STATUTORY INSTRUMENTS

1988 No. 1086

MERCHANT SHIPPING

The Merchant Shipping Act 1970 (Overseas Territories) Order 1988

Made - - - -	*22nd June 1988*
Laid before Parliament	*30th June 1988*
Coming into force -	*21st July 1988*

At the Court at Buckingham Palace, the 22nd day of June 1988
Present,
The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by section 94 of the Merchant Shipping Act 1970(a), and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

1. This Order may be cited as the Merchant Shipping Act 1970 (Overseas Territories) Order 1988 and shall come into force on 21st July 1988.

2. It is hereby directed that, subject to the exceptions, adaptations and modifications specified in Schedule 1 to this Order, the provisions of the Merchant Shipping Act 1970 shall extend to each of the territories, any one of which is in this Order referred to as "the Territory", specified in Schedule 2 to this Order as part of the law thereof and shall apply to ships registered there and to masters and seamen employed in them as they apply to ships registered in the United Kingdom and to masters and seamen employed in them.

G. I. de Deney
Clerk of the Privy Council

SCHEDULE 1

Article 2

EXCEPTIONS, ADAPTATIONS AND MODIFICATIONS IN THE EXTENSION TO THE TERRITORIES OF THE MERCHANT SHIPPING ACT 1970

General

1. Any reference to the Merchant Shipping Acts shall be construed as a reference to those Acts as they extend to the Territory.

(a) 1970 c.36.

2. In any case for the words "the United Kingdom" there shall be substituted the words "the Territory", with the following exceptions:–

(a) in sections 1(8), 9(d), 20(6), 21(5), 24(3), 45 and 48(1)(b), where, after the words "the United Kingdom" in each case where they occur, there shall instead be inserted the words "or the Territory", as well also as in the second and third cases where they occur in section 40, the first case in section 65(1)(c) and the second case in section 97(1);

(b) in the first case in which the words "the United Kingdom" occur in section 97(1).

3. For any reference to the Board of Trade or the Board there shall be substituted a reference to the Governor in Council.

4. For any reference to the Registrar General of Shipping and Seamen there shall be substituted a reference to the official responsible in the Territory for registration of shipping.

5. For any reference to a superintendent, save in section 97(1), there shall be substituted a reference to a shipping master.

Fines

6. In sections 1(8), 21(4), 22(4)(a) and (b), 24(2), 68(6), 70(4) and 86(2) and in paragraph 4(2) of Schedule 2 the amount of the fine in each instance shall be replaced by the words "level 4 on the standard scale".

7. In sections 2(2), 3(4), 22(4) (other than paragraphs (a) and (b)), 23(3), 47, 51(4), 59, 62(6), 65(3), 74 and 77(1) the amount of the fine in each instance shall be replaced by the words "level 3 on the standard scale".

8. In sections 6(4), 8(5), 68(5), 69(5), 70(2), 71(2), 72(4), 78, 87(3), and in paragraph 8(5) of Schedule 2 the amount of the fine in each instance shall be replaced by the words "level 2 on the standard scale".

9. In section 19(5) the words "on summary conviction" onwards shall be replaced by the words "on conviction on indictment with a fine and on summary conviction with a fine not exceeding level 5 on the standard scale".

10. In section 20(6), 27(1), 43(5), 45, 48(2), 50(2), 73(2) and 76(4) the amount of the fine in each instance shall be replaced by the words "level 5 on the standard scale".

11. In sections 28 and 30 for the reference to a fine on summary conviction there shall be substituted the words "conviction on indictment to imprisonment for a term not exceeding two years and a fine and, on summary conviction, to a fine not exceeding level 5 on the standard scale".

12. In section 34(2) and paragraph 3 of Schedule 2 the amount of the fine in each instance shall be replaced by the words "level 1 on the standard scale".

13. In section 46(1) for the reference to a fine on summary conviction there shall be substituted the words "conviction on indictment to a fine and on summary conviction to a fine not exceeding level 5 on the standard scale".

14. The standard scale of fines is is as set out below:–

	Anguilla and Montserrat	Falkland Islands	Virgin Islands
Level 1—	EC$125	£25	US$50
Level 2—	EC$250	£50	US$100
Level 3—	EC$1,000	£200	US$350
Level 4—	EC$2,500	£500	US$1,000
Level 5—	EC$5,000	£1,000	US$2,000

Monetary Amounts

15. In section 7(2) for the words "£50" in each case there shall be substituted in the cases of Anguilla and Montserrat the words "EC$250" and in the case of the Virgin Islands "US$100".

16. In section 39(3)(a) for the words "£10" there shall be substituted in the cases of Anguilla and Montserrat the words "EC$50" and in the case of the Virgin Islands "US$20".

17. In sections 39(3)(b) and 41(3) for the words "£100" there shall be substituted in the cases of Anguilla and Montserrat the words "EC$500" and in the case of the Virgin Islands "US$200".

18. In section 66(2) for the words "£500" there shall be substituted in the cases of Anguilla and Montserrat the words "EC$2,500" and in the case of the Virgin Islands "US$1,000".

Other Exceptions, Adaptations and Modifications

19. In section 17, subsections (7) and (11) shall be omitted and in subsection (10) the words "the Ministry of Health and Social Services for Northern Ireland" shall be omitted.

20. Section 42 shall be omitted.

21. In section 43(1) after the word "may" there shall be added the words "after consulting the Secretary of State for Transport of the United Kingdom".

22. For section 49, there shall be substituted the following provision:–

"**49.** Sections 43, 45, 47 and 48 of this Act apply to every ship registered in the Territory and also to any ship registered elsewhere which carries passengers–

(a) between places in the Territory; or

(b) on a voyage which begins and ends at the same place in the Territory and on which the ship calls at no place outside the Territory."

23. In section 51(5) for the words "in Scotland" onwards until the words "in England and Wales;" inclusive there shall be substituted the words "under the enactments relating to education in the Territory".

24. In section 52(2) for the words "the High Court" onwards there shall be substituted the words "a court having unlimited original civil jurisdiction, and the decision of the court on such an application shall be final."

25. In section 55(1)(ii) the words ", if in England, Wales or Northern Ireland," and "and, if in Scotland, by the sheriff" shall be omitted.

26. In sections 56 the words "or sheriff" shall be omitted wherever they occur and subsections (2), (3) and (7) shall be omitted.

27. In section 57:

(a) for subsection (2) there shall be substituted the following provision:–

"(2) An order under subsection (1) of this section may provide for the re-hearing to be by a court having unlimited original civil jurisdiction"; and

(b) in subsection (3) for the words "High Court or the Court of Session" there shall be substituted the words "a court having unlimited original civil jurisdiction".

28. In section 57(4) and 58(1) for the words "the High Court" onwards there shall be substituted the words "a court having unlimited original civil jurisdiction".

29. In section 58(3) for any reference to the High Court there shall be substituted a reference to "a court having unlimited original civil jurisdiction".

30. In section 61 subsection (4) shall be omitted.

31. In section 70(1) for the words "may be so framed" onwards there shall be substituted the words "shall be so framed as to apply only to British Seamen connected with the Territory and as to have effect subject to any exemptions for which provision may be made by the regulations".

32. In section 70(3) for the reference to the British Nationality Act 1948 (c.56) there shall be substituted a reference to the British Nationality Act 1981 (c.61).

33. In section 72(2) for the words "General for England" onwards there shall be substituted the words "responsible for registering births and deaths in the Territory".

34. In section 72(3) the words "General" and "; and the enactments" onwards shall be omitted.

35. In section 77 subsection (2) shall be omitted.

36. In section 82 for the reference in subsection (1) to the Lord Chancellor there shall be substituted a reference to the Attorney General of the Territory, and subsection (2) shall be omitted.

37. In section 83 for the words "Lord Chancellor may with the consent of the Treasury" there shall be substituted the words "Attorney General may with the consent of the Governor in Council".

38. In section 84 the words "with the consent of the Treasury" shall be omitted.

39. Section 85 and Schedule 1 shall be omitted.

40. In section 87 subsection (4) shall be omitted.

41. Sections 88, 89, 91, 93 and 94 shall be omitted.

42. In section 95:–

(a) in subsection (1)(a) for the words "34 to 38, 89 and 93" there shall be substituted the words "and 34 to 38"; and

(b) subsection (4) shall be omitted.

43. In section 96(1) the word "88" shall be omitted.

44. In section 97:–

(a) in subsection (1):–

(i) the definition of "enactment" shall be omitted;

(ii) in the definition of "proper officer" after the word "superintendent" there shall be added the words "in the United Kingdom";

(iii) after the definition of "proper officer" there shall be added the following definition of a "shipping master":

"shipping master" means an official exercising functions similar to those of a superintendent in the United Kingdom";

(iv) in the definition of "the Merchant Shipping Acts" the words "the Fishing Vessels (Safety Provisions) Act 1970" shall be omitted; and

(b) subsection (7) shall be omitted.

45. In section 98:–

(a) in subsection (1) for the reference to Parliament there shall be substituted a reference to the legislature of the Territory; and

(b) subsection (2) shall be omitted.

46. Section 99 shall be omitted.

47. In section 101:–

(a) in subsection (2) for the words ", the Merchant Shipping Acts 1894 to 1967 and the Fishing Vessel (Safety Provisions) Act 1970" there shall be substituted the words "and the Merchant Shipping Acts 1894 to 1967";

(b) subsection (3) shall be omitted; and

(c) in subsection (4) the words "made by statutory instrument" shall be omitted.

48. In Schedule 3 paragraphs 1 and 5 to 14 inclusive shall be omitted.

49. In Schedule 4 paragraphs 1, 6, 7 and 10 shall be omitted.

50. In the third column of Schedule 5 in the entry relating to the Merchant Shipping Act 1894 for the words "Part II" there shall be substituted on two lines the words "Sections 92 to 237" and "Sections 239 to 266". Otherwise Schedule 5 shall have effect only to the extent that it repeals enactments applied in or extended to the Territory.

SCHEDULE 2

Article 2

British Virgin Islands
Anguilla
Falkland Islands
Montserrat

EXPLANATORY NOTE

(This note is not part of the Order)

This Order applies, with the necessary modifications, the Merchant Shipping Act 1970 to Anguilla, the Falkland Islands, Montserrat and the British Virgin Islands. This has the effect, principally, of repealing Part II of the Merchant Shipping Act 1894 (c.60) as it applies there, and replacing the repealed provisions with those of the 1970 Act so as to bring the territories' laws concerning masters and seamen more closely into line with the law in the United Kingdom.