

SCHEDULES

SCHEDULE 4

PRE-CONSOLIDATION AMENDMENTS

Legal proceedings and offences: assimilation and modernisation

- 58 In section 681(2) of the 1894 Act (mode of enforcing recovery of certain sums), after “England” insert “or Northern Ireland”.
- 59 Section 683 of the 1894 Act (time limit for summary proceedings) shall apply in relation to offences under the Oil Pollution Act instead of section 19(4) of that Act (corresponding provision); and for the word “after” in section 683(1) substitute “beginning with” where that word first appears and, where that word secondly appears, substitute “beginning with the date on which”.
- 60 Section 684 of the 1894 Act (jurisdiction in relation to offences) shall apply in relation to offences under the Oil Pollution Act instead of section 19(5) of that Act (corresponding provision).
- 61 Section 686(1) (jurisdiction over offences on board ship) shall—
- (a) so far as it applies to British subjects, apply only to British citizens (within the meaning of the British Nationality Act 1981); and
 - (b) so far as it applies to British ships, apply only to United Kingdom ships.
- 62 For section 687 of the 1894 Act (offences by British seamen overseas) substitute—
- “687 Offences committed by British seamen.**
- (1) Any act in relation to property or person done in or at any place (ashore or afloat) outside the United Kingdom by any master or seaman who at the time is employed in a United Kingdom ship, which, if done in any part of the United Kingdom, would be an offence under the law of any part of the United Kingdom, shall—
 - (a) be an offence under that law, and
 - (b) be treated for the purposes of jurisdiction and trial as if it had been done within the jurisdiction of the Admiralty of England.
 - (2) Subsection (1) above also applies in relation to a person who had been so employed within the period of three months expiring with the time when the act was done.
 - (3) Subsections (1) and (2) above apply to omissions as they apply to acts.”.
- 63 After section 687 of the 1894 Act insert the following—

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“687A Offences by officers of bodies corporate.

- (1) Where a body corporate is guilty of an offence under the Merchant Shipping Acts or any instrument made under those Acts, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in such a capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members, subsection (1) above shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

687B Offences by partners, etc in Scotland

Where, in Scotland, a partnership or unincorporated association (other than a partnership) is guilty of an offence under the Merchant Shipping Acts or any instrument made under those Acts, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner in the partnership or, as the case may be, a person concerned in the management or control of the association, he as well as the partnership or association shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.”.

- 64 In section 689 of the 1894 Act (return of offenders to the United Kingdom)—
- (a) in subsection (2), after “may” insert “, where no more convenient means of transport is available (or is available only at disproportionate expense),”; and
 - (b) in subsection (3), omit the words from “and that officer” to the end.
- 65 In section 693 of the 1894 Act (how sums ordered to be paid are leviable), for the words from “direct” to the end substitute—
- “—
- (a) except in Scotland, direct the amount remaining unpaid to be levied by distress,
 - (b) in Scotland, grant warrant authorising the arrestment and sale,
- of the ship and its equipment.”.
- 66 In section 20 of the Oil Pollution Act (enforcement and application of fines), for the words from “to direct” to the end substitute—
- “—
- (a) except in Scotland, to direct the amount remaining unpaid to be levied by distress,
 - (b) in Scotland, to grant warrant authorising the arrestment and sale,
- of the ship and its equipment.”.
- 67 In section 695 of the 1894 Act (certification of copies for evidence)—

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- (a) in subsection (2) (provision of copies), for the reference to payment of a reasonable sum not exceeding an amount prescribed by regulations substitute a reference to payment of a reasonable price determined by the Secretary of State;
- (b) in subsection (3) (offence) for “eighteen months” substitute “two years”; and
- (c) after subsection (3) insert—

“(3A) Without prejudice to section 6(1) of the Civil Evidence (Scotland) Act 1988 (production of copy documents), subsection (2) above shall not apply, for the purposes of civil proceedings in Scotland, as respects the admissibility of a copy document; but subsection (3) above shall apply to a person purporting to authenticate any such document and to authentication as it applies to an officer purporting to certify any such document and to certification.”.

68 For section 696 of the 1894 Act (service of documents) substitute the following—

“696 Service of documents.

- (1) Any document authorised or required to be served on any person may be served on that person—
 - (a) by delivering it to him;
 - (b) by leaving it at his proper address; or
 - (c) by sending it by post to him at his proper address.
- (2) Any such document authorised or required to be served on the master of a ship may be served—
 - (a) where there is a master, by leaving it for him on board the ship with the person appearing to be in command or charge of the ship;
 - (b) where there is no master—
 - (i) on the managing owner of the ship; or
 - (ii) if there is no managing owner, on any agent of the owner; or
 - (iii) where no such agent is known or can be found, by leaving a copy of the document fixed to the mast of the ship.
- (3) Any document authorised or required to be served on any person may—
 - (a) in the case of a body corporate, be served on the secretary or clerk of that body;
 - (b) in the case of a partnership, be served on a partner or a person having the control or management of the partnership business or, in Scotland, on the firm.
- (4) Any notice authorised or required by, or by regulations under, the Merchant Shipping (Registration, etc.) Act 1993 to be served on the Secretary of State may be served by post.
- (5) Any notice authorised by Part I of the Merchant Shipping Act 1984 to be given to an inspector may be given by delivering it to him or by leaving it at, or sending it by post to, his office.
- (6) Any document authorised or required by or under any enactment to be served on the registered owner of a registered ship shall be treated as duly served

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on him if served on such person, in such circumstances and by such method, as may be specified in registration regulations.

(7) For the purposes of this section and of section 7 of the Interpretation Act 1978 (service of documents by post) in its application to this section, the proper address of any person on whom any document is to be served shall be his last known address, except that—

- (a) in the case of a body corporate or their secretary or clerk it shall be the address of the registered or principal office of that body;
- (b) in the case of a partnership or a person having the control or management of the partnership business, it shall be the principal office of the partnership;

and for the purposes of this subsection the principal office of a company registered outside the United Kingdom or of a partnership carrying on business outside the United Kingdom shall be their principal office in the United Kingdom.

(8) If the person to be served with any notice has (whether in pursuance of registration regulations or otherwise) specified an address in the United Kingdom other than his proper address within the meaning of subsection (7) above as the one at which he or someone on his behalf will accept notices of the same description as that notice, that address shall also be treated for the purposes of this section and section 7 of the Interpretation Act 1978 as his proper address.

(9) For the purposes of the said section 7 a letter containing—

- (a) a notice to be served on any person in pursuance of subsection (6) above, or
- (b) a notice authorised or required to be served under registration regulations on a representative person (within the meaning of those regulations),

shall be deemed to be properly addressed if it is addressed to that person at the address for the time being recorded in relation to him in the register; and a letter containing any other notice under registration regulations shall be deemed to be properly addressed if it is addressed to the last known address of the person to be served (whether of his residence or of a place where he carries on business).”.

69 In section 697 of the 1894 Act (proof etc. of exemption), the existing words shall be subsection (1), and after that subsection add—

“(2) This section does not apply to Scotland.”.

70 In section 76 of the 1894 Act (proceedings on forfeiture of ship) omit—

- (a) in subsection (1), the words from “and may award” to the end; and
- (b) in subsection (2), the words “either” and “or criminally”.

71 For section 66 of the 1894 Act (forgery of documents: Scotland) substitute—

“66 Forgery of documents: Scotland

(1) In Scotland if any person forges or fraudulently alters—

- (a) any entry or endorsement in the register kept under section 1 of the Merchant Shipping (Registration, etc) Act 1993; or

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- (b) subject to subsection (2) below, any other document as respects which provision is made by, under or by virtue of that Act or this Part of this Act (or any entry or endorsement, in or on such other document and as respects which provision is so made),
- he shall be liable—
- (i) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding six months or to both; or
- (ii) on conviction on indictment, to a fine or to imprisonment or to both.
- (2) Subsection (1)(b) above does not apply in respect of actings which constitute an offence under section 695(4) or 722(1) of this Act.”.
- 72 For section 695(4) of the 1894 Act (offences as respects documents admissible in evidence) substitute—
- “(4) Subject to subsection (5) below, in Scotland if any person forges the seal, stamp or signature of any document (or copy document) declared by this Act to be admissible in evidence or tenders in evidence any such document (or copy document) with, and knowing it to have, a false or counterfeit seal, stamp or signature he shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding six months or to both; or
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding seven years or to both.
- (5) Subsection (4) above does not apply in respect of actings which constitute an offence under section 722(1) of this Act.”.
- 73 For section 722(1) of the 1894 Act (offences as to use of forms) substitute—
- “(1) In Scotland, if any person forges any seal or distinguishing mark on any form issued under this Act or fraudulently alters any such form he shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding six months or to both; or
- (b) on conviction on indictment, to a fine or to imprisonment or to both.”.
- 74 In any offence-creating provision of the Merchant Shipping Acts—
- (a) any reference to doing a thing “wilfully” shall be construed as a reference to doing it “intentionally”;
- (b) any reference to “suffering” or “allowing” a thing to be done shall be construed as a reference to “permitting” it to be done; and
- (c) any reference to the absence of a reasonable “cause” shall be construed as a reference to the absence of a reasonable “excuse”.