



**Isle of Man**

*Ellan Vannin*

**AT 15 of 1991**

**MERCHANT SHIPPING REGISTRATION  
ACT 1991**





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## MERCHANT SHIPPING REGISTRATION ACT 1991

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**Isle of Man***Ellan Vannin*

## MERCHANT SHIPPING REGISTRATION ACT 1991

*Received Royal Assent:* 9 July 1991  
*Passed:* 9 July 1991  
*Commenced:* 1 December 1991

**AN ACT** to establish Manx registers of merchant ships, small ships and fishing vessels; to repeal certain Acts of Parliament insofar as they extend to the Island or to ships registered in the Island; and for connected purposes.

**GENERAL NOTE:** The maximum fines in this Act are as increased by the *Criminal Justice (Penalties, Etc.) Act 1993* s 1.

### PART I – REGISTRATION OF MANX SHIPS

#### *Preliminary*

#### **1 Manx ships**

[P1988/12/2]

- (1) A ship shall be a Manx ship for the purposes of this Act if —
- (a) the ship is registered in the Island under this Part or Part II or III; or
  - (b) the ship is a fishing vessel which is eligible to be registered under Part III by virtue of regulations made under section 48, but —
    - (i) is excluded from registration under Part III by regulations made under section 47, and
    - (ii) is not registered under the law of any country outside the Island; or
  - (c) the ship is less than 24 metres in length and —
    - (i) is not a fishing vessel, and
    - (ii) is not registered in the Island under this Part or Part II or under the law of any country outside the Island, but

- (iii) is wholly owned by one or more persons specified in subsection (2).
- (2) The persons referred to in subsection (1)(c)(iii) are persons who are —
- (a) resident in the Island and are qualified to be the owners of Manx ships by virtue of any of paragraphs (a) to (e) or (g) of section 2(1); or
  - (b) qualified to be the owners of Manx ships by virtue of paragraph (f) of that section.

## 2 Persons qualified to be owners of Manx ships

[P1988/12/3]

- (1) For the purposes of this Part the following persons are persons qualified to be owners of Manx ships —
- (a) British citizens;
  - (b) British Dependent Territories citizens;
  - (c) British Overseas citizens;
  - (d) persons who under the British Nationality Act 1981 (an Act of Parliament) are British subjects;
  - (e) persons who under the Hong Kong (British Nationality) Order 1986 are British Nationals (Overseas);
  - (f) bodies corporate incorporated in the Island or in any relevant country and having their principal place of business in the Island or in any such country; and
  - (ff) limited partnerships which have their principal place of business in the Island or such relevant country as may be prescribed for the purposes of this paragraph;<sup>1</sup>
  - (g) citizens of the Republic of Ireland and such other relevant countries as may be prescribed under section 45 for the purposes of this paragraph.
- (2) References (however phrased) in any statutory provision to persons who are, for the purposes of this Part qualified to be owners of Manx ships shall be construed in accordance with subsection (1).
- (3) Notwithstanding subsection (1), a person may nevertheless be one of the owners of such a ship if —
- (a) a majority interest in the ship (within the meaning of section 3) is owned by persons who are qualified to be owners of Manx ships; and
  - (b) the ship is registered, in accordance with the provisions of that section, under this Part.



### 3 Entitlement to registration under this Part

[P1988/12/4]

- (1) Subject to sections 6, 15 and regulations under this Act, this section has effect for the purpose of determining whether a ship is entitled to be registered under this Part.
- (2) Subject to subsection (3), a ship shall be entitled to be registered if a majority interest in the ship is owned by one or more persons qualified to be owners of Manx ships by virtue of section 2(1).
- (3) Where —
  - (a) a ship falling within subsection (2) is 24 metres or more in length, and
  - (b) the person, or (as the case may be) each of the persons, by whom the majority interest in the ship is owned is not resident in the Island,the ship shall only be entitled to be registered if a representative person is appointed in relation to the ship.
- (4) A ship shall not be entitled to be registered if —
  - (a) it is a fishing vessel; or
  - (b) it is registered under Part II.
- (5) For the purposes of this section —
  - (a) one or more persons shall be treated as owning a majority interest in a ship if there is vested in that person or in those persons, taken together, the legal title to 33 or more of the 64 shares into which the property in the ship is divided, for the purposes of registration, in accordance with section 5 (there being left out of account for this purpose any share in which any beneficial interest is owned by a person who is not qualified to be an owner of a Manx ship); and
  - (b) a body corporate shall be treated as resident in the Island if it is incorporated in the Island and has its principal place of business there; and
  - (c) a limited partnership shall be treated as resident in the Island if it is registered under Part II of the *Partnership Act 1909* and —
    - (i) has its principal place of business in the Island; or
    - (ii) has a general partner which is either a body corporate which is incorporated in the Island or an individual who is resident in the Island and which has its or his principal place of business in the Island.<sup>2</sup>

#### 4 Representative persons

[P1988/12/5]

- (1) Where the entitlement of any ship to be registered is, by virtue of any provision of section 3, conditional on the appointment of a representative person in relation to the ship, the owner of the ship shall —
  - (a) before applying for the ship to be registered, appoint an individual or body corporate satisfying the prescribed requirements to be the representative person in relation to the ship, and
  - (b) secure that, so long as the ship remains registered, an individual or body corporate satisfying those requirements is so appointed.
- (2) For the purposes of subsection (1) the prescribed requirements are —
  - (a) that the representative person is either —
    - (i) an individual resident in the Island, or
    - (ii) a body corporate incorporated in the Island and having its principal place of business there; and
  - (b) such other requirements as the Department may by regulations specify.
- (3) The Department may by regulations provide for, or require, such persons or classes of persons as are specified in the regulations to be treated for the purposes of this Part as the representative person for the time being appointed in relation to the ship if such person is such an individual or body corporate as is mentioned in subsection (2)(a)(i) or (ii).
- (4) The owner of any ship in relation to which any representative person is for the time being appointed shall —
  - (a) on applying for the ship to be registered, notify the Department of the name and address of the representative person; and
  - (b) in the event of any change in the identity, or in the address, of the representative person so appointed, notify the Department of the name and address of the new representative person, or (as the case may be) of the new address, as soon as practicable after the change occurs;and the Department shall record any particulars notified to it in pursuance of this section in the register kept by it under this Part.
- (5) Any person who contravenes subsection (1)(b) or (4)(b) shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £5,000.

## 5 Register

[P1894/60/5]

- (1) The Department shall keep a register (which may be in documentary or non-documentary form) of ships (in this Part referred to as “**the register**”) for the ports of —
  - (a) Douglas;
  - (b) Ramsey;
  - (c) Peel; and
  - (d) Castletown,and entries in the register shall be made in accordance with subsections (2) to (8).
- (2) The property in a ship shall be divided into 64 shares.
- (3) Subject to subsections (5) to (7) and section 28(2), not more than 64 individuals shall be entitled to be registered at the same time as owners of any one ship.
- (4) Subsection (3) shall not affect the beneficial title of any number of persons or of any company represented by or claiming under or through any registered owner or joint owner.
- (5) A person shall not be entitled to be registered as owner of a fractional part of a share in a ship.
- (6) Any number of persons not exceeding 5 may be registered as joint owners of a ship or of any share or shares therein.
- (7) Joint owners shall be considered as constituting one person only as regards the persons entitled to be registered, and shall not be entitled separately to dispose of their individual interests in a ship, or in any share therein in respect of which they are registered.
- (8) A corporation may be registered as owner by its corporate name.
- (9) A limited partnership may be registered as owner by its partnership name.<sup>3</sup>
- (10) Subsection (3) shall not affect the title of any partners or other persons represented by or claiming under or through any limited partnership registered as owner or joint owner.<sup>4</sup>
- (11) Subsection (6) shall not prevent the registration of a ship in the name of a limited partnership where there are more than 5 members of that partnership.<sup>5</sup>
- (12) The members of a limited partnership shall be considered as constituting one person only as regards the persons entitled to be registered, and shall not be entitled separately to dispose of their individual interests in a ship, or in any share therein in respect of which the limited partnership is registered.<sup>6</sup>

- (13) Where a limited partnership is registered as the owner of a ship in accordance with this Part, any reference to the owner in a statutory provision relating directly or indirectly to merchant shipping, safety of life at sea, masters and seamen, or pollution from ships shall be construed as a reference to –
- (a) the general partner; and
  - (b) where there are two or more general partners, to the general partners jointly.<sup>7</sup>

## 6 Refusal of registration

- (1) Notwithstanding that any ship in respect of which an application for registration has been made is entitled to be registered, the Department may refuse to register the ship if it is satisfied that –
- (a) having regard –
    - (i) to the condition of the ship so far as relevant to its safety or to any risk of pollution;
    - (ii) to the safety, health and welfare of persons employed or engaged in any capacity on board the ship; or
    - (iii) to the interests of the Island or international merchant shipping,it would be inappropriate for the ship to be registered; or
  - (b) such conditions as are prescribed by regulations have not been complied with; or
  - (c) the ship is of a class or description, the registration of which is prohibited by regulations; or
  - (d) the name by which it is proposed to register the ship is, in the opinion of the Department, undesirable.
- (2) Every ship shall before registry be inspected by a person authorised by the Department for the purpose of reporting to the Department in relation to the matters referred to in subsection (1).
- (3) Where the Department refuses to register a ship by virtue of this section, it shall serve a notice on the applicant stating that registration is refused because it is satisfied as mentioned in paragraph (a), (b), (c) or (d) of subsection (1).

## 7 Survey and measurement of ship

[P1894/60/6]

Every ship shall before registry be surveyed and its tonnage ascertained in accordance with tonnage regulations, and a certificate shall be issued specifying the ship's tonnage and build, and such other particulars descriptive of the

identity of the ship as may for the time being be required by the Department and such certificate shall be delivered to the Department before registry.

## 8 Marking of ship

[P1894/60/7]

- (1) Every ship shall before registry be marked permanently and conspicuously to the satisfaction of the Department in accordance with regulations.
- (2) Any marks required under this section shall be permanently continued, and no alteration shall be made to them except where permitted under this Act.
- (3) If any mark required under this section is so inaccurate as to be likely to mislead, the owner of the ship shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £5,000.
- (4) Subject to subsection (2), if any person —
  - (a) being an owner or master of a registered ship, neglects to keep the ship marked as required under this section; or
  - (b) conceals, removes, alters, defaces, or obliterates any such marks; or
  - (c) causes or permits another to conceal, remove, alter, deface, or obliterate any such marks,that person shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £5,000.
- (5) On a certificate from a marine surveyor or an inspector that a ship is insufficiently or inaccurately marked the ship may be detained until the insufficiency or inaccuracy has been remedied.

## 9 Application for registry

[P1894/60/8]

An application for registry of a ship may be made by the persons specified in regulations and shall be in such form as the Department requires.

## 10 Declaration of ownership on registry

[P1894/60/9 and 10]

- (1) No person shall be entitled to be registered as owner of a ship or of a share therein unless he, or in the case of a corporation or limited partnership the person authorised by this Act to make declarations on behalf of the corporation or limited partnership, has made and signed a declaration of ownership in such form and containing such particulars as the Department may require.<sup>8</sup>

- (2) On the first registry of a ship there shall be produced in addition to the declaration of ownership such evidence as is specified in regulations.

## **11 Entry of particulars in register**

[P1894/60/11]

As soon as the requirements of this Act preliminary to registry have been complied with the Department shall enter in the register the prescribed particulars respecting the ship.

## **12 Duty of owner of registered ship to secure termination of any overseas registration**

[P1988/12/9]

- (1) Where a ship becomes registered at a time when it is already registered under the law of any country outside the Island, the owner of the ship shall take all reasonable steps to secure the termination of the ship's registration under the law of that country.
- (2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £2,500.

## **13 Documents to be retained by the Department**

[P1894/60/12]

On the registry of a ship the Department shall retain in its possession such documents as may be prescribed.

## **14 Port of registry**

[P1894/60/13]

The port at which a ship is registered for the time being shall be the port of registry of the ship and the port to which it belongs.

## **15 Power of Department to remove ship from the register**

[P1988/12/16]

- (1) If for any reason it appears to the Department that a registered ship may no longer be entitled to be registered, it may by notice served on —
- (a) the owner of the ship, or
  - (b) any representative person for the time being appointed in relation to the ship,

require that person to furnish it with such information as it thinks necessary for the purpose of determining whether the ship is entitled to be registered.

- (2) Where the Department has served a notice under subsection (1) with respect to any ship, then, unless it has become satisfied that the ship is entitled to be registered, it shall, as soon as practicable after the end of

the period of 7 days beginning with the date of service of that notice, serve a notice under subsection (4) on the owner or on any representative person for the time being appointed in relation to the ship.<sup>9</sup>

- (3) Where the Department is satisfied —
- (a) that, having regard to the matters mentioned in paragraphs (a) to (c) of section 6(1), it would be inappropriate for a registered ship to continue to be registered;
  - (b) that any penalty imposed on the owner of a registered ship in respect of a contravention of any statutory provision relating to merchant shipping has remained unpaid for a period of more than 3 months (and no appeal against the penalty is pending); or
  - (c) that any summons for any such contravention has been duly served on the owner of a registered ship but the owner failed to appear at the time and place appointed for the trial of the information or complaint in question and a period of not less than 3 months has elapsed since that time; or
  - (d) that by virtue of section 26(3) it may treat a ship as no longer entitled to be registered,

the Department may serve a notice under subsection (4) either on the owner or on any representative person for the time being appointed in relation to the ship.

- (4) A notice under this subsection is a notice stating —
- (a) that the Department is not satisfied that the ship in question is entitled to be registered or (as the case may be) that it is satisfied as mentioned in paragraph (a), (b), (c) or (d) of subsection (3); and
  - (b) that it intends, after the end of the period of 7 days beginning with the date of service of the notice, to direct that the ship in question should cease to be registered unless it is satisfied that it would be inappropriate to do so by any representations made to it by or on behalf of the owner within that period.<sup>10</sup>
- (5) As soon as practicable after the end of that period the Department shall accordingly terminate the ship's registration unless it is satisfied that it would be inappropriate to do so by any such representations.
- (6) Where the registration of any ship has terminated by virtue of this section, the Department may subsequently, if it is satisfied that it would be appropriate to do so, restore the ship's registration.

## 16 Offences relating to furnishing of information

[P1988/12/8]

Any person who —

- (a) in purported compliance with the requirements of a notice under section 15(1), or

(b) in connection with the making of any representations in pursuance of section 15(4)(b),

knowingly or recklessly furnishes information which is false in a material particular shall be guilty of an offence and liable —

- (i) on summary conviction, to a fine not exceeding £5,000;
- (ii) on conviction on information, to a fine.

### *Certificate of registry*

## **17 Certificate of registry**

[P1894/60/14]

On completion of the registry of a ship, the Department shall grant a certificate of registry comprising such of the particulars entered in the register as are prescribed.

## **18 Custody of certificate**

[P1894/60/15]

- (1) The certificate of registry shall be used only for the lawful navigation of the ship, and shall not be subject to detention by reason of any title, lien, charge, or interest whatever had or claimed by any mortgagee, or other person to, on, or in the ship.
- (2) Any person, whether interested in the ship or not, who, without reasonable excuse, refuses on request to deliver up the certificate of registry when in his possession or under his control to —
  - (a) the person entitled to custody of the certificate for the purposes of the lawful navigation of the ship;
  - (b) the Department or any person authorised by the Department;
  - (c) an officer of customs and excise;
  - (d) any other person entitled by law to require such delivery,shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £2,500.
- (3) If the person so refusing is outside the Island, or if he persists in not delivering up the certificate, section 21 shall apply as if the certificate had been lost.

## **19 Penalty for use of improper certificate**

[P1894/60/16]

If the master or owner of a ship uses for its navigation a certificate of registry which was not granted under this Act in respect of the ship, he shall, in respect of each offence, be guilty of an offence and shall be liable on summary



conviction to a fine not exceeding £5,000 or to imprisonment for a term not exceeding 6 months.

## **20 Power to grant new certificate**

[P1894/60/17]

The Department may on the delivery up to it of the certificate of registry of a ship, grant a new certificate in lieu thereof.

## **21 Provision for loss of certificate**

[P1894/60/18]

In the event of the certificate of registry of a ship being mislaid, lost, or destroyed, the Department shall grant a new certificate of registry in lieu of its original certificate.

## **22 Endorsement of change of ownership on certificate**

[P1894/60/20]

- (1) Whenever a change occurs in the registered ownership of a ship, the change of ownership shall be endorsed on the certificate of registry by the Department.
- (2) The master shall, for the purpose of such endorsement by the Department, deliver the certificate of registry to the Department forthwith after the change.
- (3) If the master fails to deliver to the Department the certificate of registry as required by this section he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £1,000.

## **22A Notification of change in general partner**

- (1) Where a limited partnership is registered as the owner of a ship in accordance with this Part and —
  - (a) a new general partner is appointed; or
  - (b) a person ceases to be a general partner; or
  - (c) a change occurs in any of the particulars of the general partner,the person who is the general partner immediately following the change, or if there is more than one such general partner, all of them, shall forthwith give notice of the change to the Department.
- (2) If the general partner or partners fail, without reasonable cause, to comply with subsection (1), he and they shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000.<sup>11</sup>

## 22B Members of limited partnerships

- (1) The Department may by notice in writing require a general partner of a limited partnership which is registered as the owner of a ship in accordance with this Part to provide to it the names and addresses of all the members of that limited partnership verified in a specified manner or provided in a specified form.
- (2) Any person who fails to provide any information required under subsection (1) when required to do so by the Department is guilty of an offence and shall be liable on summary conviction to a fine not exceeding £2,500.
- (3) Any person who, in purported compliance with a requirement under subsection (1), provides information which he knows to be false in a material particular or recklessly provides information which is false in a material particular, is guilty of an offence.<sup>12</sup>

## 23 Delivery up of certificate of ship lost or ceasing to be Manx owned

[P1894/60/21]

- (1) In the event of a registered ship —
  - (a) being either actually or constructively lost, burnt or broken up,
  - (b) 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 Manx ships or for any other reason), or
  - (c) becoming registered, otherwise than under this Part, in the Island,every registered owner of the ship or any share in the ship shall, immediately on obtaining knowledge of the event, if no notice thereof has already been given to the Department, give notice thereof to the Department, and it shall make an entry thereof in the register and the registry of the ship shall terminate forthwith.
- (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 to the Department.
- (3) If an owner or master fails, without reasonable cause, to comply with this section, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000.
- (4) The registry of a registered ship shall also terminate if —
  - (a) the owner of the ship gives notice to the Department that he desires to terminate the ship's registry, and
  - (b) the Department records the giving of that notice in the register.
- (5) Where the registry of a ship terminates by reason of —
  - (a) any notice given under subsection (4), or

- (b) any notice given by the Department under section 15;
- subsections (2) and (3) 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); or
- (b) as mentioned in subsection (5)(b),
- 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) shall not apply to an entry in the register in a case where the Department 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.

## **24 Provisional certificate for ship acquired out of Island**

[P1894/60/22]

- (1) Regulations under this Act may make provision —
- (a) for ships acquired outside the Island which are eligible to be registered under this Part to be provisionally registered as such pending their registration in the register;
- (b) for any such provisional registration to terminate in specified circumstances (including failure to comply with requirements imposed by or under the regulations).
- (2) Provisional registration shall not be granted unless the Department is satisfied that an application under section 9 for registry of the ship has been made or is intended.

### *Transfers and transmissions*

## **25 Transfer of ships or shares**

[P1894/60/24]

- (1) Any transfer of —
- (a) a registered ship, or
- (b) a share in 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 Manx ships.

- (2) The bill of sale shall be in such form and contain such information as may be authorised by the Department and shall be executed by the transferor in the presence of, and be attested by, a witness or witnesses.

## 26 Notification and declaration of transfer

[P1894/60/25]

- (1) A person who ceases to be the owner of a registered ship or a share in such a ship shall, within 21 days of the date on which he ceased to be the owner, serve on the Department written particulars of such date and the name and address of the new owner.
- (2) Any person who fails to comply with subsection (1) shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £2,500.
- (3) Where —
  - (a) written particulars have been served on the Department in accordance with subsection (1); and
  - (b) on the expiry of a period of 6 months beginning with the date referred to in subsection (1), the transferee has not been entered in the register as the owner of the ship or share,the Department may treat the ship as no longer entitled to be registered.
- (4) Where a registered ship or a share therein is transferred in accordance with section 25(1), the transferee shall not be registered as owner of that ship or share unless he, or, in the case of a corporation or limited partnership, the person authorised by this Act to make declarations on behalf of the corporation, has made and signed a declaration (in this Act referred to as a “**declaration of transfer**”) referring to the ship, in such form and containing such particulars as the Department may require.<sup>13</sup>

## 27 Registry of transfer

[P1894/60/26]

- (1) Every bill of sale for the transfer of a registered ship or of a share therein, when duly executed, shall be produced to the Department, with the declaration of transfer, and the Department shall thereupon enter in the register the name of the transferee as owner of the ship or share, and shall endorse on the bill of sale the fact of that entry having been made, with the day and hour thereof.
- (2) Bills of sale shall be registered in the order in which they are produced to the Department for the purposes of registration.

**28 Transmission of property in ship on death, bankruptcy, marriage etc**

[P1894/60/27]

- (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 25 and a majority interest in the ship remains in the ownership of persons qualified to be owners of Manx ships, that person shall authenticate the transmission by making and signing a declaration (in this Act referred to as a “**declaration of transmission**”) in such form, containing such particulars and accompanied by such documents as the Department may require identifying the ship.
- (2) The Department, on receipt of the declaration of transmission, shall enter in the register the name of the person entitled under the transmission as owner of the ship or share the property in which has been transmitted, and where there is more than one such person, shall enter the names of all those persons, but those persons, however numerous, shall, for the purpose of the provision of this Act with respect to the number of persons entitled to be registered as owners, be considered as one person.

**29 Order for sale on transmission to unqualified person**

[P1894/60/28]

- (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 25, but as a result a majority interest in the ship no longer remains in the ownership of persons qualified to be owners of Manx ships, then the High Court 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.
- (2) The Court may require any evidence in support of the application it thinks requisite, and may make the order on any terms and conditions it thinks 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 for sale must be made within 4 weeks after the occurrence of the event on which the transmission has taken place, or within such further time (not exceeding in the whole 1 year from the date of the occurrence) as the Court allows.
- (4) If such an application is not made within the time aforesaid, or if the court refuse an order for sale, the ship or share transmitted shall thereupon be subject to forfeiture under this Act.

**30 Transfer of ship on sale by order of court**

[P1894/60/29]

- (1) Where any court, whether under this Act or otherwise, orders the sale of any ship or share therein, the order of the court shall contain a declaration vesting in some person named by the court the right to transfer that ship or share, and that person shall thereupon be entitled to transfer the ship or share in the same manner and to the same extent as if he were the registered owner thereof.
- (2) The Department shall obey the requisition of a person so named in respect of any transfer to the same extent as if such person were the registered owner.

**31 Power of court to prohibit transfer**

[P1894/60/30]

- (1) The High Court may, if it thinks fit (without prejudice to the exercise of any other power of the court), on the application of any interested person make an order prohibiting for a time specified any dealing with a ship or any share therein.
- (2) The Court may make the order on any terms or conditions it thinks just, or may refuse to make the order, or may discharge the order when made, with or without costs, and generally may act in the case as the justice of the case requires.
- (3) The Department without being made a party to the proceedings, shall on being served with a certified copy of the order obey the same.

**32 Mortgage of a ship or share**

Schedule 1 (which makes provision with respect to the registration of mortgages) shall have effect for the purposes of this Part.

**33 Rules as to name of ship**

[P1894/60/47]

- (1) A ship shall not be described by any name other than that by which it is for the time being registered.
- (2) A change shall not be made in the name of a ship without the previous written permission of the Department.
- (3) Application for that permission shall be in writing, and if the Department is of opinion that the application is reasonable it may entertain it, and thereupon require notice thereof to be published in such form and manner as it thinks fit.

- (4) On permission being granted to change the name, the ship's name shall forthwith be altered in the register, in the ship's certificate of registry, and on its bows and stern.
- (5) If it is shown to the satisfaction of the Department that the name of any ship has been changed without its permission it shall direct that its name be altered into that which it bore before the change, and on its bows and stern accordingly.
- (6) Where a ship having once been registered has ceased to be so registered no person unless ignorant of the previous registry (proof whereof shall lie on him) shall apply to register the ship, except by the name by which it was previously registered, except where the Department has given its written permission before such application is made.
- (7) Where a foreign ship not having at any previous time been registered as a Manx ship, becomes a Manx ship, no person shall apply to register, and the Department shall not knowingly register, the ship, except by the name which it bore as a foreign ship immediately before becoming a Manx ship, except where the Department has given its written permission before such application is made.
- (8) If any person acts, or suffers any person under his control to act, in contravention of this section, or omits to do, or suffers any person under his control to omit to do, anything required by this section, he shall be liable on summary conviction to a fine not exceeding £1,000, and (except in the case of an application being made under the section with respect to a foreign ship which not having at any previous time been registered as a Manx ship has become a Manx ship) the ship may be detained until this section is complied with.

*Registry of alterations, registry anew and transfer of registry*

### **34 Registry of alterations**

[P1894/69/48]

- (1) When a registered ship is so altered as not to correspond with the particulars relating to its tonnage or description contained in the register, then the Department shall, on application being made to it, and on receipt of a certificate from a marine surveyor stating the particulars of the alteration, either cause the alteration to be registered, or direct that the ship be registered anew.
- (2) If default is made in registering anew a ship, or in registering an alteration of a ship so altered as aforesaid, the owner of the ship shall be liable on summary conviction to a fine not exceeding £2,500 and in addition, to a fine not exceeding £100 for every day during which the offence continues after conviction.

### **35 Regulations for registry of alteration**

[P1894/60/49]

- (1) For the purpose of the registry of an alteration in a ship, the ship's certificate of registry shall be produced to the Department, and the Department shall, in its discretion, either retain the certificate of registry and grant a new certificate of registry containing a description of the ship as altered, or endorse and sign on the existing certificate a memorandum of the alteration.
- (2) The particulars of the alteration so made, and the fact of the new certificate having been granted, or endorsement having been made, shall be entered by the Department in the register.

### **36 Registry anew on change of ownership**

[P1894/60/51]

Where the ownership of any ship is changed, the Department may, on the application of the owners of the ship register the ship anew, although registration anew is not required under this Act.

### **37 Procedure for registry anew**

[P1894/60/52]

- (1) Where a ship is to be registered anew, the Department shall proceed as in the case of first registry, and on the delivery up to it of the existing certificate of registry, and on the other requisites to registry, or in the case of a change of ownership such of them as it thinks material, being duly complied with, shall make such registry anew, and grant a certificate thereof.
- (2) When a ship is registered anew, its former register shall be considered as closed, except so far as relates to any unsatisfied mortgage entered thereon, but the names of all persons appearing on the former register to be interested in the ship, as owners or mortgagees shall be entered on the new register, and the registry anew shall not in any way affect the rights of any of those persons.

### **38 Transfer of registry**

- (1) The Department may make such regulations as it thinks expedient for the transfer of registry between ports in the Island or to or from a port in the Island from or to a port in the United Kingdom or in a relevant country on the application to the Department by all the persons appearing on the register to be interested in the ship as owners or mortgagees.
- (2) Without prejudice to the generality of subsection (1), regulations may include provisions —



- (a) specifying circumstances in which a transfer under this section may or may not be made;
  - (b) specifying conditions subject to which any such transfer may be made;
  - (c) requiring the consent of specified persons before such a transfer may be made;
  - (d) modifying this Part (except this section and sections 1 to 4) in its application to such transfers.
- (3) The transfer of registry under this section shall not in any way affect the rights of any person having an interest in the ship, and those rights shall in all respects continue in the same manner as if no such transfer had been effected.

*Trusts and equitable rights*

**39 Notice of trusts not received**

[P1894/60/56]

No notice of any trust, express, implied, or constructive, shall be entered in the register or be receivable by the Department, and subject to any rights and powers appearing to the Department to be vested in any other person, the registered owner of a ship or of a share therein shall have power absolutely to dispose in manner in this Act provided of the ship or share, and to give effectual receipts for any money paid or advanced by way of consideration.

**40 Equities not excluded by Act**

[P1894/60/57]

The expression “**beneficial interest**”, where used in this Part, includes interests arising under contract and other equitable interests; and the intention of this Part is, that without prejudice to the provisions of this Part for preventing notice of trusts from being entered in the register or received by the Department, and without prejudice to the powers of disposition and of giving receipts conferred by this Part on registered owners and mortgagees, and without prejudice to the provisions of this Part relating to the exclusion of unqualified persons from the ownership of Manx ships, interests arising under contract or other equitable interests may be enforced by or against owners and mortgagees of ships in respect of their interest therein in the same manner as in respect of any other personal property.

*Liability of beneficial owner***41 Liability of owners**

[P1894/60/58]

Where any person is beneficially interested, otherwise than by way of mortgage, in any ship or share in a ship registered in the name of some other person as owner, the person so interested shall, as well as the registered owner, be subject to all pecuniary penalties imposed by this or any other Act on the owners of ships or shares therein, so nevertheless that proceedings may be taken for the enforcement of any such penalties against both or either of the aforesaid parties, with or without joining the other of them.

*Supplementary***42 Returns to be made by Department**

[P1894/60/63]

The Department shall at such times as may be agreed with the Registrar-General of Shipping and Seamen of the United Kingdom, transmit to him a full return, in such form as may be agreed, of all registries, transfers, transmissions, mortgages, and other dealings with ships which have been registered by or communicated to it under this Part, and of the names of the persons concerned in the same, and of such other particulars as may be agreed.

**43 Tonnage once ascertained to be the tonnage of ship**

[P1894/60/82]

Whenever the tonnage of any ship has been ascertained and registered in accordance with the tonnage regulations, the same shall thenceforth be deemed to be the tonnage of the ship, and shall be repeated in every subsequent registry thereof, unless any alteration is made in the form of capacity of the ship, or unless it is discovered that the tonnage of the ship has been erroneously computed; and in either of those cases the ship shall be re-measured, and its tonnage determined and registered according to the tonnage regulations.

**44 Tonnage regulations**

[P1965/47/1]

- (1) The tonnage of any ship to be registered under this Part and Part III shall be ascertained in accordance with regulations made by the Department.
- (2) Regulations under this section —
  - (a) may make any provision of such regulations dependent on compliance with such conditions, to be evidenced in such manner, as may be specified in the regulations;
  - (b) may prohibit or restrict the carriage of goods or stores in spaces not included in the registered tonnage of a ship and may provide

for making the master and the owner each liable to a fine not exceeding £1,000 where such a prohibition or restriction is contravened.

- (3) Regulations under this section may make provision for assigning to a ship, either instead of or as an alternative to the tonnage ascertained in accordance with the other provisions of the regulations, a lower tonnage applicable where the ship is not loaded to the full depth to which it can be safely loaded, and for indicating on the ship, by such mark as may be specified in the regulations, that such a lower tonnage has been assigned to it and, where it has been assigned to it as an alternative, the depth to which the ship may be loaded for the lower tonnage to be applicable.
- (4) Regulations under this section may make provision for the alteration (notwithstanding section 43) of the particulars relating to the registered tonnage of a ship.
- (5) Regulations under this section may provide for the issue of certificates of the registered tonnage of any ship or of the tonnage which is to be taken for any purpose specified in the regulations as the tonnage of a ship not registered in the Island, and for the cancellation and delivery up of such certificates in such circumstances as may be prescribed by the regulations.
- (6) Regulations under this section requiring the delivery up of any certificate may make a failure to comply with the requirement an offence punishable on summary conviction with a fine not exceeding £1,000.

#### 45 Interpretation: Part I

- (1) In this Part —

“**limited partnership**” means —

- (a) a partnership which is either —
  - (i) registered under Part II of the *Partnership Act 1909*, or
  - (ii) a partnership having similar incidents which is formed under the law of such relevant country as may be prescribed for the purposes of this paragraph; and
- (b) the general partner of which is either —
  - (i) a body corporate which is incorporated in the Island or in any country prescribed for the purposes of paragraph (a)(ii) and has its principal place of business in the Island or in any such country; or
  - (ii) an individual who is resident in the Island or in any country prescribed for the purposes of paragraph (a)(ii);<sup>14</sup>

“**general partner**” has the same meaning as in Part II of the *Partnership Act 1909* in relation to a limited partnership registered under that Part and, in

relation to any other limited partnership, means a partner who has similar rights and obligations in relation to the partnership;<sup>15</sup>

“**relevant country**” means —

- (a) the United Kingdom;
  - (b) any of the Channel Islands;
  - (c) any colony of the United Kingdom;
  - (d) any Member state of the European Union or other state which is a party to the European Economic Area Agreement;<sup>16</sup>
  - (e) such countries as the Department, after consulting the Secretary of State, prescribes.<sup>17</sup>
- (2) [Repealed]<sup>18</sup>

## PART II – SMALL SHIPS REGISTER

### 46 Separate register for small ships

- (1) The Department may by regulations make provision —
  - (a) for the establishment and maintenance of a register (which may be in documentary or non-documentary form); and
  - (b) for the registration in that register of ships of less than 24 metres in length, being ships which —
    - (i) are owned wholly by persons who are, for the purposes of Part I, qualified to be owners of Manx ships; and
    - (ii) are not fishing vessels.
- (2) Subject to the exceptions mentioned in subsection (3), references (however phrased) in any statutory provision to ships registered under Part I or to the registered owners of such ships include a reference to ships registered under this section or, as the case may be, to owners registered under this section of such ships; and connected phrases shall be interpreted accordingly.
- (3) Those exceptions are —
  - (a) references in Part I and in this Part; and
  - (b) references in any statutory provision prescribed by regulations under this section.
- (4) Where an application for the registration under this section of a ship registered under Part I is granted —
  - (a) the Department may, if the requirements of regulations under this section as to the closure of registration under that Part are met, close the registration of the ship under that Part by entering the closure in the register; and

- (b) the registration under this section shall not take effect unless the registration under that Part is closed under paragraph (a) and, if it is so closed, shall take effect at the time of closure.
- (5) The registration of a ship under this section shall, if it is subsequently registered under Part I, terminate by virtue of the subsequent registration.
- (6) Schedule 2 shall have effect for supplementing the provisions of this section.

### **PART III – REGISTRATION OF FISHING VESSELS**

#### **47 Separate registration of fishing vessels**

[P1988/12/13]

- (1) The Department shall by regulations make provision –
  - (a) for the establishment and maintenance of a register (which may be in documentary or non-documentary form) of Manx fishing vessels; and
  - (b) for the registration in that register of fishing vessels which are, under section 48, eligible to be registered as Manx fishing vessels.
- (2) Schedule 3 shall have effect for the purpose of supplementing this section.

#### **48 Eligibility for registration as Manx fishing vessel**

[P1988/12/14]

- (1) Subject to subsections (2) and (3), a fishing vessel shall only be eligible to be registered as a Manx fishing vessel if the requirements of regulations under this section are satisfied.
- (2) The Department shall by regulations specify requirements which must be satisfied in order for a fishing vessel to be eligible to be registered as a Manx fishing vessel, being requirements appearing to the Department to be appropriate for securing that such a vessel and its owners and operators have a genuine and substantial connection with the Island.
- (3) Where, in the case of any fishing vessel, the Department is satisfied that it would be appropriate to dispense with a requirement of regulations under this section, the Department may determine that the requirement should be so dispensed with; and, if it does so, the vessel shall, so long as any such determination remains in force, be treated for the purposes of this Part as eligible to be registered as a Manx fishing vessel.
- (4) For the purpose of determining whether a fishing vessel is eligible to be registered as a Manx fishing vessel, the Department may, if it thinks fit, appoint a person –

- (a) to investigate the eligibility of the vessel to be so registered; and
  - (b) to make a report of his conclusions to the Department.
- (5) Any person appointed under subsection (4) shall, for the purpose of conducting the investigation, have the powers conferred on an inspector by section 3 of the *Merchant Shipping Act 1985* (other than paragraphs (d) to (h) of subsection (2) of that section).

#### **49 Grant or refusal of applications for registration of fishing vessels**

[P1988/12/15]

- (1) If, on an application for the registration of a fishing vessel made in accordance with regulations under section 47, the Department is satisfied —
- (a) that the vessel is eligible to be registered as a Manx fishing vessel, and
  - (b) that any relevant requirements of any such regulations have been complied with in relation to the vessel,
- it shall (subject to subsection (2)) cause the vessel to be registered as a Manx fishing vessel.
- (2) Notwithstanding that the Department is so satisfied, it may refuse any such application if it is satisfied that there is not in force in respect of the vessel any certificate required to be so in force by virtue of —
- (a) section 4 of the *Fishing Vessels (Safety Provisions) Act 1974* (prohibition on going to sea without appropriate certificates); or
  - (b) the Fishing Vessel (Safety of 15 – 24 Metre Vessels) Regulations 2002; or
  - (c) the Fishing Vessel (Code of Practice for the Safety of Small Fishing Vessels) Regulations 2001.<sup>19</sup>
- (3) If, on any such application, the Department is not satisfied as mentioned in subsection (1), it shall refuse the application.
- (4) Where the Department refuses an application under this section it shall serve a notice on the applicant stating that the application is refused because —
- (a) it is not satisfied as mentioned in paragraph (a) or (b) of subsection (1); or
  - (b) it is satisfied as mentioned in subsection (2).

**50 Termination of registration where vessel is not eligible for registration or is not certificated**

[P1988/12/16]

- (1) If for any reason it appears to the Department that a registered vessel may no longer be eligible to be registered as a Manx fishing vessel, it may by notice served on —
  - (a) the owner of the vessel, or
  - (b) any charterer, manager or operator of the vessel,require that person, at such time or times as may be specified in the notice, to produce to the Department such documents and information as the Department thinks necessary for the purpose of determining whether the vessel is eligible to be registered.
- (2) In a case where the owner of a registered vessel is a company, subsection (1) shall apply to any person holding any shares in the company as it applies to the company.
- (3) Where the Department has served a notice under subsection (1) with respect to any vessel, then, unless it has become satisfied that the vessel is eligible to be registered as a Manx fishing vessel —
  - (a) it shall, as soon as practicable after the end of the period of 30 days beginning with the date of service of that notice, serve a notice under subsection (6) on the owner of the vessel, and
  - (b) the vessel's registration shall terminate by virtue of this subsection at the relevant time.
- (4) Where it appears to the Department that there is not in force in respect of any registered vessel any such certificate as is mentioned in section 49(2), it may by notice served on the owner of the vessel require the vessel to be presented for a survey under the fishing vessel survey rules, the Fishing Vessel (Safety of 15 – 24 Metre Vessels) Regulations 2002 or the Fishing Vessel (Code of Practice for the Safety of Small Fishing Vessels) Regulations 2001 as is applicable to the size of the vessel within the period of 30 days beginning with the date of service of the notice.<sup>20</sup>
- (5) If the vessel is not presented for such a survey within that period —
  - (a) the Department shall serve a notice under subsection (6) on the owner of the vessel, and
  - (b) the vessel's registration shall terminate by virtue of this subsection at the relevant time.
- (6) A notice under this subsection is a notice stating —
  - (a) that the Department is not satisfied that the vessel in question is eligible to be registered as a Manx fishing vessel, or
  - (b) that the vessel has not been presented for a survey as required by a notice under subsection (4),

as the case may be, and that the vessel's registration will accordingly terminate at the relevant time by virtue of subsection (3) or (5).

- (7) In this section “the relevant time”, in relation to a notice under subsection (6), means the end of the period of 14 days beginning with the date of service of that notice.

## **51 Consequences of termination of registration by virtue of section 50**

[P1988/12/17]

- (1) Where the registration of any vessel has terminated by virtue of section 50(3) or (5), then, without prejudice to the operation of any other provision of this Part or of regulations under this Part, the vessel shall not again be registered as a Manx fishing vessel unless —
- (a) the Department is satisfied that the earlier failure of the vessel to be eligible to be so registered or (as the case may be) to be presented for a survey was due to inadvertence, and (in the latter case) that the vessel has since been presented for a survey, or
  - (b) the Department consents to the vessel being so registered, or
  - (c) in the case of a vessel whose registration terminated by virtue of section 50(3), the Department is satisfied that the vessel has been disposed of by its former registered owner by means of a transaction at arm's length and that no person who for the time being is a relevant owner of the vessel was a relevant owner of it at the time when its registration terminated.
- (2) In subsection (1)(a) “survey” means a survey under the fishing vessel survey rules, the Fishing Vessel (Safety of 15 – 24 Metre Vessels) Regulations 2002 or the Fishing Vessel (Code of Practice for the Safety of Small Fishing Vessels) Regulations 2001 as is applicable to the size of the vessel.<sup>21</sup>
- (3) For the purposes of subsection (1)(c) a person is a relevant owner of a vessel at any time if at that time —
- (a) the legal title to the vessel or any share in it is vested in that person, or
  - (b) the vessel or any share in it is beneficially owned by that person, or
  - (c) any shares in a company falling within paragraph (a) or (b) are legally or beneficially owned by that person,
- whether vested in, or (as the case may be) owned by, that person alone or together with any other person or persons.

## **52 Transfer of vessel or share by bill of sale**

[P1988/12/19]

- (1) Any transfer of —



- (a) a registered vessel (not being a vessel registered in pursuance of paragraph 2(c) of Schedule 3), or
  - (b) a share in any such vessel,
- shall be effected by a bill of sale satisfying the requirements specified in subsection (2), unless the transfer will result in the vessel ceasing to satisfy regulations under section 48.
- (2) Those requirements are that the bill of sale is in such form and contains such information as may be required by the Department.
  - (3) Where any such vessel or share has been transferred in accordance with subsection (1), the transferee shall not be registered as owner of the vessel or share unless —
    - (a) he has made an application for the purpose in accordance with regulations under section 47 and has produced to the Department the bill of sale by which the vessel or share has been so transferred, and
    - (b) the Department is satisfied as mentioned in section 49(1);and section 49(2) and (3) shall apply in relation to an application under this subsection as they apply in relation to an application for the registration of a fishing vessel.
  - (4) If an application under subsection (3) is granted by the Department, the Department shall —
    - (a) register the bill of sale referred to in paragraph (a) of that subsection by causing the applicant's name to be entered in the register as owner of the vessel or share in question, and
    - (b) endorse on the bill of sale the fact that that entry has been made, together with the date and time when it was made.
  - (5) Bills of sale shall be registered under subsection (4) in the order in which they are produced to the Department for the purpose of registration.
  - (6) If on an application under subsection (3) the Department is not satisfied that the vessel with respect to which the application is made is eligible to be registered as a Manx fishing vessel —
    - (a) the Department shall serve a notice under subsection (7) on the owner of the vessel; and
    - (b) the vessel's registration shall terminate by virtue of this subsection at the end of the period of 14 days beginning with the date of service of that notice.
  - (7) A notice under this subsection is a notice stating —
    - (a) that the Department is not satisfied that the vessel in question is eligible to be registered as a Manx fishing vessel; and

- (b) that the vessel's registration will accordingly terminate by virtue of subsection (6) at the end of the period referred to in that subsection.

### **53 Transmission of property in vessel or share other than under section 52**

[P1988/12/20]

- (1) Where a registered vessel, or a share in a registered vessel, is transmitted to any person by any lawful means other than by a transfer under section 52, that person shall not be registered as owner of the vessel or share unless —
  - (a) he has made an application for the purpose in accordance with regulations under section 47 and has produced to the Department such evidence of the transmission as may be prescribed; and
  - (b) the Department is satisfied as mentioned in section 49(1);and section 49(2) and (3) shall apply in relation to an application under this subsection as they apply in relation to an application for the registration of a fishing vessel.
- (2) If an application under subsection (1) is granted by the Department, it shall cause the applicant's name to be entered in the register as owner of the vessel or share.
- (3) The preceding provisions of this section shall apply in relation to the transmission of the interest of a joint owner in a registered vessel or in a share in any such vessel as they apply in relation to the transmission of any such vessel or share, except that anything required to be done by virtue of subsection (1)(a) shall be done by both or all of the joint owners of the vessel or share.
- (4) If on an application under subsection (1) the Department is not satisfied that the vessel with respect to which the application is made is eligible to be registered as a Manx fishing vessel —
  - (a) the Department shall serve a notice under subsection (5) on the owner of the vessel; and
  - (b) the vessel's registration shall terminate by virtue of this subsection at the end of the period of 14 days beginning with the date of service of that notice.
- (5) A notice under this subsection is a notice stating —
  - (a) that the Department is not satisfied that the vessel in question is eligible to be registered as a Manx fishing vessel; and
  - (b) that the vessel's registration will accordingly terminate by virtue of subsection (4) at the end of the period referred to in that subsection.

**54 Mortgages of registered vessels**

[P1988/12/21]

- (1) Schedule 1 (which makes provision with respect to the registration of mortgages) shall have effect for the purposes of this part.
- (2) Where the registration of any fishing vessel terminates by virtue of any provision of this Act, the termination of that registration shall not affect any entry made in the register under Schedule 1 so far as relating to any undischarged registered mortgage of that vessel or of any share in it.
- (3) In subsection (2) “registered mortgage” has the same meaning as in Schedule 1.

**55 Offences relating to, and liabilities of, unregistered fishing vessels**

[P1988/12/22]

- (1) Subject to subsection (5), if any prescribed marks are displayed on a fishing vessel which is not a registered vessel, the skipper, the owner and any charterer of the vessel shall each be guilty of an offence.
- (2) If the skipper or owner of a fishing vessel which is not a registered vessel does anything, or permits anything to be done, for the purpose of causing the vessel to appear to be a registered vessel, then (subject to subsection (5)) —
  - (a) the skipper, the owner and any charterer of the vessel shall each be guilty of an offence; and
  - (b) the vessel shall be liable to forfeiture.
- (3) Where a fishing vessel is not a Manx ship and is not registered under the law of any country outside the Island, but —
  - (a) it is eligible to be registered under this Part, or
  - (b) it is wholly owned by one or more persons qualified to be owners of Manx ships for the purposes of Part I; or
  - (c) (subject to subsection (5)) any prescribed marks are displayed on it,then (notwithstanding that the vessel is not entitled to any benefits, privileges, advantages or protection usually enjoyed by a Manx ship) the vessel shall, for the purposes mentioned in subsection (4), be dealt with in the same manner in all respects as if the vessel were a Manx ship.
- (4) 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 vessel, or by any persons belonging to it.

- (5) Where the registration of any vessel has terminated by virtue of any provision of this Part, any prescribed marks displayed on the vessel within the period of 14 days beginning with the date of termination of that registration shall be disregarded for the purposes of subsections (1) to (3).
- (6) Subsections (1) and (2)(a) apply to offences falling within those provisions wherever committed.

## **56 Notification of changes in ownership etc and offences relating to furnishing of information**

[P1988/12/23]

- (1) If at any time there occurs, in relation to a registered vessel —
  - (a) any change affecting the eligibility of the vessel to be registered as a Manx fishing vessel, or
  - (b) any change (not falling within paragraph (a)), in the beneficial ownership of property in the vessel,the owner of the vessel shall, as soon as practicable after the change occurs, notify the Department in writing of that change.
- (2) Any person who contravenes subsection (1) shall be guilty of an offence.
- (3) Any person who —
  - (a) in connection with the registration of any vessel or the making of any other entry in the register in pursuance of this Part, or
  - (b) in purported compliance with the requirements of any notice under section 50(1),knowingly or recklessly furnishes information which is false in a material particular shall be guilty of an offence.
- (4) Any person who intentionally alters, suppresses, conceals or destroys a document which he has been required to produce by a notice under section 50(1) shall be guilty of an offence.

## **57 Penalties for offences under section 55 or 56 and other provisions relating to such offences**

[P1988/12/24]

- (1) Any person guilty of an offence under section 55 or 56 shall be liable —
  - (a) on summary conviction, to a fine not exceeding £5,000;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine, or both.
- (2) Proceedings for an offence under section 55 or 56 shall not be instituted except by or with the consent of the Attorney General.

- (3) Proceedings for an offence under section 55 may be taken, and the offence may for all incidental purposes be treated as having been committed, in any place in the Island.

## 58 Application of other enactments etc

[P1988/12/25]

Any reference (however phrased) in any statutory provision not contained in this Act to the registration of a fishing vessel under —

- (a) Part I or IV of the Merchant Shipping Act 1894 (an Act of Parliament);
- (b) Section 373 of that Act;
- (c) Part II of the Merchant Shipping Act 1988 (an Act of Parliament),  
(as those Acts have effect in the Island); shall be construed as, or as including, a reference to the registration of a fishing vessel under this Part; and connected phrases shall be construed accordingly.

## 59 Interpretation etc of Part III

- (1) In this Part —

“**fishing vessel survey rules**” has the meaning given by section 2 of the *Fishing Vessels (Safety Provisions) Act 1974*, and any reference to a survey under the fishing vessel survey rules is a reference to such a survey carried out in the Island;

“**owner**”, in relation to a registered fishing vessel, means registered owner;

“**the register**” means the register of Manx fishing vessels referred to in section 47(1)(a);

“**sea fish**” means fish of any description found in the sea and includes shellfish, salmon and migratory trout;

“**share**”, in relation to a fishing vessel, means one of the shares into which the property in the vessel is divided, for the purposes of registration, in accordance with section 5 as applied by subsection (5) of this section.

- (2) A vessel for the time being used (or intended to be used) wholly for the purpose of conveying persons wishing to fish for pleasure is not a fishing vessel for the purposes of this Part.
- (3) References in this Part to a fishing vessel being eligible to be registered as a Manx fishing vessel shall be construed in accordance with section 48.
- (4) For the purposes of this Part the beneficial ownership of a fishing vessel shall be determined by reference to every beneficial interest in that vessel, however arising (whether held by a trustee or nominee or arising under a contract or otherwise), other than an interest held by any person as mortgagee.

- (5) Sections 5(2) to (8) and 12 shall apply for the purposes of the registration of a fishing vessel under this Part as they apply for registration of a ship under Part I.

## **PART IV – REGISTER OF SHIPS CHARTERED BY DEMISE**

### **60 Register of ships chartered by demise**

- (1) The Department may by regulations make provision for the establishment and maintenance of a register (which may be in documentary or non-documentary form) of ships which –
- (a) are either –
    - (i) registered under the law of a country other than the Island and are chartered by demise to a person qualified to be the owner of a Manx ship for the purposes of Part I; or<sup>22</sup>
    - (ii) registered under Part I and are chartered by demise to a person who is not so qualified; and
  - (b) are not fishing vessels; and
  - (c) are not less than 24 metres in length.
- (2) In this section, “charter by demise” means the charter of a ship for a fixed period of time under which the charterer –
- (a) has possession of the ship; and
  - (b) has operational control of the ship; and
  - (c) has the power to appoint and dismiss the master and crew of the ship; and
  - (d) is responsible to third parties as if he was the shipowner, but has no right to sell or mortgage the ship.
- (3) Schedule 4 shall have effect for supplementing the provisions of this section.

## **PART IVA - REGISTER OF SHIPS UNDER CONSTRUCTION**

### **60A Register of ships under construction**

- (1) The Department may by regulations make provision for the establishment and maintenance of a register (which may be in documentary or non-documentary form) of –
- (a) ships which are under construction; and
  - (b) instruments making a ship under construction or a share in such a ship a security for the repayment of a loan or the discharge of any other obligation.

- (2) Schedule 4A shall have effect for supplementing the provisions of this section.<sup>23</sup>

## PART V – NATIONAL CHARACTER AND FLAG

### 61 National character of ship to be declared before clearance

[P1894/60/68]

- (1) An officer of customs and excise shall not grant clearance or transire for any ship until the master of such ship has declared to that officer the name of the nation to which he claims that it belongs, and that officer shall thereupon inscribe that name on the clearance or transire.
- (2) If a ship attempts to proceed to sea without such clearance or transire, it may be detained until the declaration is made.

### 62 Penalty for unduly assuming Manx character

[P1894/60/69]

- (1) If a person uses the national colours for Manx ships and assumes the Manx national character on board any ship in which a majority interest is not owned by persons qualified to be owners of Manx ships for the purposes of Part I or which is not a fishing vessel registered under Part III, for the purpose of making the ship appear to be a Manx ship, the ship shall be subject to forfeiture under this Act, unless the assumption has been made for the purpose of escaping capture by an enemy or by a foreign ship of war in the exercise of some belligerent right.
- (2) In any proceeding for enforcing any such forfeiture the burden of proving a title to use the national colours for Manx ships and assume the Manx national character shall lie upon the person using and assuming the same.

### 63 Penalty for concealing Manx character of a ship

[P1894/60/70]

If the master or owner of a Manx 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 the Island 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 Manx 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 £5,000.

**64 Liabilities of unregistered ships**

[P1894/60/72]

- (1) Where a ship —
- (a) is 24 metres or more in length, and
  - (b) is wholly owned by one or more persons specified in section 1(2), but
  - (c) is neither registered under Part I, II or III nor registered under the law of any country outside the Island,

then (notwithstanding that the ship is not entitled to any benefits, privileges, advantages or protection usually enjoyed by a Manx ship) the ship shall, for the purposes mentioned in subsection (2), be dealt with in the same manner in all respects as if the ship were a Manx 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.

**64A Declarations on behalf of limited partnerships**

Declarations required by this Act may be made on behalf of a limited partnership by a general partner.<sup>24</sup>

**65 National colours for ships, and penalty on carrying improper colours**

[P1894/60/73]

- (1) The red ensign usually worn by merchant ships, without any defacement or modification whatsoever, are the proper national colours for all Manx ships or except where any ship is for the time being allowed to wear any other national colours in pursuance of a warrant from Her Majesty or from the Admiralty.
- (2) If any distinctive national colours, except such red ensign or except the Union Jack with a white border or if any colours usually worn by Her Majesty’s ships or resembling those of Her Majesty, or if the pendant usually carried by Her Majesty’s ships or any pendant resembling that pendant, are or is hoisted on board any Manx ship without warrant from Her Majesty or from the Admiralty, the master of the ship, or the owner thereof, if on board the same and every other person hoisting the colours or pendant, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £5,000.



- (3) Any commissioned officer on full pay in the military or naval service of Her Majesty, or any officer of customs in Her Majesty's dominions, or any British consular officer, may board any Manx ship on which any colours or pendants are hoisted contrary to this Act, and seize and take away the colours or pendant, and the colours or pendant shall be forfeited to Her Majesty.

## **66 Penalty on ship not showing colours**

[P1894/60/74]

- (1) A ship registered under Part I, II or III shall hoist the proper national colours —
- (a) on a signal being made to it by one of Her Majesty's ships (including any vessel under the command of an officer of Her Majesty's navy on full pay), and
  - (b) on entering or leaving any foreign port, and
  - (c) if of 24 metres or more in length, on entering or leaving a port in the Island.
- (2) If default is made on board any such ship in complying with this section, the master of the ship shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £500.

## **67 Saving for Admiralty**

[P1894/60/75]

The provisions of this Act with respect to colours worn by merchant ships shall not affect any other power of the Admiralty in relation thereto.

# **PART VI – MISCELLANEOUS**

## *Declarations and inspection of register*

## **68 Power of Department to dispense with declarations and other evidence**

[P1894/60/60]

When, under this Act, any person is required to make a declaration on behalf of himself or of any corporation, or any evidence is required to be produced to the Department and it is shown to the satisfaction of the Department that from any reasonable cause that person is unable to make the declaration, or that the evidence cannot be produced, the Department may, on the production of such evidence and subject to such terms as it may think fit, dispense with the declaration or evidence.

**69 Mode of making declarations**

[P1894/60/61]

Declarations required by this Act may be made on behalf of a corporation by a director, the secretary or any other officer of the corporation authorised by it for the purpose.

**70 Evidence of register, certificate of registry, and other documents**

- (1) A person, may, on application to the Department inspect any register kept under this Act.
- (2) The following documents shall be admissible in evidence in the manner provided by this Act —
  - (a) a certificate of registry under this Act purporting to be signed on behalf of the Department;
  - (b) an endorsement on a certificate of registry purporting to be signed on behalf of the Department;
  - (c) every declaration made in pursuance of this Act.
- (3) A person shall be entitled to obtain a copy, certified as a true copy on behalf of the Department of any information contained in the register, and any document purporting to be such a certified copy shall be evidence of the matters stated in the document.
- (4) A person shall be entitled to obtain a statement, certified on behalf of the Department showing who is for the time being the owner of the ship.

**71 Forms of documents and instructions as to registry**

[P1984/60/65]

The Department is not obliged to receive and enter in the register any bill of sale, mortgage, or other instrument of the disposal or transfer of any ship or share, or any interest therein, which is made in any form other than that for the time being required under this Act, or which contains any particulars other than those contained in such form.

*False declarations***72 False declarations**

[P1894/60/67]

- (1) If any person in the case of any declaration made under this Act, or in any document or other evidence produced to the Department —
  - (i) intentionally makes, or assists in making, or causes to be made any false statement concerning the title to or ownership of, or the interest existing in any ship, or any share in a ship; or

- (ii) produces or makes use of any declaration or document containing any such false statement knowing the same to be false,  
he shall be guilty of an offence and shall be liable —
  - (a) on conviction on information to imprisonment for a term not exceeding 2 years or to a fine or to both;
  - (b) on summary conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding £5,000 or to both.
- (2) If any person intentionally makes a false declaration of himself or of any other person or of any corporation to own a Manx ship or any share therein, or the entitlement of a ship to be registered, he shall be guilty of an offence and shall be liable —
  - (a) on conviction on information to imprisonment for a term not exceeding 2 years or to a fine or to both;
  - (b) on summary conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding £5,000 or to both,

and that ship or share shall be subject to forfeiture under this Act, to the extent of the interest therein of the declarant, and also, unless it is proved that the declaration was made without authority, of any person or corporation on behalf of whom the declaration is made.

### 73 Proceedings on forfeiture of ship

[P1894/60/76]

- (1) Where any ship has either wholly or as to any share therein become subject to forfeiture under this Act —
  - (a) any person authorised by the Department for the purposes of this section; or
  - (b) any commissioned officer on full pay in the military or naval service of Her Majesty,

may seize and detain the ship and bring it for adjudication before the High Court, and the Court may thereupon adjudge the ship with its tackle, apparel, and furniture to be forfeited to Her Majesty in right of the Island, and make such order in the case as to the Court seems just, and may award to the officer or other person bringing in the ship for adjudication such portion of the proceeds of the sale of the ship, or any share therein, as the Court think fit.

- (2) Any such officer or other person as is mentioned in subsection (1) of this section shall not be responsible either civilly or criminally to any person whomsoever in respect of any such seizure or detention as aforesaid, notwithstanding that the ship has not been brought in for adjudication, or if so brought in is declared not liable to forfeiture, if it is shown to the satisfaction of the Court that there were reasonable grounds for such

seizure or detention; but if no such grounds are shown the Court may award costs and damages to any party aggrieved, and make such other order in the premises as the Court thinks just.

- (3) Where any ship or share has been adjudged forfeited under subsection (1), the property in the ship or share therein shall be deemed to vest in the Treasury subject to the terms of the order of the Court under this section.

## 74 Detention of ships

- (1) Where under any statutory provision a ship is to be or may be detained, any commissioned officer on full pay in the naval or military service of Her Majesty, or any officer of the Department, or any officer of customs and excise may detain the ship, and if the ship after detention or after service on the master of any notice of or order for detention proceeds to sea before it is released by competent authority, the master of the ship, and also the owner, and any person who sends the ship to sea, if that owner or person is party or privy to the offence, shall be liable on conviction on information to a fine or on summary conviction to a fine not exceeding 10 times level 5 on the standard scale.<sup>25</sup>
- (2) Where a ship so proceeding to sea takes to sea when on board thereof in the execution of his duty any officer authorised to detain the ship, or any marine surveyor or officer of the Department or any officer of customs and excise, the owner and master of the ship shall each be liable to pay all expenses of and incidental to the officer or surveyor being so taken to sea, and also on conviction on information to a fine or on summary conviction to a fine not exceeding £5,000.
- (3) Where under this Act a ship is to be detained, an officer of customs and excise shall, and where under this Act a ship may be detained an officer of customs and excise may, refuse to clear that ship outwards or to grant a transire to that ship.

### 74A Service of documents

Any document required or authorised to be served for the purpose of the institution of, or otherwise in connection with, any criminal or civil proceedings shall, where the person to be served is the owner of a registered ship, be treated as duly served on him if —

- (a) delivered to —
  - (i) any representative person for the time being appointed in relation to the ship; or
  - (ii) where a limited partnership is registered as the owner of the ship in accordance with Part I, any general partner of the partnership; or

- (b) sent to any such person by post at the address notified (or, as the case may be, last notified) to the Department in relation to that person; or
- (c) left for any such person at that address.<sup>26</sup>

## 75 Offences: supplementary provisions

- (1) Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such 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) 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.

## 76 Public documents: Tynwald procedure

- (1) The Department may make such regulations as it thinks necessary to give full effect to this Act.
- (1A) Without prejudice to the generality of subsection (1), regulations under this Act may make provision with respect to any of the following matters —
  - (a) the information and evidence (including declarations of connection with the Island) to be provided in connection with applications in relation to registration and such supplementary information or evidence as may be required by the Department;
  - (b) the issue of certificates of registration, their production and surrender;
  - (c) restricting and regulating the names of ships registered or to be registered;
  - (d) the production to the Department of declarations of connection with the Island or other information relating thereto, as respects registered ships, at specified intervals or at its request;
  - (e) matters arising out of the expiration, suspension or termination of registration (including the removal of marks and the cancellation of certificates);
  - (f) inspection of the register.<sup>27</sup>
- (1B) Regulations under this Act may —

- (a) make provision for the granting of exemptions or dispensations by the Department from specified requirements of the regulations, subject to such conditions (if any) as it thinks fit to impose; and
  - (b) make such transitional, incidental or supplementary provision as appears to the Department to be necessary or expedient, including provision authorising investigations and conferring powers of inspection for verifying the connection with the Island of a ship.<sup>28</sup>
- (2) [Repealed]<sup>29</sup>
- (3) Regulations under this Act shall be laid before Tynwald as soon as is practicable after they are made.
- (4) If Tynwald at the sitting before which such regulations are so laid or at the next following sitting fails to approve them, the regulations shall cease to have effect.

## 77 Financial

- (1) The expenses of the Department under this Act shall be paid out of money provided by Tynwald.
- (2) Subject to subsection (3), any money received by the Department under this Act shall be paid into the General Revenue.
- (3) The Department may by regulations provide exemptions from subsection (2) in cases where fees under this Act fall to be paid to marine surveyors who are not officers of the Department.

## 78 Interpretation

- (1) In this Act —
  - “**bankruptcy**” includes insolvency;
  - “**country**” includes territory;
  - “**court**” in relation to any proceeding includes any justice of the peace having jurisdiction in the matter to which the proceeding relates;
  - “**Department**” means the Department for Enterprise;<sup>30</sup>
  - “**fishing vessel**” means a vessel for the time being used (or, in the context of an application for registration under Part III, intended to be used) for or in connection with fishing for sea fish, other than a vessel used (or intended to be used) for fishing otherwise than for profit;
  - “**marine surveyor**” means a surveyor appointed under section 2 of the *Merchant Shipping (Registration) Act 1984* or such persons or classes of person as may be specified in regulations made by the Department;
  - “**master**” includes every person (except a pilot) having a command or charge of any ship;

- “**pilot**” means any person not belonging to a ship who has the conduct thereof;
- “**port**” includes place;
- “**prescribed**” means prescribed by regulations made by the Department;
- “**representation**” means a grant of probate or letters of administration;
- “**ship**” includes every description of vessel used in navigation not propelled by oars;
- “**tonnage regulations**” means regulations under section 44;
- “**vessel**” includes any ship or boat, or any other vessel used in navigation.
- (2) Any reference to failure to do any act or thing shall include a reference to refusal to do that act or thing.

## 79 Amendments and repeals

- (1) The enactments referred to in Schedule 5 are amended in accordance with that Schedule.
- (2) The enactments mentioned in Part I of Schedule 6 are repealed to the extent specified in the third column of that Part.
- (3) The Acts of Parliament mentioned in Part II of Schedule 6 are, insofar as they extend to the Island or to ships registered in the Island, repealed to the extent specified in the third column of that Part.
- (4) The transitional and saving provisions in Schedule 7 shall have effect.

## 80 Short title and commencement

- (1) This Act may be cited as the Merchant Shipping Registration Act 1991 and shall come into operation on such day or days as the Department may by order appoint and different days may be so appointed for different provisions and for different purposes.<sup>31</sup>
- (2) An order under subsection (1) may include such transitional and saving provisions as the Department considers to be expedient.





**SCHEDULE 1****REGISTRATION OF MORTGAGES ON REGISTERED VESSELS**

Sections 32 and 54

*Interpretation*

1. In this Schedule —

“**mortgage**” shall be construed in accordance with paragraph 2(2);

“**registered mortgage**” means a mortgage registered in pursuance of paragraph 2(3); and

“**registered vessel**” means —

- (a) a ship registered under Part I; or
- (b) a fishing vessel registered under Part III otherwise than in pursuance of paragraph 2(c) of Schedule 3,

as the case requires.

*Mortgages of registered vessels*

2. (1) Any registered vessel or share in a registered vessel 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 this Schedule as a mortgage) shall be in such form as is approved by the Department.

(3) Where a mortgage executed in accordance with sub-paragraph (2) is produced to the Department, it shall —

- (a) register the mortgage by causing it to be recorded in the register, and
- (b) endorse on it the fact that it has been recorded, together with the date and time when it was recorded.

(4) Mortgages shall be registered under sub-paragraph (3) in the order in which they are produced to the Department for the purposes of registration.

*Priority of registered mortgages*

3. Where two or more mortgages are registered in respect of the same vessel or share, the priority of the mortgagees between themselves shall, subject to paragraph 4, be determined by the order in which the mortgages were registered and not by reference to any other matter.

*Notices by intending mortgagees of vessels*

4. (1) Where any person who is an intending mortgagee under a proposed mortgage of —

- (a) a vessel, or
- (b) a share in a registered vessel,

notifies the Department in writing of the interest which it is intended that he should have under the proposed mortgage, the Department shall cause that interest to be recorded in the register.

(2) Where any person who is an intending mortgagee under a proposed mortgage of —

- (a) a vessel which is not for the time being registered under Part I or Part III, or
- (b) a share in any such vessel,

notifies the Department in writing of the interest which it is intended that he should have under the proposed mortgage and furnishes it with such particulars of that vessel as may be prescribed, the Department —

- (i) shall cause that interest to be recorded in the register, and
- (ii) if the vessel is subsequently registered (otherwise than in pursuance of paragraph 2(c) of Schedule 3), shall cause the vessel to be registered subject to that interest or, if the mortgage has by then been executed in accordance with paragraph 2(2) and produced to the Department, subject to that mortgage.

(3) In a case where —

- (a) paragraph 3 operates to determine the priority between two or more mortgagees, and
- (b) any of those mortgagees gave a notification under sub-paragraph (1) or (2) with respect to his mortgage,

paragraph 3 shall have effect in relation to that mortgage as if it had been registered at the time when the relevant entry was made in the register under sub-paragraph (1) or (2).

(4) Any notification given by a person under sub-paragraph (1) or (2) (and anything done as a result of it) shall cease to have effect —

- (a) if the notification is withdrawn, or
- (b) at the end of the period of 30 days beginning with the date of the notification, unless the notification is renewed in accordance with sub-paragraph (5).

(5) The person by whom any such notification is given may renew or further renew the notification, on each occasion for a period of 30 days, by notice in writing given to the Department —

- (a) before the end of the period mentioned in sub-paragraph (4)(b); or
- (b) before the end of the current period of renewal,

as the case may be.

(6) Any notification or notice purporting to be given under this paragraph (and anything done as a result of it) shall not have any effect if the Department determines that it was not validly given.

#### *Registered mortgagee's power of sale*

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

#### *Transfer of registered mortgage*

6. (1) A registered mortgage may be transferred by an instrument made in such form as is approved by the Department.

- (2) Where any such instrument is produced to the Department, it shall —
- (a) cause the name of the transferee to be entered in the register as mortgagee of the vessel or share in question, and
  - (b) endorse on the instrument the fact that that entry has been made, together with the date and time when it was made.

#### *Transmission of registered mortgage by operation of law*

7. 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 6, the Department shall, on production of such evidence of the transmission as it may require, cause the name of that person to be entered in the register as mortgagee of the vessel or share in question.

#### *Discharge of registered mortgage*

8. Where a registered mortgage has been discharged, the Department shall, on production of the mortgage deed with such evidence of the discharge of the mortgage as it may require, cause an entry to be made in the register to the effect that the mortgage has been discharged.

8A. If for good reason the registered mortgage cannot be produced to the Department, it may, on being satisfied that the mortgage has been properly discharged, cause an entry to be made in the register to the effect that the mortgage has been discharged.<sup>32</sup>

*Transfer of mortgages from one system of registration to another*

9. (1) The Department may by regulations provide —
- (a) for the transfer to the register of undischarged mortgages that have been registered under Part I and affect ships registered under that Part which become vessels registered under Part III; and
  - (b) for any provisions of Part I or III to have effect in relation to any such mortgages subject to such modifications as may be specified in the regulations.
- (2) Regulations may also provide —
- (a) for the transfer to registers kept under Part I of undischarged registered mortgages affecting vessels registered under Part III which become ships registered under Part I; and
  - (b) for any provisions of Part I to have effect in relation to any such mortgages subject to such modifications as may be specified in the regulations.
- (3) Without prejudice to the generality of sub-paragraphs (1) and (2) —
- (a) regulations made by virtue of sub-paragraph (1) may make provision, in connection with the transfer of mortgages in pursuance of that sub-paragraph, for the transmission of information relating to such mortgages which is recorded in registers kept under Part I, and for the recording of such information in the register kept under Part III; and
  - (b) regulations made by virtue of sub-paragraph (2) may make corresponding provision, in connection with the transfer of mortgages in pursuance of that sub-paragraph, for the transmission and recording of information relating to such mortgages which is recorded in the register kept under Part III.
10. Where the registration of a ship terminates by virtue of any provision of this Act, that termination shall not affect any entry in the register of any undischarged registered mortgage of that ship or any share in it.<sup>33</sup>

## SCHEDULE 2

### REGULATIONS RELATING TO REGISTRATION OF SMALL SHIPS

#### Section 46

1. In this Schedule —
  - “**registered**” and “**registration**” means registered under section 46 and registration under that section respectively;
  - “**regulations**” means regulations made under that section; and
  - “**specified**” means specified in regulations.
2. Regulations may make provision —
  - (a) for the persons by whom and the manner in which applications in connection with registration are to be made (including provision limiting the persons who may apply for registration, whether by reference to residence or place of business or otherwise);
  - (b) for the information and evidence to be provided in connection with such applications and for such supplementary information or evidence as may be required by any authority specified for the purpose to be so provided;
  - (c) for the issue of certificates of registration, their production and surrender;
  - (d) for the marking of registered ships;
  - (e) for the period for which any registration is to remain effective without renewal;
  - (f) for the refusal of registration where the name of the ship proposed to be registered appears to any authority specified for the purpose to be undesirable;
  - (g) for the termination of registration in specified circumstances (including failure to comply with requirements imposed by or under regulations and circumstances in which any of the requirements applicable to new registrations imposed by or under section 46 are no longer met);
  - (h) for matters arising out of the expiration or termination of registration (including the removal of marks and the cancellation of certificates);
  - (i) for the inspection of ships registered or to be registered;
  - (j) for the discharge of functions under the regulations by persons appointed by such organisations as may be authorised in that behalf by the Department;

- (k) excluding from registration specified classes or descriptions of ships; and
- (l) for any other matters relating to the maintenance of a register of small ships (including its inspection).

3. (1) Regulations may provide for the creation of offences and their punishment on summary conviction in any of the following cases —

- (a) where a person with intent to deceive uses, or lends to or allows to be used by another, a certificate of registration which has ceased to have effect;
- (b) where a person for purposes of registration makes a statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular;
- (c) where a person required by regulations to ensure that any requirement of the regulations as to the marking of a ship is met fails to ensure that that requirement is met;
- (d) where a person required by regulations to surrender a certificate of registration fails without reasonable excuse to surrender the certificate.

(2) Regulations providing for the creation of an offence under subparagraph (1)(c) shall provide that it shall be a defence for a person charged with the offence to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(3) Regulations providing for the creation of an offence by virtue of subparagraph (1)(a) or (b) shall provide for it to be punishable with a fine not exceeding £2,500.

(4) Regulations providing for the creation of an offence by virtue of subparagraph (1)(c) or (d) shall provide for it to be punishable with a fine not exceeding £1,000.

4. Regulations may contain such supplemental and incidental provisions as appear to the Department to be necessary or expedient.

5. Regulations may provide for their operation within territorial waters adjacent to the Island.

6. No provision of this Schedule is to be taken to prejudice the generality of section 46.

## SCHEDULE 3

### REGISTRATION OF FISHING VESSELS

#### Section 47

#### *Interpretation*

1. In this Schedule —

“**declaration of Manx character**” means a declaration, in such form as may be prescribed, relating to the eligibility of a fishing vessel to be registered as a Manx fishing vessel;

“**regulations**” means regulations made under section 47;

“**relevant statutory provision**” means any provision of Part III or of regulations;

“**specified**” means specified in regulations.

#### *Regulations: general provisions*

2. Regulations may make provision —

- (a) for the persons by whom and the manner in which applications in connection with registration are to be made (including provision limiting the persons who may apply for registration, whether by reference to residence or place of business or otherwise);
- (b) for the information and evidence to be provided in connection with such applications and for such supplementary information or evidence as may be required by any authority specified in the regulations for the purpose to be so provided, and for the production, in connection with such applications, of declarations of Manx character;
- (c) for the registration of vessels as vessels to which the provisions of Part III relating to transfers by bill of sale and the registration of mortgages do not apply;
- (d) for the issue of certificates of registration (including temporary certificates), their production and surrender;
- (e) for the marking of registered vessels;
- (f) for the period for which the registration of a vessel is to remain effective without renewal;
- (g) for matters arising out of the expiration or termination of registration (including the removal of marks and the cancellation of certificates);
- (h) for declarations of Manx character to be produced to the Department, as respects registered vessels, at specified intervals or at the request of the Department;

- (i) excluding from registration, or from any provision of the regulations, any specified class or description of vessel;
- (j) for the manner in which notices or other documents required or authorised to be given or served by virtue of any relevant statutory provision are to be given or served;
- (k) for prescribing anything which is authorised to be prescribed under Part III;
- (l) for any of the provisions of Part I to have effect in relation to the registration of fishing vessels subject to such modifications (if any) as may be specified;
- (m) for any other matters relating to the establishment and maintenance of the register (including its inspection).

*Provisional registration*

3. (1) Regulations may make provision —
- (a) for fishing vessels acquired outside the Island which are eligible to be registered as Manx fishing vessels to be provisionally registered as such pending their registration in the register;
  - (b) for any such provisional registration to terminate in specified circumstances (including failure to comply with requirements imposed by or under the regulations).
- (2) Provisional registration shall not be granted unless the Department is satisfied that an application for registry of the fishing vessel has been made in accordance with regulations or is intended.

*Offences*

4. (1) Regulations may provide for the creation of offences and their punishment on summary conviction in any of the following cases —
- (a) where a person with intent to deceive, uses, or lends to or allows to be used by another, a certificate of registration, whether in force or not;
  - (b) where a person required by regulations to ensure that any requirement of the regulations as to the marking of a fishing vessel is satisfied fails to ensure that that requirement is satisfied;
  - (c) where a person required by regulations to surrender a certificate of registration fails without reasonable excuse to surrender the certificate.
- (2) Any such regulations shall —
- (a) in the case of an offence created by virtue of sub-paragraph (1)(a), provide for the offence to be punishable with a fine not exceeding £5,000; and



- (b) in the case of an offence created by virtue of sub-paragraph (1)(b) or (c), provide for it to be punishable with a fine not exceeding £1,000.

(3) Regulations providing for the creation of an offence by virtue of sub-paragraph (1)(b) shall provide that it shall be a defence for a person charged with the offence to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

*Operation of regulations in territorial waters*

5. Regulations may provide for any of their provisions to extend to the territorial sea of the Island.

*Construction of references in other enactments to fishing vessels excluded from registration*

6. References in any statutory provision (apart from section 1(1)(b)) to fishing vessels excluded from registration by regulations under section 47 shall be construed as references to fishing vessels which, being eligible to be registered under Part III by virtue of regulations under section 48, are excluded from registration by such regulations (and are not registered under the law of any country outside the Island).

## SCHEDULE 4

### REGULATIONS RELATING TO THE REGISTER OF SHIPS CHARTERED BY DEMISE

#### Section 60

1. In this Schedule —
  - “**the Register**” means the Register established under section 60;
  - “**regulations**” means regulations made under that section;
  - “**specified**” means specified in regulations.
2. Regulations may make provision —
  - (a) for the persons by whom and the manner in which applications in connection with the Register are to be made (including provision limiting the persons who may make such applications);
  - (b) for the information and evidence to be provided in connection with such applications and for such supplementary information or evidence as may be required by any authority specified for the purpose to be so provided;
  - (c) for the issue of certificates of entries in the Register, their production and surrender;

- (d) for the marking of ships entered in the Register;
- (e) for the period for which any entry in the Register is to remain effective;
- (f) for the refusal of applications where the name of the ship proposed to be entered in the Register appears to the Department to be undesirable;
- (g) for the deletion of entries from the Register in specified circumstances (including failure to comply with requirements imposed by or under regulations and circumstances in which any of the requirements imposed by or under section 60 are no longer met);
- (h) for matters arising out of the expiration or deletion of entries (including the removal of marks and the cancellation of certificates);
- (i) for the inspection of ships entered or to be entered in the Register;
- (j) for the discharge of functions under the regulations by persons appointed by such organisations as may be authorised in that behalf by the Department;
- (k) excluding from entry in the Register specified classes or descriptions of ships;
- (l) for any statutory provision (including this Act but excluding this Schedule and section 60) to have effect in relation to ships for the time being entered in the Register subject to such modifications (if any) as may be specified; and
- (m) for any other matters relating to the maintenance of the Register (including its inspection).

3. (1) Regulations may provide for the creation of offences and their punishment on summary conviction in any of the following cases —

- (a) where a person with intent to deceive uses, or lends to or allows to be used by another, a certificate of an entry in the Register which has ceased to have effect;
- (b) where a person for any purposes in connection with the Register makes a statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular;
- (c) where a person required by regulations to ensure that any requirement of the regulations as to the marking of a ship is met fails to ensure that that requirement is met;
- (d) where a person required by regulations to surrender a certificate of any entry in the Register fails without reasonable excuse to surrender the certificate.

(2) Regulations providing for the creation of an offence under subparagraph (1)(c) shall provide that it shall be a defence for a person charged with the offence to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(3) Regulations providing for the creation of an offence by virtue of subparagraph (1)(a) or (b) shall provide for it to be punishable with a fine not exceeding £2,500.

(4) Regulations providing for the creation of an offence by virtue of subparagraph (1)(c) or (d) shall provide for it to be punishable with a fine not exceeding £1,000.

4. Regulations may contain such supplemental and incidental provisions as appear to the Department to be necessary or expedient.

5. Regulations may provide for their operation within territorial waters adjacent to the Island.

6. No provision of this Schedule is to be taken to prejudice the generality of section 60.

## SCHEDULE 4A

### REGULATIONS RELATING TO THE REGISTER OF SHIPS UNDER CONSTRUCTION<sup>34</sup>

#### Section 60A

1. In this Schedule —
  - “**mortgage**” means an instrument referred to in section 60A(1)(b);
  - “**the Register**” means the register established under section 60A;
  - “**regulations**” means regulations made under that section;
  - “**specified**” means specified in regulations.
2. Regulations may make provision —
  - (a) for the persons by whom and the manner in which applications in connection with the Register are to be made (including provisions limiting the persons who may make such applications);
  - (b) for the information and evidence to be provided in connection with such applications and for such supplementary information or evidence as may be required by any authority specified for the purpose to be so provided;
  - (c) for the issue of certificates of entries in the Register, their production and surrender;

- (d) for the identification of ships under construction entered in the Register;
- (e) for the period for which any entry in the Register is to remain effective;
- (f) for the refusal of applications where the application, applicant, ship under construction or the circumstances or place of construction do not or are unlikely to comply with specified requirements imposed under regulations;
- (g) for the termination of registration in specified circumstances (including failure to comply with requirements imposed under regulations);
- (h) for matters arising out of the expiration or termination of registration (including the removal of identification required by regulations and the cancellation of certificates);
- (i) for the inspection of ships under construction entered or to be entered in the Register;
- (j) for the discharge of functions under the regulations by persons appointed by the Department;
- (k) excluding from entry in the Register specified classes or descriptions of ships under construction;
- (l) for any statutory provision (including Parts I, V and VI of, and Schedule 1 to, this Act) to have effect in relation to ships under construction for the time being entered in the Register subject to such modifications (if any) as may be specified;
- (m) for the transfer of the registration (including the transfer of registered mortgages) of ships under construction from the Register to another register maintained under this Act when the ship ceases to be a ship under construction and for the continuation of registration on such cessation;
- (n) for determining the circumstances in which a ship is to be treated for the purposes of the Register as a ship under construction; and
- (o) for any other matters relating to the maintenance of the Register (including its inspection).

3. (1) Regulations may provide for the creation of offences and their punishment on summary conviction in any of the following cases —

- (a) where a person with intent to deceive uses, or lends to or allows to be used by another, a certificate of an entry in the Register which has ceased to have effect;
- (b) where a person for any purpose in connection with the Register makes a statement which that person knows to be false in a material particular or recklessly makes a statement which is false in a material particular;

- (c) where a person required by regulations to ensure that any requirement of the regulations as to the identification of a ship under construction is met fails to ensure that the requirement is met;
  - (d) where a person required by regulations to surrender a certificate of any entry in the Register fails without reasonable excuse to surrender the certificate.
- (2) Regulations providing for the creation of an offence under subparagraph (1)(c) shall provide that it shall be a defence for a person charged with the offence to prove that he or she took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.
  - (3) Regulations providing for the creation of an offence by virtue of subparagraph (1)(a) or (b) shall provide for it to be punishable with a fine not exceeding £2,500.
  - (4) Regulations providing for the creation of an offence by virtue of subparagraph 1(c) or (d) shall provide for it to be punishable with a fine not exceeding £1,000.
4. Regulations may contain such supplemental and incidental provisions as appear to the Department to be necessary or expedient.
5. Regulations may provide for their operation in respect of ships under construction in the Island or elsewhere.
6. No provision of this Schedule is to be taken to prejudice the generality of section 60A.

## SCHEDULE 5

### AMENDMENT OF ENACTMENTS

#### Section 79(1)

[Sch 5 amends the following Acts —

Fishing Vessels (Safety Provisions) (Isle of Man) Act 1974 q.v.

Merchant Shipping (Masters and Seamen) Act 1979 q.v.

Merchant Shipping (Load Lines) Act 1981 q.v.

Merchant Shipping Act 1985 q.v.

Oil Pollution Act 1986 q.v.]

## SCHEDULE 6

### REPEALS

## Section 79(2) and (3)

[Part I repeals the following Acts in part —

Merchant Shipping (Detention of Ships) Act 1979

Merchant Shipping (Registration) Act 1984

Merchant Shipping Act 1985.

[Part II repeals the following Act in part —

Merchant Shipping Act 1894.]

**SCHEDULE 7****TRANSITIONAL AND SAVING PROVISIONS**

## Section 79(4)

1. Any reference (however phrased) in any statutory provision to the registration of a ship under —

- (a) Part I of the Merchant Shipping Act 1894 (an Act of Parliament);
- (b) the Merchant Shipping Act 1983 (an Act of Parliament),

shall be construed as a reference to the registration of a ship under the corresponding provisions of this Act and connected phrases shall be construed accordingly.

2. Any vessel which was, immediately before the commencement of this Act, registered in the Island or in a port in the Island under —

- (a) the statutory provisions referred to in paragraph 1;
- (b) Part II of the Merchant Shipping Act 1988 (an Act of Parliament),

shall be deemed to be registered under the corresponding provisions of this Act.

3. Any mortgage registered under a statutory provision referred to in paragraph 1(a) or 2(b) shall be deemed to be registered under the corresponding provision of this Act.

4. Any document made, issued or given for the purposes of any provision of the statutory provisions referred to in paragraph 2 shall have the same effect as if they had been made, issued or given under the corresponding provision of this Act.

5. Any register maintained in the Island under the statutory provisions referred to in paragraph 2 shall be deemed to be a register maintained for the purposes of the corresponding provision of this Act.

6. Any reference in any statutory provision to a British ship shall be construed in accordance with section 2 of the said Act of 1988.

7. Any regulations made under the Merchant Shipping Act 1965 (an Act of Parliament) which are in force immediately before the commencement of this Act and which have effect in the Island shall be treated as if they had been made under this Act.

8. Where any provision of this Act re-enacts, with or without modification, any Act of Parliament which, immediately before the commencement of the relevant provision of this Act, had effect in the Island, Part 4 Division 4 of the *Legislation Act 2015* (default savings and transitional provisions) shall apply in respect of that provision as it applies in respect of any enactment which repeals and re-enacts another enactment.<sup>35</sup>

9. Section 15 of the *Interpretation Act 1976* shall apply to the repeal of the statutory provisions specified in Part II of Schedule 6 as it applies to the repeal of an enactment.





## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement

### Table of Renumbered Provisions

Original	Current

### Table of Endnote References

<sup>1</sup> Para (ff) inserted by Merchant Shipping Registration (Amendment) Act 1996 s 1.

<sup>2</sup> Para (c) added by Merchant Shipping Registration (Amendment) Act 1996 s 1.

<sup>3</sup> Subs (9) added by Merchant Shipping Registration (Amendment) Act 1996 s 1.

<sup>4</sup> Subs (10) added by Merchant Shipping Registration (Amendment) Act 1996 s 1.

<sup>5</sup> Subs (11) added by Merchant Shipping Registration (Amendment) Act 1996 s 1.

<sup>6</sup> Subs (12) added by Merchant Shipping Registration (Amendment) Act 1996 s 1.

<sup>7</sup> Subs (13) added by Merchant Shipping Registration (Amendment) Act 1996 s 1.

<sup>8</sup> Subs (1) amended by Merchant Shipping Registration (Amendment) Act 1996 s 1.

<sup>9</sup> Subs (2) amended by Merchant Shipping Registration (Amendment) Act 1996 s 3.

<sup>10</sup> Para (b) amended by Merchant Shipping Registration (Amendment) Act 1996 s 3.

<sup>11</sup> S 22A inserted by Merchant Shipping Registration (Amendment) Act 1996 s 1.

<sup>12</sup> S 22B inserted by Merchant Shipping Registration (Amendment) Act 1996 s 1.

<sup>13</sup> Subs (4) amended by Merchant Shipping Registration (Amendment) Act 1996 s 1.

<sup>14</sup> Definition of “limited partnership” inserted by Merchant Shipping Registration (Amendment) Act 1996 s 1.

<sup>15</sup> Definition of “general partner” inserted by Merchant Shipping Registration (Amendment) Act 1996 s 1.

<sup>16</sup> Para (d) substituted by Merchant Shipping Registration (Amendment) Act 1996 s 4.

<sup>17</sup> Para (e) amended by Merchant Shipping Registration (Amendment) Act 1996 s 4.

<sup>18</sup> Subs (2) repealed by Interpretation Act 2015 s 105.

<sup>19</sup> Subs (2) substituted by SD73/2006.

<sup>20</sup> Subs (4) amended by SD73/2006.

<sup>21</sup> Subs (2) amended by SD73/2006.

<sup>22</sup> Subpara (i) amended by Merchant Shipping Registration (Amendment) Act 1996 s 5.

<sup>23</sup> S60A inserted by Merchant Shipping (Amendment) Act 2007 s 2(1) with effect from 1/11/2012.

<sup>24</sup> S 64A inserted by Merchant Shipping Registration (Amendment) Act 1996 s 1.

<sup>25</sup> Subs (1) amended by Interpretation Act 2015 s 55.

<sup>26</sup> S 74A inserted by Merchant Shipping Registration (Amendment) Act 1996 s 2.

<sup>27</sup> Subs (1A) inserted by Merchant Shipping Registration (Amendment) Act 1996 s 6.

<sup>28</sup> Subs (1B) inserted by Merchant Shipping Registration (Amendment) Act 1996 s 6.

<sup>29</sup> Subs (2) repealed by Merchant Shipping (Miscellaneous Provisions) Act 1996 Sch 2.

<sup>30</sup> Definition of “Department” substituted by SD155/10 Sch 2 and amended by SD2017/0325.

<sup>31</sup> ADO (whole Act) 1/12/1991 (GC389/91).

<sup>32</sup> Para 8A inserted by Merchant Shipping Registration (Amendment) Act 1996 s 7.

<sup>33</sup> Para 10 added by Merchant Shipping Registration (Amendment) Act 1996 s 7.

<sup>34</sup> Schedule 4A inserted by Merchant Shipping (Amendment) Act 2007 s 2(2) with effect from 1/11/2012.

<sup>35</sup> Para 8 amended by Interpretation Act 2015 s 107.