

1989 No. 679

MERCHANT SHIPPING

**The Merchant Shipping Act 1988 (Isle of Man) Order
1989**

<i>Made</i> - - - -	<i>18th April 1989</i>
<i>Laid before Parliament</i>	<i>26th April 1989</i>
<i>Coming into force</i>	<i>18th May 1989</i>

At the Court at Windsor Castle, the 18th day of April 1989

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in pursuance of section 738 of the Merchant Shipping Act 1894(a) and section 56 of the Merchant Shipping Act 1988(b), is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

1. This Order may be cited as the Merchant Shipping Act 1988 (Isle of Man) Order 1989 and shall come into force on 18th May 1989.
2. The provisions of the Merchant Shipping Act 1988 specified in Part I of the Schedule to this Order shall extend to the Isle of Man with the modifications specified in Part II of that Schedule.
3. Notwithstanding the extension of paragraph 2(b) of Schedule 1 to the Merchant Shipping Act 1988 (which amends section 7 of the Merchant Shipping Act 1894 by the omission of subsection (2) thereof) the power of exemption given to the Secretary of State by that subsection shall continue to have effect in relation to any class of ship in respect of which it was exercised immediately before the date of that extension.

G. I. de Deney
Clerk of the Privy Council

PART I

PROVISIONS OF THE MERCHANT SHIPPING ACT 1988 EXTENDED TO THE ISLE OF MAN

Sections 1 to 5, 7 to 10, 51, 53, 54, 57 and 58.
Schedule 1.

PART II

MODIFICATIONS IN THE EXTENSION OF PROVISIONS OF THE MERCHANT SHIPPING ACT 1988 TO THE ISLE OF MAN

1.—(1) Subject to sub-paragraph (2), any reference to an enactment shall, unless the contrary intention appears, be construed as a reference to that enactment as it has effect in the Isle of Man.

(2) Any reference to Part II, or to any provision thereof, of the Merchant Shipping Act 1988 shall be construed as a reference to any provision contained in, or made under, an Act of Tynwald which has the equivalent effect to that Part or, as the case may be, provision.

(3) Any reference to the Secretary of State shall be construed as a reference to the Department of Highways, Ports and Properties.

(4) For the words "United Kingdom" wherever they occur, except in the expression "Her Majesty's Government in the United Kingdom" and unless the contrary intention appears from the following provisions of this Schedule, there shall be substituted "Isle of Man".

2. In section 2, subsection (2) shall be omitted.

3. In section 4(1), for "sections 6 and 7 below" there shall be substituted "section 7 below and section 1 of the Merchant Shipping (Registration) Act 1984 (an Act of Tynwald) and any provision of an Act of Tynwald amending or replacing that section".

4. In section 7(3) –

(a) for paragraph (a) there shall be substituted the follow paragraph –

"(a) that, having regard to –

(i) the matters mentioned in subsection (1)(a) of section 1 of the Merchant Shipping (Registration) Act 1984 (an Act of Tynwald) and any provision of an Act of Tynwald amending or replacing that section, or

(ii) any order made under subsection (1)(b) of that section, or

(iii) the condition of the ship so far as relevant to any risk of pollution,

it would be inappropriate for a registered ship to continue to be registered, or",

and

(b) in paragraph (b), after "Merchant Shipping Acts" there shall be inserted "or any Act of Tynwald relating to merchant shipping or pollution of the sea from ships".

5. In section 8(1)(a), the words "6(1) or" shall be omitted.

6. In section 10(1), the words from "which include" to the end shall be omitted.

7. In section 53, for subsection (1) there shall be substituted the following subsection:

"(1) Regulations under Part I of this Act shall be laid before Tynwald."

8.—(1) In section 54(1), "or II" shall be omitted.

(2) In section 54(2) –

(a) "or II",

(b) "or registered fishing vessel", and

(c) in paragraph (b), "or in the case of a fishing vessel",

shall be omitted.

(3) In section 54(3), for "the appropriate register" there shall be substituted "the register in which the ship is registered under Part I of the 1894 Act".

- (4) In section 54(4) –
- (a) the definitions of “the appropriate register” and “registered fishing vessel” shall be omitted, and
 - (b) in the definition of “registered owner”, the words from “or Part II” to the end shall be omitted.
- 9.—(1) In section 57(2) –
- (a) the definition of “modifications” shall be omitted, and
 - (b) in the definition of “relevant overseas territory” for “Isle of Man” there shall be substituted “United Kingdom”.
- (2) For subsections (3) to (5) there shall be substituted the following subsection –
- “(3) Sections 51 and 52 of the Merchant Shipping Act 1906(a) are hereby repealed.”.
10. In section 58, subsections (2) to (5) shall be omitted.
- 11.—(1) Without prejudice to paragraph 1 above, Schedule 1 shall have effect with the following modifications.
- (2) Any reference to the omission of a provision shall be construed as a reference to the repeal thereof.
- (3) In paragraph 2(a) –
- (a) for “Commissioners of Customs and Excise” there shall be substituted “Department of Highways, Ports and Properties”, and
 - (b) for “Commissioners” there shall be substituted “Department”.
- (4) In paragraph 12(c), in the provisions which are inserted thereby, subsections (5)(b) and (6)(b) shall be omitted.
- (5) In paragraph 13, in section 22 which is substituted thereby, in subsection (1) for “Registrar-General of Shipping and Seamen” there shall be substituted “Registrar of British Ships in the Isle of Man”.
- (6) In paragraph 14 –
- (a) paragraphs (a) and (c) shall be omitted, and
 - (b) for “United Kingdom” there shall be substituted “British Islands”.
- (7) In paragraph 19, in the subsection substituted thereby, for paragraphs (a) and (b) there shall be substituted “Her Majesty’s High Court of Justice of the Isle of Man”.
- (8) In paragraph 20, for the provisions substituted thereby there shall be substituted “Her Majesty’s High Court of Justice of the Isle of Man”.
- (9) In paragraph 28, for “United Kingdom” there shall be substituted “British Islands”.
- (10) In paragraph 30, in subsection (5) of section 53A inserted thereby, for “Isle of Man” there shall be substituted “United Kingdom”.
- (11) For paragraph 36 there shall be substituted the following paragraph –
- “36. In section 62 (application of fees), for the words from “if taken in any part” to the end there shall be substituted “form part of the General Revenue of the Isle of Man”.
- (12) In paragraph 38(c), in the provisions substituted thereby –
- (a) in subsection (3), paragraph (b) and the words “, and in Scotland sufficient evidence,” shall be omitted;
 - (b) in subsection (5), the words “, and (in Scotland) of subsection (4),” shall be omitted, and
 - (c) in subsection (6), for the words from “such fee” to the end there shall be substituted “such reasonable fee as may be determined by the Department of Highways, Ports and Properties”.
- (13) In paragraph 42, in section 70 substituted thereby, the words “any part of” in paragraph (a) shall be omitted.
- (14) In paragraph 47(2), for paragraph (b) there shall be substituted the following paragraph –
- “(b) for the words from “the High Court” to “dominions” substitute “Her Majesty’s High Court of Justice of the Isle of Man”;

(a) 1906 c.48.

(15) After paragraph 47 there shall be inserted the following paragraph –

“47A. For section 83 substitute –

“Fees for measurement 83. Such fees as the Department of Highways, Ports and Properties determine shall be paid in respect of the measurement of a ship’s tonnage.”.”.

(16) In paragraph 48, after sub-paragraph (b) there shall be inserted the following sub-paragraph –

“(bb) for “Board of Trade” substitute “Department of Highways, Ports and Properties”; and”.

(17) After paragraph 49 there shall be inserted the following paragraph –

“49A. In section 86 (surveyors and regulations for measurement of ships) for “Board of Trade” there shall be substituted “Department of Highways, Ports and Properties”.”.

(18) For paragraph 51 there shall be substituted the following paragraph –

“51. In section 91(a) –

- (a) omit paragraphs (d), (i) and (j);
- (b) for “Governor in Council” and “Isle of Man Harbour Board” wherever occurring substitute “Department of Highways, Ports and Properties”, and
- (c) in paragraph (f) for “Isle of Man Finance Board” substitute “Department of Highways, Ports and Properties”.”.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order extends the provisions of the Merchant Shipping Act 1988 specified in Part I of the Schedule to the Isle of Man subject to the modifications specified in Part II of that Schedule (article 2).

Article 3 of the Order makes supplementary provision for the Isle of Man similar to that made for the United Kingdom by article 3 of the Merchant Shipping Act 1988 (Commencement No. 3) Order 1989 (S.I. 1989/353).

(a) Section 91 was amended by the Isle of Man (Transfer of Functions) Order 1980 (S.I. 1980/399).

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