or excursion or attempts to do so” and the words “if in the United Kingdom” were omitted.”

MERCHANT SHIPPING (OIL POLLUTION) ACT 1971 (C. 59)

In section 10(6) (compulsory insurance against liability for pollution), for “£35,000” substitute “£50,000”.

Status: Point in time view as at 18/03/1991.

Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1988 (repealed). (See end of Document for details)

MERCHANT SHIPPING ACT 1979 (C. 39)

- 1 In section 46(1) (offences by officers of bodies corporate), for the words from “such an” to “of this Act” substitute “an offence under—
- (a) section 23(6) or 28(1) of this Act, or
 - (b) any Order in Council made by virtue of section 20(1) of this Act, or
 - (c) any regulations made by virtue of section 20(4) or 21(1) of this Act.”.
- 2 In section 49 (orders and regulations), as amended by section 11(3) of the ^{M1}Safety at Sea Act 1986—
- (a) in subsection (4A), at the beginning insert “Except where subsection (4B) of this section applies,”; and
 - (b) after that subsection insert—
- “(4B) Regulations falling within paragraphs (a) to (c) of subsection (4A) of this section, if contained in the same instrument as any regulations requiring to be approved in draft by virtue of that subsection, shall also require to be so approved.”

Marginal Citations

M1 1986 c. 23.

MERCHANT SHIPPING ACT 1983 (C. 13)

Omit sections 1 to 3 (measurement of small ships for length instead of tonnage).

MERCHANT SHIPPING ACT 1984 (C. 5)

In section 2 (prohibition notices)—

- (a) in subsection (1) (notices in respect of activities which are, or are about to be, carried on and involve a risk of serious personal injury or pollution), for “about”, in both places where it occurs, substitute “likely”; and
 - (b) for subsection (4) (notices to have immediate effect only if the risk is imminent) substitute—
- “(4) A direction contained in a prohibition notice in pursuance of subsection (3)(d) shall take effect—
- (a) at the end of a period specified in the notice, or
 - (b) if the direction is given in pursuance of subsection (3)(d)(ii) or the notice so declares, immediately.”

Status: Point in time view as at 18/03/1991.

Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1988 (repealed). (See end of Document for details)

SCHEDULE 6

Section 57(4).

MINOR AND CONSEQUENTIAL AMENDMENTS

SEA FISHERIES ACT 1868 (C.45)

For section 26 substitute—

“26 Registered fishing boats and foreign fishing boats within British waters to have official papers.

- (1) The master of every sea-fishing boat which is registered under Part II of the Merchant Shipping Act 1988 shall (whether his boat is within British waters or not) have on board the certificate of registration issued in pursuance of that Part of that Act.
- (2) The master of every foreign sea-fishing boat within British waters shall have on board official papers evidencing its nationality.
- (3) If any person, without reasonable excuse (the proof of which lies on him), contravenes subsection (1) or (2) of this section, he shall be liable on summary conviction to a fine not exceeding the second level on the standard scale; and where a fine is imposed under this subsection on the master of a foreign sea-fishing boat the court may order the boat to be detained for a period not exceeding three months from the date of the conviction or until the fine is paid (whichever period is the shorter).
- (4) Section 8(4) of the Sea Fisheries Act 1968 (power of British sea-fishery officer to take fishing boat to nearest port and detain it there) shall apply in relation to a contravention of subsection (1) or (2) of this section as it applies in relation to such a contravention as is mentioned in that provision.

(5) In this section—

“British waters” means waters within the seaward limits of the territorial sea adjacent to the United Kingdom, the Channel Islands and the Isle of Man;

“foreign sea-fishing boat” means a sea-fishing boat which—

- (a) is not registered in the United Kingdom, the Channel Islands or the Isle of Man, and
- (b) is not excluded from registration by regulations under section 13 of the Merchant Shipping Act 1988, and
- (c) is not wholly owned by persons qualified to be owners of British ships for the purposes of Part I of the Merchant Shipping Act 1894;

“master” includes, in relation to any sea-fishing boat, a person for the time being in command or charge of the boat.”

MERCHANT SHIPPING ACT 1894 (C.60)

1 In section 459 (power to detain unsafe ships, and procedure for detention)—

- (a) in subsection (1), for the words from “the defective condition” to “improper loading” substitute “any of the matters mentioned in subsection (1A) of this section”;

Status: Point in time view as at 18/03/1991.

Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1988 (repealed). (See end of Document for details)

- (b) after that subsection insert—
- “(1A) The matters referred to in subsection (1) of this section are—
- (a) the condition, or the unsuitability for its purpose, of—
 - (i) the ship or its machinery or equipment, or
 - (ii) any part of the ship or its machinery or equipment;
 - (b) undermanning;
 - (c) overloading or unsafe or improper loading;
 - (d) any other matter relevant to the safety of the ship;
- and the reference in that subsection to proceeding to sea shall, in a case where the service for which the ship is intended consists of going on voyages or excursions that do not involve going to sea, be construed as a reference to going on such a voyage or excursion.”;
- and
- (c) in subsection (5), for “British register being subsequently closed” substitute “subsequently ceasing to be a British ship”.

2 In section 462 (application to foreign ships of provisions as to detention), for the words from “by reason of” (where first occurring) to “the provisions” substitute “by reason of any of the matters mentioned in section 459(1A) of this Act, the provisions”.

3 In section 692 (enforcing detention of ship), at the end add—

“(5) Any reference in this section to proceeding to sea includes a reference to going on a voyage or excursion that does not involve going to sea, and references to sending or taking to sea shall be construed accordingly.”

MERCHANT SHIPPING ACT 1906 (C.48)

Omit section 51 (power of Commissioners of Customs and Excise to inquire into the title of a registered ship to be registered).

MERCHANT SHIPPING (AMENDMENT) ACT 1920 (C.2)

In section 1 (amendment of s.659 of the 1894 Act)—

- (a) for the words from “His Majesty” to “fix” substitute “the Secretary of State under section 659 of the ^{M2}Merchant Shipping Act 1894 to determine”; and
- (b) for “fixing” and “fixed” substitute “determining” and “determined” respectively.

Marginal Citations

M2 1894 c. 60.

Status: Point in time view as at 18/03/1991.

Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1988 (repealed). (See end of Document for details)

CONTRACTS OF EMPLOYMENT AND REDUNDANCY PAYMENTS ACT (NORTHERN IRELAND) 1965 (C.19)

In section 6(1)(c) (excluded categories of employees), for the words from “required” to “Act” substitute “registered under Part II of the Merchant Shipping Act 1988”.

MERCHANT SHIPPING ACT 1965 (C.47)

In section 1(4) (tonnage regulations), for the words from “section 83” to “the Exchequer” substitute “sections 83 and 676 of the principal Act as require the payment of fees into the Consolidated Fund”.

SEA FISH (CONSERVATION) ACT 1967 (C.84)

In section 1(9) (size limits, etc. for fish), for the words from “exempted” to “that Act)” substitute “excluded from registration by regulations under section 13 of the Merchant Shipping Act 1988 or owned wholly by a person who is (within the meaning of Part I of the Merchant Shipping Act 1894)”.

SEA FISHERIES ACT 1968 (C.77)

In section 19(1) (interpretation), in the definition of “British fishing boat”, for the words from “exempted from” to “1894” (where first occurring) substitute “excluded from registration by regulations under section 13 of the Merchant Shipping Act 1988”, and for “so exempted” substitute “so excluded”.

FISHING VESSELS (SAFETY PROVISIONS) ACT 1970 (C.27)

In section 9(1) (interpretation), for the definition of “fishing vessel” substitute—

““fishing vessel” means a fishing vessel within the meaning of Part II of the Merchant Shipping Act 1988;”.

MERCHANT SHIPPING ACT 1970 (C.36)

1 In section 33 (defence of drug taken for medical purposes), after “27” insert “(2)”.

2 In section 56 (formal investigation into shipping casualty)—

(a) for subsection (1) substitute—

“(1) Where any accident has occurred, the Secretary of State may (whether or not an investigation into it has been carried out under section 33 of the Merchant Shipping Act 1988) cause a formal investigation into the accident to be held—

(a) if in England, Wales or Northern Ireland, by a wreck commissioner, and

(b) if in Scotland, by the sheriff;

Status: Point in time view as at 18/03/1991.

Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1988 (repealed). (See end of Document for details)

and in this section “accident” means any accident to which regulations under that section apply or any incident or situation to which any such regulations apply by virtue of subsection (5) of that section.

(1A) A wreck commissioner or sheriff holding a formal investigation shall conduct it in accordance with rules under section 58(1) of this Act; and those rules shall require the assistance of one or more assessors and, if any question as to the cancellation or suspension of an officer’s certificate is likely, the assistance of not less than two assessors.”; and

(b) in subsection (4), for “casualty” substitute “accident”.

3 In section 58(1) (rules as to inquiries etc.), for “55” substitute “56”.

4 In section 67 (application of sections 62 to 66 to masters), for “66” substitute “64”.

5 In section 95 (fishing vessels)—

(a) in subsection (1), for “sections 6 and 30(a) and (b)” substitute “section 6”;
and

(b) for subsection (6) substitute—

“(6) In this Act “fishing vessel” means a fishing vessel within the meaning of Part II of the Merchant Shipping Act 1988.”

FISHERY LIMITS ACT 1976 (C.86)

In section 8 (interpretation), in the definition of “foreign fishing boat”, for paragraphs (b) and (c) substitute—

“(b) excluded from registration by regulations under section 13 of the Merchant Shipping Act 1988; or

(c) owned wholly by one or more qualified persons or companies within the meaning of section 14 of the Merchant Shipping Act 1988;”.

EMPLOYMENT PROTECTION (CONSOLIDATION) ACT 1978 (C.44)

In section 144(1)(b) (mariners), for the words from “required to be” to “1894” substitute “registered under Part II of the Merchant Shipping Act 1988”.

CUSTOMS AND EXCISE MANAGEMENT ACT 1979 (C.2)

In section 81(7) (power to regulate small craft), for the words from “fishing boat” (where first occurring) to “1894” substitute “fishing vessel registered under Part II of the Merchant Shipping Act 1988”.

Status: Point in time view as at 18/03/1991.

Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1988 (repealed). (See end of Document for details)

MERCHANT SHIPPING ACT 1979 (C.39)

- 1 In section 20(3)(a) (prevention of pollution from ships etc.), for “55” substitute “56”.
- 2 In section 28(7)(b) (supplementary provisions about inspectors), for “sections 55(2) and” substitute “section”.
- 3 In section 47(2) (power to extend Act to certain countries, etc.) for “to 44” substitute “, 43”.
- 4 In paragraph 8 of Part VI of Schedule 6 (miscellaneous penalties on summary conviction)—
 - (a) for “, 62(6) and 65(3)” substitute “and 62(6)”; and
 - (b) for the words from “, the return” to “deceased seamen” substitute “and the return of seamen left overseas”.

SUPREME COURT ACT 1981 (C.54)

In section 20(5)(b) (Admiralty jurisdiction of High Court), after “Fund” insert “, or on the International Oil Pollution Compensation Fund 1984,”.

BRITISH FISHING BOATS ACT 1983 (C.8)

In section 9 (interpretation), in the definition of “British fishing boat”, for the words from “exempted” to “that Act)” substitute “ excluded from registration by regulations under section 13 of the Merchant Shipping Act 1988 or owned wholly by a person who is (within the meaning of Part I of the ^{M3}Merchant Shipping Act 1894)”.

Marginal Citations

M3 1894 c.60.

MERCHANT SHIPPING ACT 1983 (C.13)

- 1 In section 5 (registration of small ships)—
 - (a) in subsection (5), omit “book”; and
 - (b) in subsection (9), for the definition of “fishing vessel” substitute—

““fishing vessel” means a fishing vessel within the meaning of Part II of the Merchant Shipping Act 1988.”
- (2) In section 9(1) (small ships: amendments of Merchant Shipping Acts), omit “any registered ship measured for length or”.

Status: Point in time view as at 18/03/1991.

Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1988 (repealed). (See end of Document for details)

MERCHANT SHIPPING ACT 1984 (C.5)

At the end of Schedule 1 (statutory provisions which are relevant for the purpose of serving notices in connection with safety and other matters), insert—

1988 c.12.	The Merchant Shipping Act 1988.	Section 35.
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INSHORE FISHING (SCOTLAND) ACT 1984 (C.26)

In section 9(1) (interpretation), in the definition of “British fishing boat”, for the words from “exempted” to “that Act)” substitute “excluded from registration by regulations under section 13 of the Merchant Shipping Act 1988 or owned wholly by a person who is (within the meaning of Part I of the Merchant Shipping Act 1894).”.

SAFETY AT SEA ACT 1986 (C.23)

In section 13(1) (interpretation), for the definition of “fishing vessel” substitute—

““fishing vessel” means a fishing vessel within the meaning of Part II of the Merchant Shipping Act 1988;”.

SCHEDULE 7

Section 57 (5).

REPEALS

Commencement Information

- II** Sch. 7 partly in force; Sch. 7 not in force at Royal Assent see s. 58 ; Sch. 7 in force for certain repeals at 4.7.1988 by S.I. 1998/1010, art. 2, Sch. and 1.12.1988 by S.I. 1988/1907, art. 2, Sch. and 1.4.1989 by S.I. 1989/353, art. 2, Sch. and 1.6.1994 by S.I. 1994/1201, art. 2, Sch.

Chapter	Short title	Extent of repeal
1853 c. 131.	Merchant Shipping Law Amendment Act 1853.	Section 13.
1886 c. 53.	Sea Fishing Boats (Scotland) Act 1886.	The whole Act.
1894 c. 60.	Merchant Shipping Act 1894.	Sections 1 to 3. Section 4(2). In section 6, the word “British”. In section 7, in subsection (1) the word “British”, and subsection (2). Section 9(iii).

Status: Point in time view as at 18/03/1991.

Changes to legislation: *There are currently no known outstanding effects for the Merchant Shipping Act 1988 (repealed). (See end of Document for details)*

In section 11, the word “book”.

In section 13, the word “British”.

Section 19.

In section 23, the words “or to the governor of a British possession” and “or the governor”.

In section 26, the word “book”, wherever occurring.

In section 27, subsection (1) (b), and in subsection (2) the word “book”.

In sections 32 and 33, the word “book”, wherever occurring.

In section 38, in subsection (1) the word “marriage,”, and in subsection (2) the word “book”.

Sections 39 to 46.

In sections 47(4) and (5) and 48(1), the word “book”, wherever occurring.

Sections 54 and 55.

In sections 56 and 57, the word “book”, wherever occurring.

Section 61(1).

In section 62, the words “, if taken in any part of the United Kingdom,”, and the words from “if taken in a British possession” onwards.

1894 c. 60.—*cont.*

Merchant Shipping Act 1894.—*cont.*

In section 63, in subsection (1) the words “in the United Kingdom” and the words from “and every” to “Seamen”, and in subsection (2) the words “at a port in the United Kingdom”.

In section 64(2), paragraph (a), and in

Status: Point in time view as at 18/03/1991.

Changes to legislation: *There are currently no known outstanding effects for the Merchant Shipping Act 1988 (repealed). (See end of Document for details)*

paragraph (d) the words “in respect of a British ship”.

In section 65, in subsection (1) the words from “, and also” to “schedule”, in subsections (2) and (4) the word “book”, wherever occurring, and subsection (3).

Section 71.

In section 73, in subsection (1) the words “or boats” and “or boat”, in subsection (2) the words “or boat” (where last occurring), and in subsection (3) the words “or boat”.

In section 76(1), the words from “and elsewhere” to “dominions”.

Section 85.

Sections 88 to 91.

Sections 370 and 372 to 374.

Section 463.

In section 634(1)(a), the words “and at Gibraltar,”.

Section 648(1).

In section 652(4), the words from “; and those reports” onwards.

Section 663.

In section 676(1), paragraph (i).

In section 677, paragraph (i).

Section 695(2)(a).

Section 728(a).

In section 731, the words “or by the Board of Trade” and “or of the Board of Trade”.

Section 744.

In Schedule 1, Part I, and in Part II the words “Certificate of mortgage”, “Certificate of sale” and “Revocation

Status: Point in time view as at 18/03/1991.

Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1988 (repealed). (See end of Document for details)

		of certificate of sale or mortgage”.
1897 c. 59.	Merchant Shipping Act 1897.	In section 1, in subsection (1) the words from “as if” (where first occurring) to ““machinery”, and”, and subsection (2).
1898 c. 44.	Merchant Shipping (Mercantile Marine Fund) Act 1898.	Section 2(4).
1906 c. 48.	Merchant Shipping Act 1906.	In section 2, paragraph (1) and the “(2)” immediately following it. Sections 51 and 52. Section 83.
1923 c. 4.	Fees (Increase) Act 1923.	Section 2(1).
1950 c. 9.	Merchant Shipping Act 1950.	Section 4.
1965 c. 47.	Merchant Shipping Act 1965.	Section 1(2)(c). In Schedule 1, the entry relating to section 85 of the 1894 Act.
1968 c. 13.	National Loans Act 1968.	In Schedule 4, in paragraph 2, the words from “Section 663” onwards.
1968 c. 77.	Sea Fisheries Act 1968.	In Schedule 1, paragraphs 23, 32 and 33.
1970 c. 36.	Merchant Shipping Act 1970.	Section 23. In section 30, paragraphs (a) and (b). In section 32, “30(b)”. Section 42(2). In sections 52(3) and 54(2), the words from “and the persons” onwards. Section 55. Sections 65 and 66. Section 73. Section 75(1)(c). Section 89. In section 92, the word “British”.

Status: Point in time view as at 18/03/1991.

Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1988 (repealed). (See end of Document for details)

1971 c. 59.	Merchant Shipping (Oil Pollution) Act 1971.	In section 95(1), “89”. In section 10, in subsection (1) the word “persistent”, and subsection (4). In section 15(1), the word “persistent”.
1974 c. 43.	Merchant Shipping Act 1974.	Section 4(10) to (13). Section 5. In section 6, in subsection (4), the words “or 5,” and in subsection (5)(a) the words “as amended”. Section 7(3).
1974 c. 43.— <i>cont.</i>	Merchant Shipping Act 1974.— <i>cont.</i>	Section 8(2). In section 23(2), the words from “ , and references” onwards.
1974 c. 52.	Trade Union and Labour Relations Act 1974.	In Schedule 3, in paragraph 14 the words from “in subsection (2)” to “1974” and”.
1976 c. 86.	Fishery Limits Act 1976.	Section 2(8)(b). In Schedule 2, paragraph 3.
1979 c. 39.	Merchant Shipping Act 1979.	In section 28(7)(a), “463(5).” Section 31. Section 32(2) and (3). In section 37, subsection (4), and in subsection (6) the word “British”. In section 38, subsections (1) and (3) and, in subsection (4), paragraphs (a) and (b) and (d) to (g). In section 40, in subsection (1) paragraphs (a), (c) and (d), and subsection (2). Section 44. Section 45(1). In Schedule 6—

Status: Point in time view as at 18/03/1991.

Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1988 (repealed). (See end of Document for details)

		(a) in Part I, the entries relating to section 373(4) of the 1894 Act and section 89(4) of the Merchant Shipping Act 1970,
		(b) in Part II, the entries relating to section 44(11) of the 1894 Act and section 23(3) of the Merchant Shipping Act 1970,
		(c) in Part IV, the entry relating to section 73(2) of that Act,
		(d) in Part VI, paragraph 1, and
		(e) in Part VII, paragraph 19.
1983 c. 8.	British Fishing Boats Act 1983.	Section 11(2).
1983 c. 13.	Merchant Shipping Act 1983.	Sections 1 to 4. In section 5(5), the word “book”. Section 6.
1983 c. 13.— <i>cont.</i>	Merchant Shipping Act 1983.— <i>cont.</i>	In section 9(1), the words “any registered ship measured for length or”.
1984 c. 5.	Merchant Shipping Act 1984.	Section 12(2).
1984 c. 26.	Inshore Fishing (Scotland) Act 1984.	In Schedule 1, the entry relating to the 1894 Act.

SCHEDULE 8

Section 58(4).

TRANSITIONAL PROVISIONS AND SAVINGS

- 1 The amendments and repeals made by this Act do not—
- (a) (unless an Order in Council under section 56 of this Act, or under any other enactment, so provides) extend to any country outside the United Kingdom; or
 - (b) affect any Order in Council providing for the extension of any enactments to any such country.

Status: Point in time view as at 18/03/1991.

Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1988 (repealed). (See end of Document for details)

- 2 (1) This paragraph shall have effect in relation to any relevant overseas territory to which the provisions of sections 2 to 7 of this Act have not been extended by an Order in Council under section 56.
- (2) Where—
- (a) by virtue of section 2(2) of the 1894 Act (obligation to register British ship) as in force in any such territory, any ship is (apart from this paragraph) a British ship that is not to be recognised as such, but
 - (b) the ship is a British ship by virtue of section 2 of this Act,
- the ship shall nevertheless be recognised as a British ship for the purposes of the Merchant Shipping Acts as in force in that territory.
- (3) Where—
- (a) by virtue of section 2(2) of the 1894 Act as in force in any such territory, any ship is a British ship that is not to be recognised as such, and
 - (b) the ship is not a British ship by virtue of section 2 of this Act,
- the ship shall, notwithstanding section 2(3) of that Act (as so in force), not be liable to detention under that provision.
- (4) Where—
- (a) any ship is not wholly owned by such persons as are mentioned in section 1 of the 1894 Act (qualification for owning British ships) as in force in any such territory, but
 - (b) the ship is a British ship by virtue of section 2 of this Act,
- the ship shall nevertheless be recognised as a British ship for the purposes of the Merchant Shipping Acts as in force in that territory, and the following provisions of the 1894 Act (as so in force), namely—
- (i) section 69 (penalty for unduly assuming British character), and
 - (ii) section 71 (penalty for acquiring ownership if unqualified),
- shall not apply in relation to the ship.
- 3 If the Secretary of State by order made by statutory instrument so provides, no registration of a fishing boat shall be effected—
- (a) under Part IV of the 1894 Act, or
 - (b) under the ^{M4}Sea Fishing Boats (Scotland) Act 1886,
- during such period not exceeding one month and ending with the commencement of Part II of this Act as is specified in the order.

Marginal Citations

M4 1886 c. 53.

- 4 Section 4(6) of this Act shall not have effect at any time before the commencement of Part II of this Act, and shall not affect the operation of section 13(3) of this Act in relation to fishing vessels which are registered under Part I of the 1894 Act immediately before the commencement of Part II of this Act.

Status: Point in time view as at 18/03/1991.

Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1988 (repealed). (See end of Document for details)

- 5 In section 72(1) of the 1894 Act as amended by Schedule 1 to this Act (liabilities of unregistered ships), the reference to Part I of that Act shall, in relation to any time before the end of the period referred to in section 13(3)(b) of this Act, be construed as including a reference to Part IV of that Act.

Status:

Point in time view as at 18/03/1991.

Changes to legislation:

There are currently no known outstanding effects for the Merchant Shipping Act 1988 (repealed).