

Status: Point in time view as at 18/03/1991.

Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1988 (repealed), SCHEDULE 1. (See end of Document for details)

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,

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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

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- (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—

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- (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.

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- (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)—

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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”.

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- 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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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;

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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";

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- (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—

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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

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- (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—

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“Mortgage.”

“Transfer of mortgage.”

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