

Status: Point in time view as at 30/11/2019.

Changes to legislation: Merchant Shipping Act 1995, SCHEDULE 1 is up to date with all changes known to be in force on or before 14 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 1

Section 16.

PRIVATE LAW PROVISIONS FOR REGISTERED SHIPS

General

- 1 (1) Subject to any rights and powers appearing from the register to be vested in any other person, the registered owner of a ship or of a share in a ship shall have power absolutely to dispose of it provided the disposal is made in accordance with this Schedule and registration regulations.
- (2) Sub-paragraph (1) above does not imply that interests arising under contract or other equitable interests cannot subsist in relation to a ship or a share in a ship; and such interests may be enforced by or against owners and mortgagees of ships in respect of their interest in the ship or share in the same manner as in respect of any other personal property.
- (3) The registered owner of a ship or of a share in a ship shall have power to give effectual receipts for any money paid or advanced by way of consideration on any disposal of the ship or share.

Transfers etc of registered ships

- 2 (1) Any transfer of a registered ship, or a share in such a ship, shall be effected by a bill of sale satisfying the prescribed requirements, unless the transfer will result in the ship ceasing to have a British connection.
 - (2) Where any such ship or share has been transferred in accordance with sub-paragraph (1) above, the transferee shall not be registered as owner of the ship or share unless—
 - (a) he has made the prescribed application to the registrar; and
 - (b) the registrar is satisfied that the ship retains a British connection and that he would not refuse to register the ship.
 - (3) If an application under sub-paragraph (2) above is granted by the registrar, the registrar shall register the bill of sale in the prescribed manner.
 - (4) Bills of sale shall be registered in the order in which they are produced to the registrar for the purposes of registration.
- 3 (1) Where a registered ship, or a share in a registered ship, is transmitted to any person by any lawful means other than a transfer under paragraph 2 above and the ship continues to have a British connection, that person shall not be registered as owner of the ship or share unless—
 - (a) he has made the prescribed application to the registrar; and
 - (b) the registrar is satisfied that the ship retains a British connection and that he would not refuse to register the ship.

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- (2) If an application under sub-paragraph (1) is granted by the registrar, the registrar shall cause the applicant's name to be registered as owner of the ship or share.
- 4 (1) Where the property in a registered ship or share in a registered ship is transmitted to any person by any lawful means other than a transfer under paragraph 2 above, but as a result the ship no longer has a British connection, the High Court or in Scotland the Court of Session may, on application by or on behalf of that person, order a sale of the property so transmitted and direct that the proceeds of sale, after deducting the expenses of the sale, shall be paid to that person or otherwise as the court direct.
- (2) The court may require any evidence in support of the application they think requisite, and may make the order on any terms and conditions they think just, or may refuse to make the order, and generally may act in the case as the justice of the case requires.
- (3) Every such application must be made within the period of 28 days beginning with the date of the occurrence of the event on which the transmission has taken place, or within such further time (not exceeding one year) as the court may allow.
- (4) If—
- (a) such an application is not made within the time allowed by or under sub-paragraph (3) above; or
 - (b) the court refuse an order for sale,
- the ship or share transmitted shall be liable to forfeiture.
- 5 (1) Where any court (whether under paragraph 4 above or otherwise) order the sale of any registered ship or share in a registered ship, the order of the court shall contain a declaration vesting in some named person the right to transfer the ship or share.
- (2) The person so named shall be entitled to transfer the ship or share in the same manner and to the same extent as if he were the registered owner of the ship or share.
- (3) The registrar shall deal with any application relating to the transfer of the ship or share made by the person so named as if that person were the registered owner.
- 6 (1) The High Court or in Scotland the Court of Session may, if they think fit (without prejudice to the exercise of any other power), on the application of any interested person, make an order prohibiting for a specified time any dealing with a registered ship or share in a registered ship.
- (2) The court may make the order on any terms or conditions they think just, or may refuse to make the order, or may discharge the order when made (with or without costs or, in Scotland, expenses) and generally may act in the case as the justice of the case requires.
- (3) The order, when a copy is served on the registrar, shall be binding on him whether or not he was made a party to the proceedings.

Mortgages of registered ships

- 7 (1) A registered ship, or share in a registered ship, 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 the following provisions of this Schedule as a "mortgage") shall be in the form prescribed by or approved under registration regulations.

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- (3) Where a mortgage executed in accordance with sub-paragraph (2) above is produced to the registrar, he shall register the mortgage in the prescribed manner.
- (4) Mortgages shall be registered in the order in which they are produced to the registrar for the purposes of registration.

Priority of registered mortgages

- 8 (1) Where two or more mortgages are registered in respect of the same ship or share, the priority of the mortgagees between themselves shall, subject to sub-paragraph (2) below, be determined by the order in which the mortgages were registered (and not by reference to any other matter).
- (2) Registration regulations may provide for the giving to the registrar by intending mortgagees of “priority notices” in a form prescribed by or approved under the regulations which, when recorded in the register, determine the priority of the interest to which the notice relates.

Registered mortgagee’s power of sale

- 9 (1) Subject to sub-paragraph (2) below, every registered mortgagee shall have power, if the mortgage money or any part of it is due, to sell the ship 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 ship or share, a subsequent mortgagee shall not, except under an order of a court of competent jurisdiction, sell the ship or share without the concurrence of every prior mortgagee.

Protection of registered mortgagees

- 10 Where a ship or share is subject to a registered mortgage then—
 - (a) except so far as may be necessary for making the ship or share available as a security for the mortgage debt, the mortgagee shall not by reason of the mortgage be treated as owner of the ship or share; and
 - (b) the mortgagor shall be treated as not having ceased to be owner of the ship or share.

Transfer of registered mortgage

- 11 (1) A registered mortgage may be transferred by an instrument made in the form prescribed by or approved under registration regulations.
- (2) Where any such instrument is produced to the registrar, the registrar shall register the transferee in the prescribed manner.

Transmission of registered mortgage by operation of law

- 12 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 11 above, the registrar shall, on production of the prescribed evidence, cause the name of that person to be entered in the register as mortgagee of the ship or share in question.

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Discharge of registered mortgage

- 13 Where a registered mortgage has been discharged, the registrar shall, on production of the mortgage deed and such evidence of the discharge of the mortgage as may be prescribed, cause an entry to be made in the register to the effect that the mortgage has been discharged.

Definitions

- 14 In this Schedule—
“mortgage” shall be construed in accordance with paragraph 7(2) above;
“prescribed” means prescribed in registration regulations; and
“registered mortgage” means a mortgage registered under paragraph 7(3) above.

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