

SCHEDULES

SCHEDULE 6

MINOR AND CONSEQUENTIAL AMENDMENTS

The Merchant Shipping Act 1995 (c. 21)

- 3 (1) Section 128 of the 1995 Act (prevention of pollution from ships) is amended as follows.
- (2) In subsection (3)(h) for “section 143(6), 144” there is substituted “sections 143(6), 144”.
- (3) In subsection (4)(f) (instruments made under Orders in Council under section 128(1)) the words “and apply the Statutory Instruments Act 1946 to instruments made under the Order” are omitted.
- 4 (1) With respect to applications made after the commencement of this paragraph, section 158 of the 1995 Act (limitation actions), including that section as set out in Schedule 4 to that Act, is amended as follows.
- (2) In subsection (2)—
- (a) for the words “and is entitled to limit it” there is substituted “but has not found that he is not entitled to limit it”, and
- (b) for “the limit of the liability” there is substituted “the limit which would apply to the applicant’s liability if he were entitled to limit it”.
- (3) After subsection (2) there is inserted—
- “(2A) Where—
- (a) a distribution is made under subsection (2)(b) above without the court having found that the applicant is entitled to limit his liability, and
- (b) the court subsequently finds that the applicant is not so entitled, the making of the distribution is not to be regarded as affecting the applicant’s liability in excess of the amount distributed.”
- 5 In section 170 of the 1995 Act (interpretation of provisions implementing the International Convention on Civil Liability for Oil Pollution Damage 1992), in subsection (4)(a) (territory of United Kingdom to include any area within the British fishery limits) for “within the British fishery limits set by or under the Fishery Limits Act 1976;” there is substituted “specified by virtue of section 129(2)(b)”.
- 6 In section 193 of the 1995 Act (general and local lighthouse authorities)—
- (a) in subsection (2)(a), for “harbour authority” there is substituted “statutory harbour authority”, and
- (b) in subsection (4)(b), for the words “harbour authority”, where they first occur, there is substituted “statutory harbour authority”.

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- 7 In section 197 of the 1995 Act (general powers of general lighthouse authority), in subsection (2), for “harbour authority” there is substituted “statutory harbour authority”.
- 8 In section 201 of the 1995 Act (powers of harbour authorities), in subsection (1), for “harbour authority” there is substituted “statutory harbour authority”.
- 9 Section 202 of and Schedule 9 to the 1995 Act (transfer of local lighthouses from general lighthouse authorities to harbour authorities) (which are spent) are omitted.
- 10 In section 203 of the 1995 Act (individual transfers of local lighthouses to harbour authorities), for the words “harbour authority”, where they first occur, there is substituted “statutory harbour authority”.
- 11 In section 204 of the 1995 Act (surrender of local lighthouses), in subsection (2), for “harbour authority” there is substituted “statutory harbour authority”.
- 12 In section 205 of the 1995 Act (light dues leviable by general lighthouse authorities), in subsection (9), for the words from “to Her Majesty’s Paymaster-General” to the end there is substituted “to the Secretary of State or as he directs, and in such manner as he directs.”
- 13 In section 210 of the 1995 Act (light dues leviable by local lighthouse authorities), in subsections (1) and (2) for the words “harbour authority” there is substituted “statutory harbour authority”.
- 14 In section 232 (duty of receiver where vessel in distress), in subsection (2), for “(4)” there is substituted “(3)”.
- 15 In section 256 (appointment of inspectors and surveyors), in subsection (7), for “section ” there is substituted “subsection”.
- 16 In section 261 (improvement notices), in subsection (4)(a), after “130” there is inserted “130A”.
- 17 In section 293 (functions of Secretary of State in relation to marine pollution), in subsection (2), before sub-paragraph (a), there is inserted—
- “(za) the preparation, review and implementation of a national plan setting out arrangements for responding to incidents which cause or may cause marine pollution with a view to preventing such pollution or reducing or minimising its effects;”.
- 18 (1) Section 306 of the 1995 Act (regulations, rules and orders, etc.) is amended as follows.
- (2) For subsection (1) (powers which are exercisable by statutory instrument) there is substituted—
- “(1) Subject to subsection (1A) below, any power of the Secretary of State to make regulations, orders or rules under this Act shall be exercisable by statutory instrument.
- (1A) Subsection (1) above does not apply to—
- (a) rules made under section 91; or
- (b) any instrument made under section 128(4)(f) other than an instrument containing regulations.”

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- (3) For subsection (2) (statutory instruments containing regulations, orders or rules to be subject to negative resolution procedure, except in specified cases) there is substituted—
- “(2) Subject to subsection (2A) below—
- (a) any statutory instrument containing regulations under this Act (including such an instrument made by virtue of section 128(4)(f) or 182B(4)(e)), and
 - (b) any statutory instrument containing an order or rules made under this Act,
- shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (2A) Subsection (2) above does not apply to—
- (a) regulations made under section 130A, 259(8) or 260(3) or Schedule 11A;
 - (b) commencement orders;
 - (c) any order made under section 216(2), 223(3), paragraph 8 of Part II of Schedule 7, or any provision of Schedule 14.”
- (4) In subsection (3) (which provides that all Orders in Council apart from those specified are to be subject to negative resolution procedure)—
- (a) after “172(2)” there is inserted “182B(1)”, and
 - (b) after “184” there is inserted “185(2A) or (2B)”.
- (5) In subsection (4)(a) (duty to consult before making certain regulations), for “under section 108” there is substituted “section 108 or 130A”.
- 19 (1) Section 313 of the 1995 Act (interpretation) is amended as follows.
- (2) In subsection (1) (definitions)—
- (a) for the definition of “harbour authority” there is substituted—

““harbour authority” means, in relation to a harbour—

 - (a) the person who is the statutory harbour authority for the harbour, or
 - (b) if there is no statutory harbour authority for the harbour, the person (if any) who is the proprietor of the harbour or who is entrusted with the function of managing, maintaining or improving the harbour;”,
 - (b) after the definition of “master” there is inserted—

““Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975;”,
 - (c) after the definition of “proper officer” there is inserted—

““qualifying foreign ship” has the meaning given in section 313A;”,
and
 - (d) after the definition of “ship” there is inserted—

““statutory harbour authority” means—

 - (a) in relation to Great Britain, a harbour authority within the meaning of the Harbours Act 1964; and

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(b) in relation to Northern Ireland, a harbour authority within the meaning of the Harbours Act (Northern Ireland) 1970.”

(3) After subsection (2) there is inserted—

“(2A) In this Act “right of innocent passage”, “right of transit passage” and “straits used for international navigation” shall be construed in accordance with the United Nations Convention on the Law of the Sea 1982.”

20 After section 313 of the 1995 Act there is inserted—

“313A Meaning of “qualifying foreign ship”

(1) In this Act “qualifying foreign ship” means any ship other than—

- (a) a British ship, or
- (b) a ship which is not registered under Part II and which (although not by virtue of section 1(1)(d) a British ship)—
 - (i) is wholly owned by persons falling within subsection (2) below, and
 - (ii) is not registered under the law of a country outside the United Kingdom.

(2) The following persons fall within this subsection, namely—

- (a) British citizens,
- (b) British Dependent Territories citizens,
- (c) British Overseas citizens,
- (d) persons who under the British Nationality Act 1981 are British subjects,
- (e) British Nationals (Overseas) (within the meaning of that Act),
- (f) British protected persons (within the meaning of that Act), or
- (g) bodies corporate incorporated in the United Kingdom or in any relevant British possession and having their principal place of business in the United Kingdom or in any relevant British possession.”