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STATUTORY INSTRUMENTS

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**1993 No.3137 (C.63)**

**MERCHANT SHIPPING**

**The Merchant Shipping (Registration, etc.) Act 1993  
(Commencement No. 1 and Transitional Provisions) Order 1993**

*Made - - - - 14th December 1993*

The Secretary of State for Transport, in exercise of powers conferred on him by section 10(2) and (3) of the Merchant Shipping (Registration, etc.) Act 1993<sup>(1)</sup> and of all other powers enabling him in that behalf, hereby makes the following Order:—

**Citation**

1. This Order may be cited as the Merchant Shipping (Registration, etc.) Act 1993 (Commencement No. 1 and Transitional Provisions) Order 1993.

**Interpretation**

2. In this Order—

“the 1894 Act” means the Merchant Shipping Act 1894<sup>(2)</sup>;

“the 1949 Act” means the Merchant Shipping (Safety Convention) Act 1949<sup>(3)</sup>;

“the 1993 Act” means the Merchant Shipping (Registration, etc.) Act 1993.

**Commencement**

3.—(1) The provisions of the 1993 Act specified in Schedule 1 to this Order (provisions relating to registration of ships) shall come into force on 21st March 1994.

(2) The provisions of the 1993 Act specified in Schedule 2 to this Order (amendments to facilitate consolidation) shall come into force on 1st May 1994.

**Qualification as owner to continue for certain purposes**

4.—(1) Where any person—

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(1) 1993 c. 22.  
(2) 1894 c. 60.  
(3) 1949 c. 43.

- (a) was immediately before 21st March 1994 qualified to be an owner of a British ship and, as such, was the owner or one of the owners of, or of a majority interest in, a ship registered under Part I of the 1894 Act or under section 5 of the Merchant Shipping Act 1983<sup>(4)</sup> (registration of small ships); but
- (b) as from that date is, in consequence of regulations made under sections 2 and 3 of the 1993 Act, no longer a person qualified to be an owner of a British ship,

he shall nevertheless be treated as a person so qualified for the purposes specified in subparagraph (2) below.

(2) Those purposes are—

- (a) the continuation in force and renewal of the ship's registration under registration regulations made under the 1993 Act;
- (b) so long as that registration continues in force, any other purposes of any statutory provision so far as having effect in relation to the ship.

#### **No representative person for ship of under 24 metres**

5. Where a ship was registered immediately before 21st March 1994, and the person or (as the case may be) each of the persons by whom the majority interest is owned, was not resident in the United Kingdom but by reason of the ship's being less than 24 metres in length the ship is entitled to be registered without a representative person being appointed in relation to the ship then notwithstanding anything contained in regulations made under section 3 of the 1993 Act it shall not be necessary for a representative person to be appointed in relation to the ship, for so long as the registered owners remain those on the register immediately before 21st March 1994.

#### **Construction of pre-commencement references to 1894 Act**

6. Any reference, however worded, in any mortgage or document by which immediately before 21st March 1994 a ship is made security for the repayment of a loan or discharge of other obligation, to registration of the ship under Part I or IV of the 1894 Act or under the Merchant Shipping Act 1988<sup>(5)</sup> shall be construed as a reference to registration of the ship under the 1993 Act.

#### **Savings for pre-commencement instruments**

7.—(1) Notwithstanding—

- (a) the coming into force of paragraphs 4, 5 and 79 of Schedule 4 to the 1993 Act (provisions providing generalised powers to make subordinate legislation); and
- (b) the consequential repeal by Schedule 5 to the 1993 Act of existing empowering provisions;

an instrument made under an empowering provision specified in column 3 of Schedule 3 to this Order and in force immediately before the date of such coming into force shall continue in force until superseded by an instrument made under the paragraph of Schedule 4 to the 1993 Act specified in column 1 in relation to that empowering provision.

(2) Notwithstanding paragraph 13(2) of Schedule 4 to the 1993 Act (repeal of section 418, 419 and 421 of the 1894 Act), any instrument in force immediately before that repeal made under the said section 418 or subsection (2) of the said section 421(2) shall continue in force until superseded by regulations under section 21 of the Merchant Shipping Act 1979<sup>(6)</sup>, and section 419 shall continue in force for the purposes of those instruments.

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(4) 1983 c. 13.

(5) 1988 c. 12.

(6) 1979 c. 39.

Signed by authority of the Secretary of State for Transport

14th December 1993

*Caithness*  
Minister of State  
Department of Transport

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SCHEDULE 1

Article 3(1)

Registration of ships

*Provisions coming into force on 21st March 1994*

Sections 1 to 7, section 8(1) and (2), section 8(4) so far as relating to part I of Schedule 5, and sections 9 and 10.

Schedules 1 to 3 and Schedule 5, Part I.

SCHEDULE 2

Article 3(2)

Pre-consolidation

*Provisions coming into force on 1st May 1994*

Section 8(3) and section 8(4) so far as relating to Part II of Schedule 5.

Schedule 4, except as provided in the Appendix to this Schedule, and Schedule 5, Part II, except as provided in the said Appendix.

APPENDIX

**Exceptions from commencement**

1. In Schedule 4—
  - (a) paragraph 18 (certain amendments to the Merchant Shipping (Oil Pollution) Act 1971<sup>(7)</sup> and the Merchant Shipping Act 1974<sup>(8)</sup> not to have effect) shall not come into force;
  - (b) paragraph 36 shall not come into force;
  - (c) paragraph 52 shall not come into force;
  - (d) in paragraph 54 the omission of subsection (3) of section 2 of the Merchant Shipping (Mercantile Marine Fund) Act 1898<sup>(9)</sup> shall not have effect so far as the subsection applies to the lighthouse at Sombrero in the Leeward Islands.
2. In Schedule 5, Part II—
  - (a) the repeals in section 634, and the repeal of section 669, of the 1894 Act shall not have effect;
  - (b) the repeal of section 2(3) of the said Act of 1898 shall be subject to paragraph 1(d) above;
  - (c) section 28(1) of the 1949 Act shall remain in force for the sole purpose of enabling exemptions to be made from the requirements of rules made under section 427 of the 1894 Act<sup>(10)</sup> (rules for life-saving appliances) and rules made under section 3 of the 1949 Act (radio rules);
  - (d) section 33(2) of the 1949 Act shall remain in force for the sole purpose of enabling regulations to be made prescribing maximum fees for measurement of a ship’s tonnage.

SCHEDULE 3

Article 7(1)

Savings for instruments

| 1 New empowering provision in Schedule 4 to the 1993 Act | 2 Subject matter of repeal               | 3 Empowering provision repealed   | 4 Chapter No. |
|--|--|---|---------------|
| Paragraph 4.   | Extension of Merchant Shipping Acts etc. | Merchant Shipping (Safety and Load Lines Conventions) Act 1932: section 36. | 9             |
|  |  | Merchant Shipping (Safety Convention Act 1949: section 30                   | 43            |
|  |  | Merchant Shipping (Load Lines) Act 1967: section 28.                        | 27            |

<sup>(7)</sup> 1971 c. 59.

<sup>(8)</sup> 1974 c. 43.

<sup>(9)</sup> 1898 c. 44.

<sup>(10)</sup> Section 427 of the 1894 Act was substituted by section 2 of the 1949 Act.

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| 1 New empowering provision in Schedule 4 to the 1993 Act | 2 Subject matter of repeal  | 3 Empowering provision repealed                          | 4 Chapter No. |
|--|---|--|---------------|
|  |   | Fishing Vessels (Safety Provisions) Act 1970: section 8. | 27            |
|  |   | Merchant Shipping Act 1970 section 94.                   | 36            |
|  |   | Merchant Shipping (Oil Pollution) Act 1971: section 18.  | 59            |
|  |   | Prevention of Oil Pollution Act 1971: section 25.        | 60            |
|  |   | Merchant Shipping Act 1974: section 20.                  | 43            |
|  |   | Merchant Shipping Act 1979: sections 15,19 and 47.       | 39            |
|  |   | Merchant Shipping Act 1984: section 13.                  | 5             |
|  |   | Safety at Sea Act 1986: section 14.                      | 23            |
|  |   | Merchant Shipping Act 1988:section 56.                   | 12            |
| Paragraph 5.   | Application of statutory provisions to unregistered or foreign ships. | Merchant Shipping Act 1894: section 734.                 | 60            |
|  |   | Merchant Shipping (Load Lines) Act 1967: section 29.     | 9             |
|  |   | Merchant Shipping Act 1970: sections 92 and 93.          | 36            |

## SCHEDULE 3

Article 7

## Savings for statutory instruments

| 1 New empowering provision in Schedule 4 to the 1993 Act | 2 Subject matter of repeal                                   | 3 Empowering provision repealed                                 | 4 Chapter No. |
|--|--|---|---------------|
| Paragraph 5.   | Application of regulations to unregistered or foreign ships. | Prevention of Oil Pollution Act 1971: section 22.               | 59            |
|  |  | Merchant Shipping Act 1988: section 50.                         | 12            |
| Paragraph 79.  | Fees.  | Merchant Shipping (Mercantile Marine Fund) Act 1898: section 3. | 44            |
|  |  | Merchant Shipping (Safety Convention) Act 1949: section 33.     | 43            |
|  |  | Merchant Shipping (Load Lines) Act 1967: section 26.            | 27            |
|  |  | Anchors and Chain Cables Act 1968: section 1.                   | 64            |
|  |  | Fishing Vessels (Safety Provisions) Act 1970: section 6.        | 27            |
|  |  | Merchant Shipping Act 1970: section 84.                         | 36            |
|  |  | Merchant Shipping Act 1974: section 17 and Schedule 5.          | 43            |
|  |  | Merchant Shipping Act 1979: sections 20 and 21.                 | 39            |

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order brings into force the Merchant Shipping (Registration, etc.) Act 1993 on 21st March 1994 for the purposes of registration of ships, and on 1st May 1994 for other purposes (mainly pre-consolidation amendments of the Merchant Shipping Acts), with minor exceptions and savings.

There is a saving in respect of vessels currently registered which might otherwise cease to be eligible to be registered by reason of any change in qualifications for ownership. There are also savings for existing regulations (not related to registration) made under powers being repealed to facilitate consolidation.

Exceptions from the coming into force of the pre-consolidation amendments of the Act have the effect of retaining—

- (i) amendments made by the Merchant Shipping Act 1988 to make possible to the ratification of the 1984 Protocols (now superseded by the very similar 1992 Protocols) to the Civil Liability for Oil Pollution Damage Convention 1969 and Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage 1971.
- (ii) as a matter of United Kingdom law, the responsibilities of the general lighthouse authorities in the Channel Islands, Isle of Man and Gibraltar;
- (iii) the lighthouse at Sombrero in the Leeward Islands as the responsibility of the General Lighthouse Fund;
- (iv) the power to grant exemptions under rules for life-saving appliances and radio rules made under existing legislation; and
- (v) the power to prescribe maximum fees for tonnage measurement.